

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. IV)

Company Petition No. IB- 1654/ND/2018

(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)

IN THE MATTER OF:

M/s EASTERN ELECTRODES & COKE PRIVATE LIMITED

...Applicant/Operational Creditor

VERSUS

M/s PARMATAMA FERRO ALLOYS PRIVATE LIMITED

...Respondent/ Corporate Debtor

Pronounced on: 01.03.2019

CORAM:

DR. DEEPTI MUKESH

HON'BLE MEMBER (Judicial)

For the Applicant: Mr. Vikrant Pachnanda, Adv.

For the Respondent:

MEMO OF PARTIES

M/s EASTERN ELECTRODES & COKE PRIVATE LIMITED

Having its registered office at:

97C, Harish Mukherjee Road,

3rd Floor, West Bengal

Kolkata - 700026

...Applicant/ Operational Creditor

VERSUS

M/s PARMATAMA FERRO ALLOYS PRIVATE LIMITED

Having its registered office at:

7/21, Top Floor, Ansari Road,

Darya Ganj, New Delhi - 110002

...Respondent/ Corporate Debtor

ORDER

1. The present application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s Eastern Electrodes & Coke Pvt. Ltd. (for brevity 'Applicant') through its director Mr. Sandeep Jain authorizing him to file

present application vide Board resolution dated 05.10.2018, with a prayer to initiate the Corporate Insolvency process against M/s Parmatama Ferro Alloys Private Limited (for brevity 'Respondent').

2. The Applicant, the Operational Creditor namely M/s Eastern Electrodes & Coke Private Limited is a company incorporated on 31.05.2006 under the provisions of Companies Act, 1956 with CIN No. U23101WB2006PTC109696, having its registered office at 97C, Harish Mukherjee Road, 3rd Floor, West Bengal, Kolkata- 700026.
3. The Respondent, the Corporate Debtor namely M/s Parmatama Ferro Alloys Private Limited is a company incorporated on 09.04.2008 under the provisions of Companies Act, 1956 with CIN No. U27101DL2008PTC176539, having its registered office at 7/21, Top Floor, Ansari road, Darya Ganj, New Delhi- 110002.
4. The Authorised Share Capital of the respondent company is Rs. 10,00,00,000/- and Paid Up Share Capital of the company is Rs. 9,90,00,800/- as per Master Data of the company.

5. It is the case of the applicant that Respondent company approached the applicant for purchase of Carbon Paste and Met Coke. It was specifically agreed that upon procuring the goods by respondent and raising of invoices by applicant, the entire payment for such invoices shall be made in a timely manner. As per this arrangement, the Respondent Company placed various purchase orders for a supply of Carbon Paste and Met Coke. The Applicant supplied the goods as per the orders placed by corporate debtor and raised invoices against the said supply.
6. The said tax invoices were duly acknowledged by the Corporate Debtor and the part payments were made by the Corporate Debtor, last of which was made on 20.07.2018 by the Applicant, the details of which are as follows:

DATE	INVOICE NO.	BALANCE PAYMENT
17.04.2018	GST/062/2018-19	Rs. 2,71,036/-
02.06.2018	GST/206/2018-19	Rs. 8,57,500/-
16.07.2018	GST/352/2018-19	Rs. 8,49,600/-
20.07.2018	DEBIT NOTE	Rs. 73,500/-

7. In spite of various requests made and reminders sent by the Applicant, the Respondent never bothered to reply and on various occasions has clearly refuted the claim.
8. On failure to pay the outstanding dues by the Respondent, the applicant sent a demand notice dated 10.10.2018 under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the respondent asking them to make the entire outstanding payments of Rs. 21,07,283/- (Rupees Twenty -One Lakhs Seven Thousand Two Hundred and Eighty- Three only) inclusive of interest within 10 days from receipt of the notice, failing which the applicant shall initiate the Corporate Insolvency Resolution process against the Respondent.
9. Despite the demand notice sent under Section 8 of the Code, the Respondent has failed to pay the amount demanded neither raised any notice of dispute nor replied to the said notice, hence this application, seeking to unfold the process of CIRP.
10. The applicant has stated that total debt due and payable is Rs. 21,07,283/- (Rupees Twenty -One Lakhs Seven Thousand Two Hundred and Eighty- Three only) which includes Principal

amount of Rs. 20,51,636/- and interest of Rs.55,647/- @18% p.a. from 17.08.2018 till 10.10.2018.

11. This Tribunal is constrained to proceed with the matter exparte against the Corporate Debtor as per order dated 01.02.2019 since the Corporate Debtor has not appeared though Section 8 notice and the present application were duly served on the Respondent and proof of service is filed by the applicant. The applicant has filed an affidavit under Section 9(3)(b) stating that no notice of dispute from Corporate Debtor is received.
12. The applicant has attached the copy of Bank statements issued by DBS Bank Ltd. and also Bank statements issued by HDFC Bank in compliance with the requirement of Section 9(3)(c) of the IBC 2016.
13. The registered office of respondent is situated in New Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
14. In the given facts and circumstances, the present application is complete and the Applicant is entitled to claim its dues, establishing the default in payment of the operational debt

beyond doubt, and fulfillment of requirements under section 9(5) of the Code. Hence, the present application is admitted

15. The Applicant has not proposed the name of any Interim Resolution Professional. In view of the same, this Bench appoints Mr. Rakesh Kumar Jain having registration no. IBBI/IPA-001/IP-P01297/2018-2019/12068 and email address rakeshjainca@rediffmail.com and contact number is 9811455641, as the IRP of the Respondent. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the Code.
16. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) to (4) shall follow in relation to the Corporate Debtor.
17. A copy of the order shall be communicated to the Applicant as well as to the Respondent above named by the Registry. Further the IRP above named be also furnished with copy of this order forthwith by the Registry.

Sd/-

(DR. DEEPTI MUKESH)
MEMBER (JUDICIAL)