

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – II, CHENNAI**

CP(IB)/216(CHE)/2024

*(Filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, R/w, Rule 6 of the
Insolvency and Bankruptcy Rules, 2016)*

In the matter of M/s. Metlord Alloys Private Limited

M/s. BHANDARI METAL DISTRIBUTORS,
Represented by its Authorised Signatory/ Partner
Mr. P. Pankaj Bhandari
Having office at:
No. 1, Katchaleswarar Agraharam Street,
Chennai – 600 001.

... Petitioner / Operational Creditor

-Vs-

M/s. METLORD ALLOYS PRIVATE LIMITED
Represented by its Directors/Managing Directors
Having Registered office at:
7/A63 5th Street, Periyar Nagar
Chennai – 600 082
Also at:
No .37, 38, 39, Veppampattu Road,
Koduvalli Village, Thiruvallur Dist,
Chennai – 600 055

... Respondent / Corporate Debtor

Order Pronounced on 17.07.2025

CORAM:

Shri. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

Shri. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present:

For Petitioner/ Operational Creditor: Mr. A.Vikash, Advocate

For Respondents/ Corporate Debtor: Aiyar and Dolia Chennai

ORDER

(Heard through Hybrid Mode)

This Application under Section 9 of IBC has been filed by Shri. P. Pankaj Bhandari, authorized signatory of M/s. Bhandari Metal Distributors, Petitioner / Operational Creditor herein against M/s. Metlord Alloys Private Limited, Respondent / Corporate Debtor herein for initiating Corporate Insolvency Process (CIRP) against the Corporate Debtor.

2. Part I of the Application contains the particulars of the Petitioner i.e. Shri. P. Pankaj Bhandari, authorized signatory of M/s. Bhandari Metal Distributors. Part II of the Application sets out the details of the Corporate Debtor. It was incorporated on 10.12.2003 having paid up share capital of Rs. 3,00,00,000/- and address at 7/A63 5th Street, Periyar Nagar, Chennai – 600 082 and also at No .37, 38, 39, Veppampattu Road, Koduvalli Village, Thiruvallur Dist, Chennai – 600 055, within the jurisdiction of this Tribunal. In Part III of the application, the Operational Creditor has not proposed anyone as the IRP and they leaves it to this Tribunal's discretion to appoint. Part IV of the petition sets out the details of the debt being Rs.1,59,38,475/-(Rupees one crores fifty nine lakh thirty eight thousand four hundred and seventy five) with date of default as 19.05.2023. This petition has been filed on 16.09.2023.

SUBMISSIONS OF THE OPERATIONAL CREDITOR

2. It is submitted that the Petitioner is engaged in the business of supplying metals like copper, stainless steel, brass, and allied products. In the regular course of business, the Corporate Debtor placed multiple purchase orders with the Petitioner. Based on these, the Petitioner supplied goods on a running account basis and raised various invoices accordingly. Partial payments were made over time, while a substantial balance remained unpaid. had approached the Operational Creditor and placed multiple purchase orders for the supply of metals such as copper, stainless steel, brass, and allied products. Pursuant to the

said purchase orders, the Operational Creditor duly supplied the goods and raised several invoices on a running account basis.

3. It is submitted that as on the date of the application, the total operational debt claimed is Rs.1,59,38,475/-, comprising of Rs.1,39,63,961/- as principal and Rs.19,74,514/- as accrued interest at 18% per annum. Further the interest at the same rate is sought from the date of filing till realization.

4. It was submitted that the Corporate Debtor, despite receiving the goods to its satisfaction and having benefitted therefrom, failed to make payments as per agreed terms. Although part payments were made intermittently, a substantial sum remained unpaid. As on the date of filing, the total amount due and payable stands at Rs.1,59,38,475/-, which includes Rs.1,39,63,961/- towards principal and Rs.19,74,514/- towards accrued interest at 18% per annum. The Operational Creditor also claims further interest at the same rate from the date of filing till realization.

