

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
CUTTACK BENCH  
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**CP (IB) No. 23/CTB/2019**

**CORAM: 1. Ms. Sucharitha R. Member (J)  
2. Shri Satya Ranjan Prasad, Member (T)**

**In the Matter of:**

An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

**-And-**

**In the Matter of:**

**M/s Suraj Products Limited**, having registered office at Barapali, P.O. Kesarmal Rajgangpur, Sundargarh – 770 017, Odisha.

**.... Operational Creditor/Applicant**

**-Versus-**

**In the Matter of:**

**M/s Krishna Ferro Products Ltd.** having registered office at Mandiakudar Kansbahal Rajgangpur, OR – 770 034.

**..... Corporate Debtor/Respondent**

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**Counsels appeared for the Petitioner (s)**

1. Arani Guha, Adv.

**Counsels appeared for the Respondent (s)**

1. Minu Rohila, Pr. C.S.

**Date of pronouncement of Order: 4<sup>th</sup> day of October, 2019.**

**ORDER**

**Per: Ms. Sucharitha R. Member (J)**

1. The application is filed by M/s Suraj Products Limited for initiation of "Corporate Insolvency Resolution Process" (CIRP) against M/s Krishan Ferro Product Limited. M/s Suraj Products Limited is a Company registered under the Companies Act, 1956 is represented herein by its Executive Director Mr. Gagan Goyal. The respondent M/s Krishna Ferro Products Limited is a Company registered under the Companies Act, 1956.
2. The matter was posted for hearing on 31.07.2019. There were no representations from both the parties. Hence, the application was dismissed for non-prosecution. Subsequently, applicant filed Misc. Application No. 81/CTB/2019 for restoration of the Company Petition (CP). The matter came up on 19<sup>th</sup> August, 2019. Both the parties were present. The respondent had no objection to allow this petition for restoration. Hence,

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the Misc. Application No. 81/CTB/2019 is allowed, consequently CP (IB) 23/CTB/2019 is restored.

3. The applicant submits that the applicant is involved in the business of distribution and supplying of all kinds of cements. In the Course of its business the applicant placed orders with the Corporate Debtor for supplying of "casting items" required for parquetting, MBF & DRI Plant. By Purchase Order dated 21.05.2018, the Operational Creditor had totally placed order to the tune of Rs. 1,53,08,000/- with the Corporate Debtor out of which materials yet to be supplied by Corporate Debtor is to the tune of Rs. 80,12,296/-. The Corporate Debtor was unable to honour his commitment towards the purchase order. Hence, the Corporate Debtor handed over refund of the money by way of cheque. However, the cheque bounced. The Operational Creditor submits that all the settlement talks have failed. The Corporate Debtor is unable to repay the money. Hence, the Corporate Debtor issued notice under Section 8 of Insolvency and Bankruptcy Code, 2016 dated 11.02.2019. In spite of the notices, the Corporate Debtor did not repay the money.

4. The Corporate Debtor issued Cheque No. 263369, dated 20.10.2012 to the sum of Rs. 80,00,000/- (Eighty Lakhs only). By Letter dated 14<sup>th</sup> October, 2016 applicant asked the Corporate Debtor for return of sum of

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Rs. 80,12,000/-. In response to this Letter, the Corporate Debtor by Letter dated 10<sup>th</sup> November, 2016 had admitted the outstanding. Further, in the letter the Corporate Debtor has stated that “the account with the Financial Creditors have been classified as Non-Performing Asset (NPA)”. Hence, the Corporate Debtor is unable to make payment. Since, the Corporate Debtor by Letter dated 10<sup>th</sup> November, 2016 had acknowledge the outstanding dues to the Operational Creditor. The application is well within the period of limitation. The address of the Corporate Debtor is within the State of Orissa. Hence this Adjudicating Authority has jurisdiction.

5. The Corporate Debtor filed the affidavit-in-reply. Wherein they have stated in Paragraph 9 & 10, that due to financial difficulties they were unable to repay the amount to the Operational Creditor.
6. The applicant/Operational Creditor has not proposed the name of any IRP. In view of the same, this Adjudicating Authority appoints **Mr. Chaitanya Kumar Ray** residence of Ray Nayak & Associates Mig-26, Manarama Estate, Bhubaneswar, Odisha - 751010 having **Registration No.:** IBBI/IPA-003/IP-N00032/2017-18/10260 and **E-mail Id.:** cma.chaitanya@yahoo.com There is nothing on record to show that any disciplinary proceeding is pending against the IRP.
7. In view of the above this Adjudicating Authority is inclined to admit this application and accordingly initiate the process of “Corporate

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Insolvency Resolution Process” (CIRP) of respondent/Corporate Debtor by following Order.

### **ORDER**

(i) The application filed by the Operational Creditor under Section 8 and 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process against **M/s Krishna Ferro Products Ltd.** Moratorium Order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.

(ii) The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

(iii) Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

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- a) The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any Court of law, Tribunal, Arbitration Panel or other authority;
  - b) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - c) Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
  - d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (iv) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

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(v) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.

(vii) Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Sec.31 or passes an order for liquidation of corporate debtor under Sec.33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

(viii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the Resolution Professional upon receipt of the copy of this order.

(ix) **Mr. Chaitanya Kumar Ray** residence of Ray Nayak & Associates Mig-26, Manarama Estate, Bhubaneswar, Odisha - 751010 having **Registration No.:** IBBI/IPA-003/IP-N00032/2017-18/10260 and **E-mail Id.:** [cma.chaitanya@yahoo.com](mailto:cma.chaitanya@yahoo.com) is appointed as Interim Resolution Professional registered with the ICSI

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Insolvency Professionals Agency for ascertaining the particulars of Creditors and convening a meeting of Committee of Creditors for evolving a Resolution Plan.

(x) We direct the Operational Creditor to deposit a sum of Rs. Two Lakh with Interim Resolution Professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016. The needful shall be done within three days from the date of receipt of this Order by the Operational Creditor. The amount, however, is subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Operational Creditor.

(xi) Directions are also issued to the ex-management to provide all documents in their possession and furnish every information in the knowledge within a period of one week from the date of admission of the petitioner to the IRP, otherwise coercive steps to follow.

(xii) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors.

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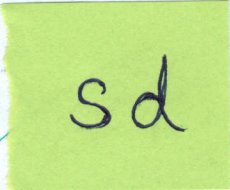
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(xiii) Registry is hereby directed to communicate the order under Section 9 (5) (i) of the I.B. Code, 2016 to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post as well as through E-mail.

Interim Resolution Professional to file 1<sup>st</sup> progress report on **07.11.2019.**

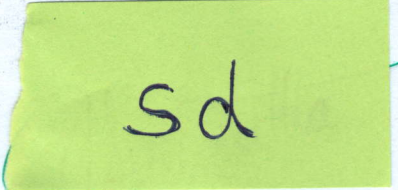
List the matter on **07.11.2019.**

Let the certified copy of the order be issued upon compliance with requisite formalities.



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**Shri Satya Ranjan Prasad**  
**Member (T)**



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**Ms. Sucharitha R.**  
**Member(J)**

*Signed on this, the 4<sup>th</sup> day of October, 2019.*

***Santosh\_P.S.***