

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD

SPECIAL BENCH - COURT 1 (URGENT HEARINGS THROUGH VIDEO CONFERENCE)

PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 13.01.20201 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No. 229/7/HDB/2020
NAME OF THE COMPANY	Tradeinox Industries Ltd
NAME OF THE PETITIONER(S)	Infinite Metal Products India Ltd
NAME OF THE RESPONDENT(S)	Tradeinox Industries Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature	

ORDER

Orders passed vide separate orders.
CP (IB) No. 229/7/HDB/2020 is admitted.


MEMBER (TECHNICAL)


MEMBER (JUDICIAL)

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**THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.229/7/HDB/2020

U/s 7 of I&B Code, 2016 read with Rule 4
of I&B (AAA) Rules, 2016.

In the matter between :

Infiniti Metal Products India Limited
No.3, GNT Road, Opp. Sivanesan Company
Gummadipoondi, Thiruvallur
Tamilnadu State
Represented by its authorised representative
Shri Venkata Ramana Reddy Pesaladinne
Director.

.. **Petitioner
Financial Creditor**

VERSUS

M/s Tradeinox Industries Limited
(formerly known as M/s Steelex Industries Limited)
A company having its registered office situated at:
202, 258/ 3RT, Sarala Apartments
Sanjeeva Reddy Nagar
Hyderabad, Telangana State.

.. **Respondent
Corporate Debtor**

Date of order : 13.01.2021

Coram:

**HON'BLE SHRI K. ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)**

and

**HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)**

Parties / counsels present:

For the Petitioner : Shri Naveeni Jain, Advocate.

For the Respondent: Shri Vikram Puttapaga, Advocate
Assisted by Shri Vishal Porandla and Shri Srinivas
Gowd, advocates.



**Per: SHRI K. ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)**

Heard on: 16.10.2020, 02.11.2020, 23.11.2020, 09.12.2020,
21.12.2020, 23.12.2020, 04.01.2020 and 05.01.2020.

ORDER

The petitioner/ company was incorporated as Infiniti Metal Products on 16.10.1998 with Identification No.U17110TN1998PLC095175. Its registered office is at Chennai as described in Part-1, Column-4 of the petition.

2. The respondent is a limited company incorporated under the provisions of the Companies Act, 1956. It has registered office at Hyderabad as described in Part-II, Column 5 of the petition.

3. Both the parties are engaged in regular business of trading steel and allied products. Both the parties used to sell and purchase products from/ to each other as per their requirement and receive and make payments of money as well.

4. The present petition is filed by the petitioner/ Financial Creditor under Section 7 of Insolvency and Bankruptcy Code, 2016, read with Rule 4 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the petition, initiation of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon, claiming financial debt of **Rs.22,69,04,921/-** (Rupees twenty two crores sixty nine lacs four thousand nine hundred and twenty four only) against the respondent/ Corporate Debtor with interest at the rate of 12% from 01.04.2017 to 30.04.2020, amounting to Rs.6,12,80,891/- (Rupees six crores twelve lacs eighty thousand eight hundred and ninety one only).

5. It is averred that as on 01.04.2017 there was an outstanding amount of Rs.16,56,24,030/- due from the Corporate Debtor. Since the Corporate Debtor could not pay the same due to financial stress, the Financial Creditor had entered into a loan agreement with the Corporate Debtor agreeing to pay the said amount in 12 quarterly instalments with

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interest at the rate of 12% per annum. However, the Corporate Debtor could not pay even a single instalment. Consequently, the loan agreement has expired. Hence the present petition under section 7 of the I&B Code.

6. COUNTER DATED 11.11.2020/ 10.12.2020 FILED BY THE CORPORATE DEBTOR.

6.1 It is alleged by the Corporate Debtor that Financial Creditor was delaying supply of goods to the Corporate Debtor, which had resulted into loss of clientele. To resolve the issues, the Corporate Debtor had accepted the proposal mooted by the Financial Creditor to convert the amounts payable by the Corporate Debtor into financial debt. The Corporate Debtor had agreed for the same. The Corporate Debtor sought extension of time for payment of amounts for the reason that the Financial Creditor was delaying supply of goods and the Corporate Debtor was not getting clients.