5. It was further submitted that despite repeated demand for outstanding payment and reminders, the Corporate Debtor failed to clear the outstanding dues. Consequently, a legal notice dated 27.07.2024 was issued and duly received by the Corporate Debtor on 02.08.2024 and 05.08.2024. In response, the Corporate Debtor, through counsel, admitted the principal liability of Rs.1,39,63,961/- but sought a moratorium of two years to settle the dues. This request was not acceptable to the Operational Creditor.

6. It is also submitted that the Petitioner issued a legal notice dated 27.07.2024, which was duly received by the corporate debtor. In its reply dated 31.07.2024, the debtor admitted the outstanding principal of Rs.1,39,63,961/- but sought two years' time for repayment.

7. Thereafter, a statutory demand notice under Form 3 dated 22.08.2024 was issued and served upon the Corporate Debtor. Despite receipt, the Corporate

Debtor neither replied nor made any payments. The Operational Creditor contends that this amounts to default under the provisions of the Insolvency and Bankruptcy Code, 2016.

8. In support of its claim, the Operational Creditor has placed on record the relevant purchase orders, unpaid invoices, ledger statements, bank certificate, bank statement, copy of legal notice and reply, and master data of the Corporate Debtor, to demonstrate the existence of debt and default.

9. It is submitted that given the continuous default in payment despite admitted liability, and in the absence of any pre-existing dispute or litigation, the Petitioner seeks initiation of the Corporate Insolvency Resolution Process (CIRP) under Section 9 of IBC. The Operational Creditor prays for appointment of an Interim Resolution Professional and further reliefs as the Hon'ble Tribunal deems fit.

SUBMISSIONS OF THE CORPORATE DEBTOR

10. The Corporate Debtor vehemently denies the claims made in the petition and asserts that the application is not maintainable either in law or on facts. It is submitted that the petition deserves dismissal in limine.

11. It is admitted that orders were placed and certain goods were received. However, the total amount claimed by the Operational Creditor Rs.1,59,38,475/- is disputed. The Corporate Debtor specifically contests the interest component of 18% per annum, stating that no such agreement on interest was ever entered into or accepted. The interest claim is described as exaggerated and unjustified.

12. The Respondent submits that some materials supplied by the Operational Creditor had quality issues. The Operational Creditor had verbally agreed to take back the defective goods but failed to do so. Hence, the claim is not only exaggerated but also factually disputed.

13. It is argued that each invoice is a separate transaction and cannot be clubbed together to surpass the Rs.1 crore threshold under Section 4 of the IBC. Therefore, the present petition fails to satisfy the minimum default requirement.

14. It is submitted that the goods supplied did not conform to the required specifications, giving rise to genuine disputes between the parties. This pre-existing dispute renders the application liable to be rejected.

15. It is further submitted that they are in the process of transferring the business to M/s. IRG Innovative Pvt. Ltd., which took possession of the property and operations from 01.07.2024. However, a cheque issued by a related entity of IRG bounced. This situation has constrained the Respondent from clearing liabilities as planned.

16. It is also submitted that the Corporate Debtor admits receipt of the legal notice dated 27.07.2024 but claims that the reply sent by their staff through counsel was done without accurate consultation or correct details being furnished.

17. It is submitted that the land on which the company operates belonged to the Director's father and was sold solely to clear debts of the Corporate Debtor, based on promises made by the buyer (IRG) to revive the company.

18. It is contended that the Operational Creditor had been misusing the IBC as a recovery tool rather than as a mechanism for resolving insolvency. It is argued that entertaining such petitions would encourage misuse of the Code and defeat its very purpose.

19. Finally, the Respondent prays for dismissal of the application with exemplary costs, citing the absence of a legally enforceable debt, procedural infirmities, and malafide intention behind the petition.

FINDINGS OF THE TRIBUNAL

20. The Adjudicating Authority has perused the application filed by the Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter “the Code”) and the counter affidavit filed by the Corporate Debtor. Upon hearing both parties and examining the records, the following findings are recorded.

