

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-I**

CP(IB)89/MB/2022

Under Section 10 of the Insolvency and
Bankruptcy Code, 2016 read with Rule 7 of
the Insolvency and Bankruptcy
(Application to Adjudication Authority)
Rules, 2016

In the matter of

Nagraj Alloys Private Limited

CIN : U51101MH2011PTC223836

... Corporate Applicant/Debtor

Order Pronounced On : 02.01.2024

Coram:

Hon'ble Member (Judicial) : SH. JUSTICE V. G. BISHT (RETD.)

Hon'ble Member (Technical): SH. PRABHAT KUMAR

Appearances:

For the Corporate Applicant : Mr. Ashish Pyasi, Advocate

ORDER

Per: Justice V. G. Bisht (Retd.), Hon'ble Member (Judicial)

1. This Company Petition is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rules, 2016 by the Corporate Applicant, seeking to initiate its own Corporate Insolvency Resolution Process ("**CIRP**"). The said application is being preferred by the Corporate Applicant owing to financial stress faced by it,

consequent to which it is not in a position to repay the debts due to its creditors.

Brief Facts

2. The Corporate Applicant was incorporated on 11.11.2011 under the Companies Act, 1956. Its Corporate Identity Number (“CIN”) is U51101MH2011PTC223836. Its registered office is at Flat no. 004, Maa Bambleshwari Apartment, Near Patidar Bhawan, Quetta Colony, Nagpur - 440008. Therefore, this Bench has jurisdiction to entertain and decide the Petition. The Authorised share capital of the Corporate debtor is Rs. 40,00,000/- divided into 40000 equity shares of Rs.10 each and paid-up capital is Rs. 40,00,000/- divided into 4,00,000 equity shares of Rs.10 each.
3. The company is engaged in trading, supplying, buying, selling, distributing, dealing in Iron, Steel, Mild steel etc.
4. The Corporate Applicant submits that due to a fire accident at the registered office of the Corporate Applicant, the Corporate Applicant suffered huge losses since the batteries used for recycling caught fire and were burnt down to ashes. The insurance claim filed by the Corporate Applicant was also rejected, which eventually resulted in closing the factory of the Corporate Applicant. Due to all the above mentioned circumstances, the Corporate Applicant defaulted in the repayment of loans provided by the financial creditors.
5. The Applicant has placed on record letter dated 14.05.2021 issued by IndusInd Bank wherein on account of continuous defaults for more than 90 days in payment of interest, the bank has declared the account of the respondent as NPA on 01.11.2020, and the said debt is reflecting in the financial statements as for the year ended 2019-20 and 2020-21 which constitutes acknowledgement of debt. This application was filed on 26.08.2021. Since the amount of debt in default is acknowledged in the financial statement, the period of limitation gets extended in terms of Section 18 of Limitation Act. Hence, the application has been filed within the limitation period of three years.

6. The Corporate Person has produced Balance Sheet as on 31.03.2021. It is seen that revenue from operations of the Corporate Applicant is 3,09,51,442 as on 31.03.2021, whereas the amount of default is Rs.14,83,66,871/-. It shows that the Corporate Applicant is unable to pay the entire debt. (revenue from operations does not show NIL)
7. The Corporate Applicant has placed on record the Affidavit regarding co-operation from the Directors in the Corporate Insolvency Resolution Process and funding the process. One Intervenor Omkara Asset Reconstructions Company has reported its objections; but no one was present on its behalf, nor any intervention petition was filed on its behalf. Nonetheless, the Intervenor does not have locus in the Section 10 Application ordinarily.

Statutory Compliances

8. The Corporate Applicant has enclosed a copy of Special Resolution passed by the shareholder of the Company in their Extra-Ordinary General Meeting held on 21.06.2021 for initiating Corporate Insolvency Resolution Process u/s 10 of the Code.
9. The Board of Directors of the Corporate Applicant in their Extra-ordinary General meeting held on 21.06.2021 authorised Mr.Pravin Gujar, Director of the Company to file necessary application under the Code.
10. Further, the Corporate Applicant has also enclosed the Audited books of Account for year ending 31.03.2020 and 31.03.2021.
11. The Corporate Applicant has suggested the name of Mr. Prasad Kamalakar Dharap having Registration No. IBBI/IPA-001/IP-P00702/2017-2018/11228 for appointment as the Interim Resolution Professional (“**IRP**”). The proposed IRP has also submitted his Consent in Form 2 confirming eligibility and that there are no disciplinary proceedings pending against him.

12. This application is filed as per Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016 in Form-6. Required information is also furnished therein.
13. After hearing the submissions and upon perusing the supporting documents annexed with the Petition, this Bench is of the view that the application made by the Corporate Applicant is complete in all respects as required by law. It clearly shows that the Corporate Applicant is in default of a debt due and payable and the default is in excess of minimum amount stipulated under section 4(1) of the IBC, at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority **admits** this Petition and orders initiation of CIRP against the Corporate Applicant.

Order

14. The above CP(IB) No. 89 of 2022 is hereby **allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Nagraj Alloys Private Limited.
15. Mr. Prasad Kamalakar Dharap having Registration No. IBBI/IPA-001/IP-P00702/2017-2018/11228, Email Id: Dharap65@gmail.com, is hereby appointed as the IRP of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.
16. There shall be a moratorium under Section 14 of the IBC, in regard to the following:
 - i. 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;

- ii. Transferring, encumbering, alienating or disposing off by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - iii. 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 (SARFAESI) Act, 2002;
 - iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
17. Notwithstanding the above, during the period of moratorium: -
- i. The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
 - ii. That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
18. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
19. Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
20. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP

within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

21. The Corporate Applicant shall deposit a sum of Rs. 3,00,000/- (Rupees Three Lakhs only) till the formation of Committee of Creditors plus out of pocket expenses with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
22. The Registry is directed to communicate this Order to the Corporate Applicant and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
23. A copy of this Order be sent to the Registrar of Companies, Mumbai, Maharashtra, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within **seven days** from the date of receipt of a copy of this order.
24. Ordered accordingly.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)
/MK/

Sd/-

JUSTICE V. G. BISHT
MEMBER (JUDICIAL)