NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

10. C.P.(IB)2510(MB)/2019

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
SHRI CHANDRA BHAN SINGH, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **10.12.2021**

NAME OF THE PARTIES: National Steel & Agro Industries Ltd

V/s

Shimita Trading Pvt Ltd

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Counsel for the Petitioner, Mr. Krutika Cheulkar and counsel for the Respondent, Mr. Siddharth Bafna are present through virtual hearing.

Heard the arguments of the counsel appearing for Operational Creditor. Counsel appearing for the Corporate Debtor fairly submitted that the Corporate Debtor is admitting the claim of the Operational Creditor in the above Company Petition. In view of the above admission made by the Corporate Debtor, this Bench has no option except to admit the above Company Petition. The above Company Petition is allowed. Detailed order will follow.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
H.V. SUBBA RAO
Member (Judicial)

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

C.P. No. 2510/IBC/MB/2019

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of
NATIONAL STEEL AND AGRO INDUSTRIES LIMITED
Having registered office at: 621, Tulsiani Chambers, Nariman Point, Mumbai-400021

……Operational Creditor

Vs

SHIMITA TRADING PRIVATE LIMITED
(CIN: U74900MH2010PTC200074)
Registered office at: Room No-1-2, Kapadia Chambers, 51 Bharuch Street Masjid Bunder (E) Mumbai-400009, Maharashtra

…….Corporate Debtor

Order delivered on: 10.12.2021

Coram:
Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Applicant: Mr. Krutika Cheulkar

For the Respondent: Mr. Siddharth Bafna

1. The above Company Petition is filed by M/s. National Steel and Agro Industries Limited hereinafter called as Operational Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against M/s. Shimita Trading Private Limited called as Corporate Debtor by

invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called "Code" read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of Operational Debt of Rs. 13,54,80,932/.

BRIEF FACTS OF THE CASE

2. National Steel and Agro Industries Limited (hereinafter also refereed to as Operational Creditor) is a listed public company dealing in the steel and agro business.
3. Shimita Trading Private Limited (hereinafter also referred to as Corporate Debtor) Company duly incorporated and registered under the provisions of companies Act and is engaged in the business of trading of agro products and commodities.
4. The Corporate Debtor has been purchasing the agricultural products (yellow peas) from Operational Creditor on credit and has been making part payments. During the course of business an amount of INR 13,54,80,932.00 (Rupees Thirteen Crores Fifty Four Lacs Eighty Thousand Nine Hundred and Thirty Two Only) went due and outstanding against Corporate Debtor which is reflected in the books of account maintained by Operational Creditor in the regular course of business and the same has been confirmed by Corporate Debtor.
5. The aforesaid due amount is towards the supplies of material made by Operational Creditor under request of Corporate Debtor also, Operational Creditor has supplied the material of appropriate quantity and desired quality to Corporate Debtor which was accepted without any demur or protest.
6. The Operational Creditor by its letters dated 04.05.2018, 31.05.2018 & 06.08.2018 requested the Corporate Debtor to release the due payments and in reply of the aforesaid letters Corporate Debtor by its letters dated 22.05.2018, 28.06.2018 & 20.08.2018 admitted the dues.
7. After several reminders to release the due payments the Corporate Debtor failed in making aforesaid payments.

8. The Operational Creditor approached to Advocate Atul K. Gupta (Law firm) and instruct to issue legal notices to Corporate Debtor for recovery of due payments. Legal notices dated 11.09.2018, 15.11.2018 & 18.02.2019 has been issued but Corporate Debtor failed and neglected to make payments of the admitted dues.
9. The Operational Creditor had issued a Notice of Demand on 12.04.2019 to the Corporate Debtor under the Insolvency and Bankruptcy Code 2016 claiming a sum of INR 13,54,80,932/-.

FINDINGS

10. Heard the arguments of the counsel appearing for the Applicant and perused the record. Counsel appearing for the Corporate Debtor fairly submitted that the Corporate Debtor is admitting the claim of the Operational Creditor in the above Company Petition. In view of the above admission made by the Corporate Debtor, this Bench has no option except to admit the above Company Petition. The Ld. Counsel appearing for the Applicant invited the attention of this Bench to the relevant invoices basing on which the above Company Petition is filed. The Ld. Counsel appearing for the Applicant also invited the attention of this Bench at annexure A (details of Transactions in Tabular Form) annexed at page no.13 of the above Company Petition showing the consolidated outstanding dues of the Operational Debt. The Ld. Counsel appearing for the Applicant also invited the attention of this Bench to the demand notice along with the postal receipt and track report in proof of service of demand notice on the Corporate Debtor.
11. After hearing the submissions of the counsels appearing for the Applicant and upon perusing the material available on record, this Bench is of the considered opinion that the Operational Creditor has successfully demonstrated the existence of debt and default committed by the Corporate Debtor. The Operational Creditor also issued Demand Notice under section 8 of the Code for which the

Corporate Debtor neither sent any reply by raising any dispute nor paid the outstanding dues of the Operational Creditor.

12. Since the invoices are pertaining to the period 2018, the above Company Petition being filed on 14.06.2019 is well within limitation. Thus, the Petitioner has satisfied all the necessary legal requirements for admission of the above Company Petition and the above Company Petition deserves to be admitted.

13. Accordingly, the above Company Petition is admitted by passing the following:

ORDER

a. The above Company Petition No. (IB) 2510(MB)/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Shimita Trading Private Limited.

b. This Bench hereby appoints **Mr. Navin Khandelwal**, Insolvency Resolution Professional, Registration No: IBBI/IPA-001/IP-P00703/2017-18/11301 as suggested by Operational Creditor in the Company Petition.

a. The Operational Creditor shall deposit an amount of Rs.5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.

b. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; 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.

c. 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.
d. 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.
e. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process 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.
f. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
g. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
h. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
i. Accordingly, this Petition is admitted.
j. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

SD/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)