21. The Operational Creditor has annexed with the application several purchase orders and corresponding unpaid invoices raised between August and October 2023, amounting to Rs.1,39,63,961/- towards principal, along with accrued interest of Rs.19,74,514/- at the rate of 18% per annum, aggregating to Rs.1,59,38,475/-. The application is also supported by ledger statements, a bank certificate, and copies of demand notices duly served on the Corporate Debtor.

22. The Corporate Debtor, in its reply dated 31.07.2024, unequivocally admitted the principal liability of Rs.1,39,63,961/-, while merely requesting two years’ time for payment. This fact is reiterated in the counter affidavit, where the Corporate Debtor has admitted supply of goods and receipt of legal notice, but has raised objections to the interest component and claimed quality issues in some materials.

23. This Tribunal is guided by the ruling of the Hon’ble Supreme Court in *Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd. (2018) 1 SCC 353*, which holds that to reject a petition under Section 9, there must exist a pre-existing dispute, which is plausible and supported by evidence. In the present case, the allegations of defective goods and quality issues are vague, unsupported by any contemporaneous communication or documentary proof, and were not raised until the filing of this counter.

24. The Corporate Debtor’s reply to the legal notice, which admits liability, coupled with its failure to clear the dues or raise a bona fide dispute prior to

receipt of the statutory demand, negates any claim of a genuine pre-existing dispute. The Tribunal finds that the defence now raised is an afterthought and lacks credibility.

25. The minimum default threshold of Rs.1,00,00,000/- as required under Section 4 of the Code is satisfied by the admitted principal debt alone. Therefore, the contention that the claim is artificially clubbed to cross the threshold is untenable as the debt of the Corporate Debtor in totality with the Operational Creditor has to be considered.

26. The Tribunal is satisfied that the debt exists, the Corporate Debtor has defaulted in payment, the statutory demand notice has been duly served and complied with procedurally and there is no genuine dispute raised prior to the issuance of the notice. Thus, the application is complete and in accordance with Section 9 and Rule 6 of the IBC Rules, 2016.

27. “Actori incumbit onus probandi” – The burden of proof lies on the plaintiff. In the present case, the Operational Creditor has discharged the burden of proving the existence of an operational debt and default, whereas the Corporate Debtor has failed to rebut the same with cogent evidence.

28. Accordingly, this Tribunal holds that the present petition under Section 9 of the Code is admissible. The Corporate Insolvency Resolution Process (CIRP) is to be initiated against the Corporate Debtor, and an Interim Resolution Professional (IRP) is to be appointed.

29. In the present case, the Operational Creditor has not named the Insolvency Resolution Professional in Part – III of the Application. This Tribunal hence appoints **Mr. Thirumal N.** with *Registration No: IBBI/IPA-001/IP-P02938/2025-2026/14520 (email id: task.itr@gmail.com)* who is having Authorization for Assignment till **30.06.2026** as the “Interim Resolution Professional” (IRP) in respect of the Corporate Debtor. The IRP appointed shall

take in this regard such other and further steps as are required under the Code, more specifically in terms of Section 15,17,18 of the Code and file the report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

30. As a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

a. *The institution of suits or continuation of pending suits or proceedings against the respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*

b. *Transferring, encumbering, alienating or disposing of by the respondent any of its assets or any legal right or beneficial interest therein;*

c. *Any action to foreclose, recover or enforce any security interest created by the respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*

d. *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.*

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

31. However, during the pendency of the moratorium period in terms of Section 14(2) (2A) and 14(3) as extracted hereunder:

“(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to

(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;

(b) a surety in a contract of guarantee to a corporate debtor."

31. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

"(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be."

32. The Operational Creditor is directed to pay a sum of **Rs.2,00,000/- (Rupees Two Lakhs only)** to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to her in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

33. Based on the above terms, the Application stands **admitted** in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the Order shall be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim

Resolution Professional above named be also furnished with copy of this Order forthwith by the Registry, who will also communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

34. Accordingly, **CP(IB)/216/(CHE)/2024** is **allowed** and **disposed of**.

-Sd-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd-

JYOTI KUMAR TRIPATI
MEMBER (JUDICIAL)