

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

I.A.(IB) No. 565/KB/2021

and

C.P. (I.B) No. 103/KB/2020

In the matter of:

An Application under section 10 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations 2016.

And

In the matter of:

Gouri Iron & Steel Private Limited

(CIN: U27101WB2002PTC094371)

Having its registered office at: -

1, British India Street, Kolkata- 700069,
West Bengal

...Corporate Applicant

Coram:

Shri Rajasekhar V.K.

: Member (Judicial)

Shri Harish Chander Suri

: Member (Technical)

Date of hearing: 17.08.2021

Order pronounced on: 25.11.2021

Appearances (through video conference)

For Corporate Applicant

- : 1. Ms. Urmila Chakraborty,
Advocate
2. Ms. Shubhangi Thard,
Advocate

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COMMON ORDER

I.A.(IB) No. 565/KB/2021 and C.P. (IB) No. 103/KB/2020

Per: Rajasekhar V.K., Member (Judicial)

1. This Court convened through video conference today.

C.P. (IB) No. 103/KB/2020

2. The present Application has been filed by Gouri Iron & Steel Private Limited, CIN: U27101WB2002PTC094371, the Corporate Applicant, under section 10 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiation of Corporate Insolvency Resolution Process (CIRP) against itself. The Application has been filed through its Director Mr. Sumrit Mondal, DIN: 03329372, duly authorised *vide* Board Resolution dated 24.12.2019. A copy of the Board Resolution dated 24.12.2019 is annexed to the Application and marked as **Annexure-B** on **Page 13**.
3. The Corporate Applicant was incorporated on 14.03.2002 and it was involved in the business of casting and rolling mill plant for producing iron and steel ingots, iron and steel makers, processors, smelters, founderies, etc.
4. The reasons for applying for initiation of the CIRP by the Corporate Applicant is that Corporate Applicant is unable to pay the sum of Rs.1,88,76,99,404/- due to its operational creditors as it is suffering losses.
5. Some of the Operational Creditors have issued demand notices requesting the Corporate Applicant to make payments of the debts but the Corporate Applicant is unable to clear the debts of the Operational Creditors.
6. The members of the Corporate Applicant have given their consent by way of a resolution passed in the Extra Ordinary General Meeting held

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on 19.12.2019 to file the application under section 10 of the Code. A copy of the Resolution dated 19.12.2019 is annexed to the Supplementary Affidavit affirmed on 12.08.201 and marked as **Annexure-A** at **Page 5**.

7. In support of its Application, the Corporate Applicant has submitted, *inter alia*, the following documents: -
- (a) Memorandum and Articles of Association of the Corporate Applicant.
 - (b) Financial statements of the Corporate Debtor for two Financial Years being 2017-18, 2018-19 and provisional Financial Statement for the Financial Year December, 2019.
 - (c) List of sundry creditors and sundry debtors from 01.04.2019 to 25.12.2019.
 - (d) Ledger sheets reflecting the unpaid balance.

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8. The Corporate Applicant has filed an application numbered I.A. (IB) No. 565/KB/2021 for replacement of the name of the Interim Resolution Professional proposed initially with the name of Mr. Netai Basak to function as the Interim Resolution Professional (IRP). Mr. Netai Basak has submitted his written communication in Form 2. The written communication is annexed to the application and marked as **Annexure-C** on **Pages 11-12**.
9. We have heard the learned Counsel appearing for the Corporate Applicant and have perused the documents on record.
10. There is no dispute from any quarter towards the fact that the debt is due and payable by the Corporate Applicant to various creditors and that the Corporate Applicant is unable to pay the same.

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11. The Corporate Applicant has furnished the books of accounts for the relevant period under section 10(3)(a); the Corporate Applicant has proposed the name of the IRP who has submitted its written consent (section 10(3)(b)); the Corporate Applicant has also Special resolution passed by shareholders in Extra-Ordinary General meeting dated 19.12.2019 under section 10(3)(c) of the Code.

12. Other than the debt owed to the sundry creditors, on perusal of the Financial Statements for the financial year being 2018-19 in Note No. 14, the following debt is also under consideration, it is stated that:

“(i) Contingent liabilities not provided for in the accounts in respect of VAT for the period of 2006-07 to 2009-19, 11.26 crores disputed in appeal before the Revisional Board.

“(ii) Contingent liabilities not provided for in the accounts in respect of VAT for the period 2010-11, 49.64 crores for disputed ITC pending in appeal before Appellate Authority.”

13. The application is free from defects and complete in all aspects as required under the law. The Application shows that the Corporate Debtor is in default of a debt that is due and payable, and the default is more than the threshold amount as stipulated under section 4(1) of the Code at the relevant time. The default stands established and there is no reason to deny the admission of the present Application.

14. Therefore, in the light of the facts stated in the application and the evidence placed on record, this Adjudicating Authority admits this Application and orders initiation of CIRP against the Corporate Debtor under the following terms: -

(a) The Application bearing C.P.(IB)No. 103/KB/2020 filed by the Corporate Applicant under section 10 of the Insolvency & Bankruptcy Code, 2016, is hereby, admitted for initiating the Corporate Insolvency

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Resolution Process in respect of Gouri Iron & Steel Private Limited,
CIN: U27101WB2002PTC094371.

- (b) There shall be a moratorium under section 14 of the IBC.
- (c) 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.
- (d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (e) As per the proposal given by the Corporate Applicant, Mr. Netai Basak, having registration no. IBBI/IPA/003/IP-N00327/2020-2021/13421, is appointed as the IRP for ascertaining the particulars of Creditors and convening a Committee of Creditors for evolving a Resolution Plan.
- (f) During the CIRP period, the management of the Corporate Person 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 Person shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (g) The IRP/RP shall submit to this Adjudicating Authority periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- (h) The Corporate Applicant to pay to IRP a sum of Rs. 3,00,000/- (Rupees Three Lakh only) as payment of his fees as advance, as per Regulation

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33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment.

- (i) The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- (j) The Court Officer of this Court is hereby directed to communicate this Order to the Corporate Person and the IRP by Speed Post, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order.
- (k) Additionally, the Corporate Person shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, Kolkata by all available means for updating the Master Data of the Corporate Person. 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.

15. I.A. (IB) No. 565/KB/2021 is allowed and dismissed. **CP (IB) No. 103/KB/2020** to come up on 24.01.2022 for filing the periodical report.

16. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

25.11.2021

GGRB_LRA