



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.302
CP(IB) 355 of 2020

Order under Section 9 IBC

IN THE MATTER OF:

Murphy Steel

.....Applicant

V/s

Gujarat Wedge Wire Screens Ltd

.....Respondent

Order delivered on: 31/10/2023

Coram:

Mr. Shammi Khan, Hon'ble Member(J)

Mr. Sameer Kakar, Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

The case is fixed for pronouncement of order. The order is pronounced in open Court, vide separate sheet.

-SD-

SAMEER KAKAR
MEMBER (TECHNICAL)

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH –I, AHMEDABAD**

CP(IB)/355(AHM)/2020

(An application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the matter of **M/s. Gujarat Wedge Wire Screens Limited**

M/s. Murphy Steel

Registered office at:

90, Ardeshir Dady, Street,
Off VP Road, Mumbai-400004

...Applicant/Operational Creditor

VERSUS

M/s. Gujarat Wedge Wire Screens Limited

Registered address at:

1707, GIDC Industrial Estate, Halol,
Panchmahal-389350, Gujarat.

...Respondent/Corporate Debtor

Order pronounced on 31.10.2023

CORAM:

SHAMMI KHAN, MEMBER (JUDICIAL)

SAMEER KAKAR, MEMBER (TECHNICAL)



Appearance


For the Applicant : Mr. Piyush Luktuke, Adv.
For the Respondent : Mr. Ashutosh Dave, Adv.

ORDER

(Per: BENCH)

1. This is an application filed on 23.10.2020 by **M/s. Murphy Steel** (hereinafter referred to as '**the Applicant/Operational Creditor**') under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IB Code) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 against **M/s Gujarat Wedge Wire Screens Limited** (hereinafter referred to as '**the Respondent/Corporate Debtor**') for initiation of Corporate Insolvency Resolution Process (**CIRP**), to appoint Interim Resolution Professional (hereinafter referred to as "**IRP**") and to initiate the moratorium for having defaulted in payment of its outstanding dues **Rs.15,706,741/-**.

2. On perusal of Part-I of the Form-V reveals that the Applicant/Operational Creditor is a a partnership firm, having registration no. BA-39883 with address as 90,



Ardeshir, Dady Street off VP Road, Mumbai-400004. This application is filed through its Partner by one Mr. Ramesh Kumar Mishrimal Dishi.

3. On perusal of Part-II of the Form-V reveals that the Respondent/Corporate Debtor is one Gujarat Wedge Wires Screens Limited registered on 22.12.1978 with CIN: U27100GJ1978PLC003252, having registered office at 1707, GIDC Industrial Estate, Halol, Panchmahal-389350.
4. Part-III of the Form-V reveals that the Applicant/Operational Creditor has not named IRP and has left to the discretion of this Adjudicating Authority.
5. Part-IV of the Form-V reveals that the total amount of debt is Rs.15,706,741/-. The date of default is stated to be 22.01.2017.
6. It is stated that goods and materials (SS Wire/Rod, Square, Flat, Angle) were supplied by the Applicant/Operational Creditor to the Respondent/Corporate Debtor. The details of various

invoices are given in Table A. A scanned copy of Table-A is reproduced below:



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Table-A

(Amount in Rupees)

Sr. No.	Particulars	Due on	Over Due days as on 24/12/2019	Amount Due	Interest @ 24%	Total Amount Due (Round off)
01	Invoice No: 5416 Date: 25/03/2011	09/04/2011	3181	9,50,946.00	1,989,014.29	2,939,960.00
02	Invoice No:5363 Date: 22/02/2013	09/03/2013	2481	4,60,519.00	751,264.20	1,211,783.00
03	Invoice No: 5364 Date:05/03/2013	20/03/2013	2470	60,058.00	97,540.77	157,599.00
04	Invoice No::5407 Date:08/05/2013	23/05/2013	2406	7,85,572.00	1,242,796.43	2,028,368.00
05	Invoice No: 5409 Date:29/05/2013	13/06/2013	2385	82,136.00	128,807.25	210,943.00
06	Invoice No: 5413 Date: 08/06/2013	23/06/2013	2375	1,76,940.00	276,317.26	453,257.00
07	Invoice No:5417 Date: 13/06/2013	28/06/2013	2370	84,660.00	131,930.43	216,590.00
08	Invoice No: 5418 Date: 13/06/2013	28/06/2013	2370	60,955.00	94,989.60	155,945.00
09	Invoice No: 5419 Date: 15/06/2013	30/06/2013	2368	7,31,108.00	1,138,365.20	1,869,473.00
10	Invoice No: 5423 Date: 01/07/2013	16/07/2013	2352	300,212.00	464,284.03	764,496.00
11	InvoiceNo: 5424 Date: 06/07/2013	21/07/2013	2347	31,442.00	48,522.33	79,964.00
12	Invoice No: 5425 Date: 06/07/2013	21/07/2013	2347	61,731.00	95,265.31	156,996.00
13	Invoice No: 5426 Date: 06/07/2013	21/07/2013	2347	1,36,680.00	210,929.07	347,610.00
14	Invoice No: 5430 Date: 13/08/2013	28/08/2013	2309	1,96,702.00	298,642.14	495,344.00



