

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-2590 (ND) 2019

In the matter of

**M/S SHIP YARD CO.
M-10-C, GIRIRAJ, SANT TUKARAM ROAD,
CARNAC BUNDER, MUMBAI- 400009**

.....Operational Creditor

VERSUS

**M/S G.R.S. ISPAT COMPANY (PVT.) LTD.
Registered Office At:
PU-108, PITAMPURA,
New Delhi-110034**

.....Corporate Debtor

SECTION: 9 of IBC, 2016

Order delivered on: 28.11.2019

CORAM:

MS. INA MALHOTRA, MEMBER (JUDICIAL)

MS. SUMITA PURKAYASTHA, MEMBER (TECHNICAL)

PRESENT- Adv. Anand Tripathi, for the Petitioner

Adv. Maneesh Gumber and Adv. Jitender Kumar for the
Respondent

ORDER

Per Ms. Sumita Purkayastha (Member Technical)

1. The present petition has been filed invoking the provision of Section 9 of the Insolvency & Bankruptcy Code, 2016.
2. The Operational Creditor deals in the business of various kind of scrap materials. The Corporate Debtor is involved in the business of manufacturing of mild steel billets. The Corporate Debtor approached the Operational Debtor for the supply of TMT BAR CUTTINGS-HSN/SAC/ goods from the Operational Creditor. As per averment, The Corporate Debtor assured the Operational Creditor that would be made on time. Believing the aforesaid representation, the Operational creditor supplied goods/ material to the Corporate Debtor on 31.03.2018 worth Rs. 2,09,86,645/-. Against the same, the Corporate Debtor made a part payment of Rs. 4,00,000/- on 27.12.2018. despite repeated requests and demands, no further steps were taken by the corporate debtor to reduce the outstanding liability. The Operational Creditor served a demand notice dated 12.08.2019 under Rule 5 of Insolvency and Bankruptcy Rules demanding remaining outstanding of Rs. 2,05,86,645/- .
3. After receiving the Demand Notice dated 12.08.2019, Corporate Debtor issued letter dated 21.08.2019 acknowledging the debt and requested for further time to make payment due to financial difficulty.



4. In view of the Corporate Debtor's failure to reduce or liquidate its liability, the present petition has been filed in the required format praying for initiation of the Corporate Insolvency Resolution Process of the Corporate Debtor. Affidavit in compliance under Section 9(3)(b) and 9(3)(c) of Code are on record to corroborate his case.
5. Pursuant to the Court notice issued to the Corporate Debtor, they filed a reply to the present petition and admitted the claim of the Operational Creditor but expressed their inability to liquidate the debt.
8. We have gone through the documents filed by both the parties. While going through the documents, this Tribunal observed that the Corporate debtor is liable to pay the amount claimed of Rs. 2,05,86,645/- as shown in the reply to the Demand Notice dated 12.08.2018 in annexure-6 and admits the same vide letter dated 21.08.2019 and order dated 05.11.2019. Considering the circumstances this Tribunal is inclined to admit this petition and initiate CIRP of the Respondent. Accordingly, this petition is admitted. A moratorium in terms of Section 14 of the Insolvency & Bankruptcy Code, 2016 shall come into effect forthwith staying:-

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;



(b) *transferring, encumbering, alienating or disposing of by the corporate debt or any of its assets or any legal right or beneficial interest therein;*

(c) *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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*

(d) *the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

Further:

(2) *The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*

(3) *The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator. (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:*

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."

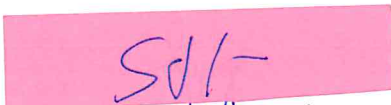
9. The Operational Creditor has not proposed the name of any IRP.

Accordingly, we appoint Mr. Navjit Singh, an Insolvency Professional,

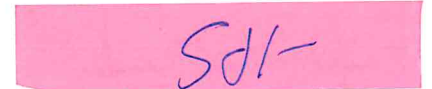


registration no. IBBI/IPA-001/IP-P00314/2017-18/10578 email-
navjit92ca@gmail.com duly empanelled with the IBBI as the IRP. He is
directed to take such steps as are mandated under the Code, more
specifically under Sections 15, 17, 18, 20 and 21 and shall file his
report before the Adjudicating Authority.

10. The Operational Creditor is directed to deposit a sum of Rs. 2 lakhs to
meet the immediate expenses of IRP. The same shall be fully
accountable by the IRP and shall be reimbursed by the CoC, to the
Operational Creditor to be recovered as CIR costs.
11. Copy of the order be sent to both the parties as well as to the IRP.
12. To come up on for further consideration.



Sumita Purkayastha
Member (T)



Ina Malhotra
Member (J)

