

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

C.P. (IB) 746/MB/2019

Under Section 8 & 9 of the IBC, 2016

In the matter of

Shree Balaji Metal & Alloys

19, Shiv Shakti Estate, Opposite to
Gujarat Bottling, Nagarwell Hanuman
Road, Rakhial, Ahmedabad- 380023

.... Petitioner

v/s.

Electra Global Resources Private
Limited

A/33 Old Nagardas Road, behind
Dhobighat, Andheri (east), Mumbai,
Maharashtra- 400069

.... Corporate Debtor

Order Delivered on 28.11.2019

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Shri V. Nallasenapathy, Member (Technical)

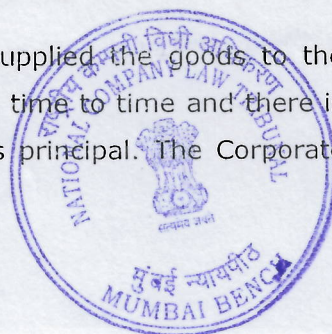
For the Petitioner: Adv. Aditya Vyas, Adv. Pratik Jhaveri

For the Corporate Debtor: Adv. Saloni Sulakhe

Per: V. Nallasenapathy, Member (T)

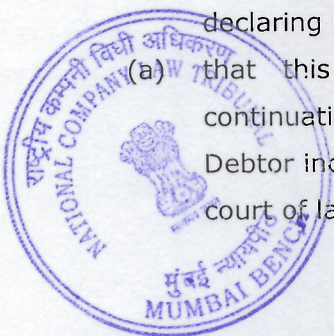
ORDER

1. This Company Petition is filed by Shree Balaji Metal & Alloys (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Electra Global Resources Private Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default in making payment of ₹2,76,59,878/- by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The Petition reveals that the Petitioner supplied the goods to the Corporate Debtor and raised invoices from time to time and there is an outstanding of ₹2,51,10,726/- towards principal. The Corporate



Debtor failed and neglected to pay an outstanding due to the Petitioner.

3. On account of non-payment of the due, the Petitioner issued Demand Notice dated 15.01.2019 in Form 3 & 4 under Section 8 of the I&B Code, 2016 to the Corporate Debtor demanding payment of ₹2,76,59,878/- which is inclusive of interest calculated at the rate of 24% per annum on the delay in making the payment. However, the Corporate Debtor failed to respond to the demand notice. Hence, this Petition.
4. The Petitioner annexed the copy of the bank statement of the Petitioner to show that no payment has been made by the Corporate Debtor towards the debt amount.
5. The Counsel for the Corporate Debtor through his reply at para no. 12 to the petition stated that they are facing a major financial crunch and liquidity issues due to adverse market conditions, but they did not deny the liability to pay the principal amount of ₹2,51,10,726/-. However, he denied the liability to pay an interest amount. The Counsel for the Petitioner fairly agrees that they are not entitled to charge interest and hence they are giving up the claim towards interest.
6. During the hearing on 14.10.2019, the Counsel for the Corporate Debtor admitted the liability towards the principal as well as the default.
7. On the perusal of the above facts, it is clear that the Corporate Debtor has defaulted in making payment of outstanding amounts under the invoices claimed by the Petitioner. Hence, there is clear debt and default.
8. This Bench having been satisfied with the application filed by the Operational Creditor which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this application declaring Moratorium with the directions as mentioned below:
(a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; 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 the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the 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 28.11.2019 till the completion of the CIRP 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, as the case may be.
 - (e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.
 - (f) that this Bench hereby appoints Mr. Ritesh Prakash Adatiya, having office at E-904, Iscon Platinum, Bopal Cross Road, Bopal, Ahmedabad, Gujarat- 380054, having email address riteshadatiya01@gmail.com, having Registration No. IBBI/IPA-001/IP-P01334/2018-19/12013 as an Interim Resolution Professional to carry out the functions as mentioned under the Code.
9. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

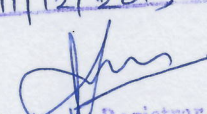
SD/-

V. Nallasenapathy
Member (Technical)

SD/-

Suchitra Kanuparthi
Member (Judicial)



Certified True Copy
Copy Issued "free of cost"
On 11/12/2019

Assistant Registrar
National Company Law Tribunal Mumbai Bench