

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT HYDERABAD**

*** *** ***

CP (IB) No. 165/9/AMR/2019

In the matter of M/s MAKRO CAST PRIVATE LIMITED

and

*In the matter of a Petition 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.*

Between:

M/s Jayasiddhi Ganesh Enterprises Pvt Ltd.,
D. No.11-159/6/E, Plot No. 21,
Patwari Enclave,
IDA Gandhi Nagar Road,
Hyderabad – 500 037.

... **Petitioner**

and

M/s Makro Cast Private Limited,
Registered Office at S-F6,
Geetanjali Apartments,
Tikkle Road, Mogalrajapuram,
Vijayawada – 520 010

... **Respondent**

Date of Order: 13.12.2019

C O R A M:

Hon'ble Janab Mohammed Ajmal, Member Judicial

Appearance:

For the Petitioner : Sri Ch. Pushyam Kiran, Advocate
For Respondent : None (*Ex parte*)



ORDER

In this Company Petition under Section 9 of the Insolvency and Bankruptcy Code (the Code for short) the Petitioner, an Operational Creditor of the Respondent / Corporate Debtor, seeks to initiate Corporate Insolvency Resolution Process (CIRP) against the latter alleging default in payment of an operational debt.

2. The brief facts that led to the present proceeding before this Authority may be stated as follows. The Petitioner, a Company registered under the Companies Act, 1956 based in Hyderabad, is *inter alia* engaged in the business of manufacture, supply and sale of foundry chemicals. The Respondent, a Company based in Vijayawada, is *inter alia* engaged in manufacture of ferrous and non-ferrous castings. The Respondent had been placing orders for the purchase of various materials and chemicals with the Petitioner. The Petitioner has been raising invoices against the supplies made. The Respondent has also been making payments in respect of the invoices. However, it did not make any payment against the invoices raised between 17.05.2018 and 22.11.2018 amounting to Rs. 7,14,575/- (Rupees Seven Lakhs Fourteen Thousand Five Hundred Seventy Five only). Since the amount was not paid the Petitioner, on 28.06.2019, issued a Demand Notice in Form-3 under Section 8 of the Code. The notice was served on the Respondent on 01.07.2019. The Respondent however did not make any reply to the notice. Accordingly the Petitioner came up with the present petition on 23.08.2019.

Fresh Notices were also issued to the Respondent after the petition was filed. The Respondent despite receipt of the notice did not appear. The Company Petition was heard *ex parte*.

4. The Petitioner in support of its claim has relied on the invoices of supply of materials between 17.05.2018 and 22.11.2018 aggregating to Rs.7,14,575/-. The accounts statement furnished by the Petitioner indicates that no payment has been made in respect of the amount due. The invoices relate to the supply of chemicals to the Respondent. Therefore, an amount of Rs. 7,14,575/- is due and payable by the



Respondent towards at operational debt. The Accounts statement filed along with the petition indicates that no payment against the debt has been made. Therefore, there is a default in payment of operational debt to the tune of an amount in excess of rupees One Lakh. The Respondent has not replied to the notice dated 28.06.2018, raising any dispute that existed prior to the issuance of the notice. The Respondent having been defaulted in payment of the operational debt the Petition deserves to be admitted. The Petitioner has not suggested the name of any Interim Resolution Professional (IRP). Accordingly, Mr. Kammula Prabhakar Rao, Registration No. IBBI/IPA-001/IP-P01467/2018-2019/12339 is chosen by this Authority to be appointed as the IRP. No disciplinary proceeding is pending / proposed against him as per the IBBI website. He be informed accordingly and requested to furnish his consent in Form No. 2. Hence ordered.

ORDER

The Company Petition be and the same is admitted *ex parte*.

- i. The Corporate Insolvency Resolution Process of the respondent shall commence from this date and shall be completed within 180 days hence.
- ii. Mr. Kammula Prabhakar Rao (Registration No. IBBI/IPA-001/IP-P01467/2018-2019/12339), having office at 39-4-1, S5, Koduru Enclave, Picchaiah Street, Labbipeta, Vijayawada, Andhra Pradesh – 520 010; e-mail ID: kammulaprabhakar@hotmail.com; Mobile No. 9848124608 is appointed as the IRP. He be informed accordingly and requested to furnish his consent in Form No. 2.
- iii. He is directed to take charge of the Respondent/Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of the Code and Rules made there under.



- iv. Moratorium in respect of the Respondent is hereby declared under Section 14 of the Code.
- v. The Directors, Promoters or any other person(s) associated with the management of Respondent/Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under section 19 for effectively discharging his functions under the Code.
- vi. The Registry is directed to communicate the order to the Petitioner/Operational Creditor and the Respondent/Corporate Debtor forthwith.
- vii. The petitioner/OC and the Registry are also directed to send the copy of this order to IRP for necessary compliance.
- viii. The Registry shall send a copy of this order to the Registrar of Companies Andhra Pradesh for effecting necessary alterations in the status of the Respondent/Corporate debtor in relevant records for general information.
- ix. There would however be no order as to costs.



Sd/-

MOHAMMED AJMAL
MEMBER JUDICIAL


Dy. Regr./Asst. Regr./Court Officer
National Company Law Tribunal, Hyderabad

प्रमाणित प्रति
CERTIFIED TRUE COPY

केस संख्या
CASE NUMBER... (P/12) No. 165/9/AMR/2019
निर्णय का तारीख
DATE OF JUDGEMENT... 13/12/19
प्रति तैयार किया गया तारीख
COPY MADE READY ON... 16/12/19