6.2 The Corporate Debtor has, therefore, blamed the Financial Creditor for their acts of delaying supply of goods resulting into loss of clients and loss of reputation.

6.3 In para 8 of the Counter it is stated that the loan agreement entered into between the Financial Creditor and the Corporate Debtor is void since it was signed under coercion.

7. REJOINDER DATED 21.12.2020/ 24.12.2020 FILED ON BEHALF OF THE PETITIONER/ FINANCIAL CREDITOR.

7.1 The petitioner/ Financial Creditor has denied that there was delay in supply of goods by the Financial Creditor. (para 7)

7.2 It is submitted that as the Corporate Debtor has failed to pay outstanding amounts to the Financial Creditor under loan agreement dated 01.04.2017, the present petition is filed. The Financial Creditor has produced documentary evidence to prove existence of **debt** within the meaning of section **3(11)** of the I&B Code and **default** as defined under section **3(12)** of the I&B Code. Since the Corporate Debtor has failed to pay the debt and only on the request of the Corporate Debtor both the



parties entered into loan agreement dated 01.04.2017. However, the Corporate Debtor failed to honour the same.

OBSERVATIONS

8. We have heard the learned counsel for the Financial Creditor as well as the learned counsel for the Corporate Debtor through videoconference.

9. The learned counsel would contend that the present petition is filed against the Corporate Debtor after giving ample opportunities to the Corporate Debtor to honour the loan agreement and to pay the debt. We observe from the record that the respondent/ Corporate Debtor has admitted the debt and default. For instance communications addressed by the Corporate Debtor to the Financial Creditor dated 18.04.2018 (page 30), 12.12.2018 (page 31), and dated 19.08.2019 (page 32) reflect admission of debt and default by the Corporate Debtor, as the Corporate Debtor expresses its inability to make payment against loan agreement and seeks extension of time as the Corporate Debtor was in the process of raising funds. Albeit the said communications did not refer to amount of debt. We further observe that communications addressed by the Financial Creditor to the Corporate Debtor dated 14.01.2020 (page 33) and dated 11.04.2020 (page 34), indicating the outstanding amount of Rs.16,56,24,030/- and Agreement of Loan dated 01.04.2017 have been duly received and acknowledged by the Corporate Debtor. Thus, the amount due and payable by the Corporate Debtor to the Financial Creditor and the default committed by the Corporate Debtor are not in dispute.

10. As regards the allegations levelled by the Corporate Debtor that the Financial Creditor was delaying supply of goods to the Corporate Debtor, which had resulted into loss of clientele, and denial of such allegations made by the Financial Creditor, are the disputed questions of facts. Such disputed questions of facts cannot be entertained by the Adjudicating Authority. What the Tribunal has to examine is whether the Financial Creditor is able to establish the debt and default. As we observed above the Financial Creditor has been able to establish debt and default.



11. After hearing the counsel for both the parties and after going through the documents filed by the petitioner, we are of the view that the petition is liable to be admitted against the Corporate Debtor. The petition is accordingly admitted.

12. Hence, the Adjudicating Authority admits this Petition under Section 7 of I&B Code, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-

(A) The Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

(B) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(C) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(D) That the order of moratorium shall have effect **from the date of this order** till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.

(E) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.



(F) That this Bench hereby appoints **Shri CA. Swaminathan Prabhu** having Registration No.IBBI/ IPA-001/ IP-PO1275/ 2018-19/11948, as Interim Resolution Professional, whose contact details are:

e-mail ID: carpprabhu@gmail.com

Address: SPP & CO., No.27/9, Nivedh Vikas
Pankaja Mill Road, Puliyakulam
Coimbatore – 641045.

Mobile No.9488836000.

He will carry on the functions as mentioned under the Insolvency & Bankruptcy Code.

(G) Proposed IRP has filed Form-2 dated 18.05.2020 and Form-B dated 28.12.2019 issued by the Institute of Insolvency Professionals. Authorisation for Assignment is valid upto 16.12.2021. This information is also available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.

13. Registry of this Tribunal is directed to send a copy of this order to the Registrar of Companies, Hyderabad for marking appropriate remarks against the Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.

14. Accordingly, this Petition is admitted.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


K. ANANTHA PADMANABHA SWAMY
MEMBER (JUDICIAL)

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