

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

C.P. No. 791/I&BP/2019

Under section 8 & 9 of the IBC, 2016

In the matter of

Ancon Steel Industries

154/156, Shiv Sadan, 1st Floor, 3rd

Kumbharwada, Dr. M G Mahimtura Marg,

Girgaon, Mumbai – 400 004

....

Petitioner

v/s.

Sanika Chemicals Private Limited

212, The Great Eastern Chambers, Plot

No. 28, Sector – 11, CBD Belapur, Navi

Mumbai – 400 614

.... Corporate

Debtor

Order delivered on: 04.11.2019

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)
Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner : Mr. Swanand Tarade i/b Vis Legis Law Practice.
For the Corporate Debtor: None Present.

Per: Suchitra Kanuparthi, Member (Judicial)

ORDER

1. This company Petition is filed by Ancon Steel Industries (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Sanika Chemicals Private Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default in making

payment of Rs. 13,17,944/- including interest @ 24% p.a., 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 Corporate Debtor is engaged in the business of manufacturing and supply of chemicals. The Corporate Debtor approached the Petitioner and placed orders for supply of chemicals and issued purchase orders. The Petitioner supplied the products to the Corporate Debtor from July 2017 to October, 2017 and raised invoices amounting to Rs. 11,35,586/- on the Corporate Debtor.

3. The Corporate Debtor has made a part-payment of Rs. 1,50,000/- in respect of the said invoices and the balance amount of Rs. 9,85,586/- is due and payable by the Corporate Debtor.

4. Despite several requests made by the Petitioner, the Corporate Debtor failed to clear its dues. On 02.02.2019, the Petitioner issued Demand Notice under Section 8 of the Code demanding a sum of Rs. 13,17,944/-, including interest @24% p.a. as provided in the invoice. However, there was no reply from the Corporate Debtor for the Demand Notice and the Petitioner has filed affidavit as required under Section 9(3)(b) of the Code stating that there was no notice of dispute given by the Corporate Debtor.

5. The counsel for the Petitioner submitted that the petition was served on the Corporate Debtor and proof of service was filed to that effect. The Counsel for the Corporate debtor appeared on 09.05.2019, sought a copy of the Petition and a copy of the Petition was served on the Counsel for the Corporate Debtor on the same day and sought time to file reply. But subsequently, the Corporate Debtor neither filed reply nor appeared before this Bench.

6. On going through the Petition and on hearing the submissions of the Counsel for the Petitioner, this bench is of the view that the Corporate Debtor owes the amount claimed by the Petitioner and committed default in making the payment to the Petitioner and hence the Petition deserves admission.

7. One Mr. Sanjeev Kumar Jain, 2 B/ 31, Kalpataru Estate, Jvir, Andheri (East), Mumbai- 400093; having Registration No. IBBI/IPA-001/IP-P00858/2017-2018/11440 has given his consent in Form No. 2 to act as an Interim Resolution Professional.

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 04.11.2019 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. Sanjeev Kumar Jain, 2 B/ 31, Kalpataru Estate, Jvir, Andheri (East), Mumbai- 400093; having Registration No. IBBI/IPA-001/IP-P00858/2017-2018/11440 as Interim Resolution Professional to carry the functions as mentioned under the Code.
9. Accordingly, this Petition is admitted.
10. 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)