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15	Invoice No: 5432 Date: 16/08/2013	31/08/2013	2306	109,395.00	165,872.79	275,268.00
16	Invoice No: 5438 Date: 01/10/2013	16/10/2013	2260	2,12,017.00	315,063.07	527,080.00
17	Invoice No: 5439 Date: 01/10/2013	16/10/2013	2260	2,70,354.00	401,753.45	672,107.00
18	Invoice No: 5440 Date: 12/10/2013	27/10/2013	2249	1,39,960.00	206,972.08	346,932.00
19	Invoice No: 5441 Date: 12/10/2013	27/10/2013	2249	18,309.00	27,075.25	45,384.00
20	Invoice No: 5448 Date: 11/12/2013	26/12/2013	2189	1,25,927.00	181,252.08	307,179.00
21	Invoice No: 5452 Date: 02/01/2014	17/01/2014	2167	7,73,031.00	1,101,473.87	1,874,505.00
22	Invoice No: 5513 Date: 26/09/2014	11/10/2014	1900	18,564.00	23,192.28	41,756.00
23	Invoice No: 5573 Date: 21/09/2015	06/10/2015	1540	65,577.00	66,403.45	131,981.00
24	Invoice No: 5636 Date: 19/10/2016	03/11/2016	1146	1,05,059.00	79,165.55	184,225.00
25	Invoice No: 5637 Date: 21/10/2016	05/11/2016	1144	34,124.00	25,668.73	59,793.00
26	Invoice No: 5639 Date: 28/10/2016	12/11/2016	1137	78,479.00	58,672.19	137,151.00
27	Invoice No: 5656 Date: 07/01/2017	22/01/2017	1066	8,849.00	6,202.54	15,052.00
Grand Total				6,079,306.00	9,627,435.64	15,706,741.00

For Murphy Steel
 FOR MURPHY STEEL

Ramesh Kumar
 PARTNER

RameshKumar Mishrimal Doshi
 Partner



Date: 08 SEP 2020
 Place: Mumbai

Before me


K.S. Singh
 NOTARY
 Government of India
 Greater Mumbai Dist.

No. 1457 P.No. 97
 NOTARY Register ... 07 Date

08 SEP 2020




7. The affidavit affirming the application is signed by one Mr. RameshKumar Mishrimal Doshi stated to be a partner of the firm.
8. Demand Notice was issued on 26.12.2019 claiming total dues of Rs.15,706,741/- of which the principal amount was Rs.60,79,306/- and interest was Rs.96,27,435.64.
9. Reply was e-filed on 19.02.2021 which is affirmed by one Mr. Rajiv Kisanlal Singhee stated to be one of the Directors of the Company. In reply, it is stated that the first invoice was issued on 09.04.2011. It is the contention of the Respondent that except for one invoice which is dated 07.01.2017 amounting to Rs.8,849/-, all claims are time-barred.
10. The Respondent further states that the Hon'ble Supreme Court in the case of ***B. K. Educational Services Private Limited v. Parag Gupta and Associates [Civil Appeal No. 23998 of 2017]*** has held that if the default occurs over three years prior to the date of filing of application, the application would be barred under Article 137 of the Limitation Act, 1963 and that Section 238A of the Code



doesn't bar limitation. Therefore, if the invoice dated 07.01.2017 is taken into account, it doesn't satisfy the threshold of even Rs.1,00,000/- (Rupees One Lakh) of default as envisaged under Section 4 of the Code.

11. It is further stated that the Demand Notice was defective and not served in the proper form as it was issued under Form-3 and the said defect is not curable.
12. The Ledger Account attached with the application has an opening balance of Rs.78,80,031/- as on 01.04.2016 which is overstated.
13. Written submissions were filed which have been considered here.
14. We have heard counsels and perused the record. It is not in dispute that the materials were supplied by the Operational Creditor to the Corporate Debtor. However, perusal of the application reveals that the debts are very old and are barred by limitation. We agree with the contentions of the Corporate Debtor as quoted in B. K. Educational Society (supra). No explanation has been



given as regards to opening balance how they have arrived and further the Operational Creditor kept quiet for a long time before filing the present application.

15. In view of what is stated above, we dismiss the present application being barred by limitation. No order as to costs.

-SD-
SAMEER KAKAR
MEMBER (TECHNICAL)

-SD-
SHAMMI KHAN
MEMBER (JUDICIAL)

Rajeev/PS