

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

CP (IB) - 531/I&BP/MB/2018

Under Section 9 of the I&B Code,  
2016

In the matter of

Valmont Structure Private Limited,  
Unit No. 203, 2<sup>nd</sup> Floor, Pentagon 4,  
Magarpatta city, Hadapsar, Pune-  
411013, Maharashtra, India.

.... Operational Creditor

Vs.

Thakkarsons Roll Forming Private  
Limited,  
507, Windfall, Sahar Plaza, J.B.  
Nagar, Andheri (East), Mumbai-  
400059, Maharashtra, India

.... Corporate Debtor

Order delivered on: 06.03.2019

Coram:

Hon'ble Bhaskara Pantula Mohan, Member (J)

Hon'ble V. Nallasenapathy, Member (T)

For the Petitioner: Ms. Meera Kadhi, Advocate i/b Fortitude Law  
Associates.

For the Corporate Debtor: Ms. Isha Bafna, Mr. Rajdeep Lahiri, Mr.  
Pratik Ingale, Advocates.

*Per: V. Nallasenapathy, Member (T)*

ORDER

1. Valmont Structure Private Limited (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process of Thakkarsons Roll Forming Private Limited (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default to the extent of Rs. 1,94,58,366/- including interest @24% p.a. This Petition is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (hereafter called the 'Code')

read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Petitioner submits that, they are engaged in the business of providing galvanization services. It is submitted that the Petitioner had supplied galvanized material from time to time to the Corporate Debtor and raised invoices upon the Corporate Debtor from 14.10.2016 to 04.02.2017 to the extent of Rs. 1,88,02,230/-. The petitioner is also claiming interest @ 24% p.a. on the delayed payment which works to Rs. 45,26,838/-
3. On 20.02.2018, the Petitioner has issued a Demand Notice u/s 8 of the Code, demanding a sum of Rs. 2,33,29,068/- including interest @24% p.a., to the Corporate Debtor. On 06.03.2018, the Corporate Debtor replied denying the liability and further stated that they have filed a civil suit for damages for Rs. 1,25,00,000/- against the petitioner on the file of the Civil Judge, Senior Division at Palghar and the same is numbered as Special Civil Suit No. 15 of 2018.
4. The Petitioner further submits that the Debit Note No. TRF/DN/2 to the extent of Rs. 38,70,702/- raised by the Corporate Debtor has to be adjusted in the account and accordingly filed a revised form 5 claiming a sum of Rs. 1,94,58,366/- including interest on delayed payment @ 24 % p.a.
5. This is a clear case where there is existence of dispute as provided under Section 5(6) of Code which provides that dispute include a suit or arbitration proceedings relating to (a) the existence of the amount of debt (b) the quality of goods and services or (c) the breach of a representation or warranty, in view of the pendency of suit for damages filed by the Corporate Debtor.
6. This Adjudicating Authority, being satisfied that the disputes raised by the Corporate Debtor squarely falls under Section 5(6) of Code, and accordingly this Petition is dismissed. No cost.

SD/-  
V. Nallasenapathy  
Member (Technical)

SD/-  
Bhaskara Pantula Mohan  
Member (Judicial)