



NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

17. C.P.(IB)-566/MB/2022

CORAM: SHRI. H.V.SUBBA RAO, MEMBER (J)
MS. MADHU SINHA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **23.06.2023**

NAME OF THE PARTIES: Sunflag Iron and Steel Co Ltd

V/s.

Adico Forge Private Limited.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Jaydeep Mehta, counsel appearing for the Operational Creditor is present.

None appeared for the Corporate Debtor not only today but also on earlier occasion on 02.06.2023 when the matter was listed on board. The bare perusal of affidavit in reply makes it very clear that the Corporate Debtor has clearly admitted the “debt” and “default” in their reply and assigned the reason of COVID-19 for not repaying the same. Therefore, this is a clear case of admitted “debt” and “default” and this Bench has no option except to admit the above Company Petition. Accordingly, the above Company Petition is **admitted**. Detailed order will follow:

Sd/-
MADHU SINHA
Member (Technical)
//SKS//

Sd/-
H.V.SUBBA RAO
Member (Judicial)



**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

C.P. No. 566/IBC/MB/2022

Under Section 9 of the Insolvency and
Bankruptcy Code, 2016 read with
Rule 6 of the Insolvency and
Bankruptcy (Application to
Adjudication Authority) Rule 2016)

In the matter of

**M/s. Sunflag Iron & Steel Company
Limited.**

(CIN-L27100MH1984PLC034003)

**Address for Correspondence of the
Operational Creditor at:** 33, Mount
Road, Sadar, Nagpur. Maharashtra
440001.

Email : chanda@sunflagsteel.com

.....Operational Creditor

Vs

M/s. Adico Forge Private Limited.

(CIN- U27109PN2004PTC019292)

Registered office at: Gat No. 1088 &
1091, Sanaswadi – Tal _ Shirur, Pune
Maharashtra - 412208.

.....Corporate Debtor

Order dated : 23.06.2023

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Ms. Madhu Sinha, Member (Technical)

For the Petitioner : Mr. Jaydeep Mehta, Advocate.

**ORDER**

1. This Company petition is filed by *M/s. Sunflag Iron & Steel Company Limited* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *M/s. Adico Forge Private Limited* (hereinafter called “Corporate Debtor”) alleging that the Corporate Debtor committed default in making payment to the Operational Creditor. This petition has been filed by invoking the provisions of Section 9 Insolvency and bankruptcy code (hereinafter called “Code”) read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The present petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of Rs. **1,60,04,297.30/-** (Rupees Four Crores One Lakhs Twenty Seven Thousand Nine Hundred and Thirty Two Only).
3. **The brief facts of the Financial Creditor are as follows:-**
 - (i) Sunflag Iron & Steel Company Limited is a public Limited Company registered under the Companies Act, 1956 having its Registered Office at 33, Mount Road, Sadar, Nagpur, Maharashtra-440001 (hereinafter referred to as the “Operational Creditor”).
 - (ii) The Corporate Debtor is a Private Limited Company registered under the Companies Act, 1956 having its registered office at Gate No. 1088 & 1091, Sanaswadi, Taluka – Shrirur, pune-412208 and is engaged in the business of forging for which it requires steel materials as raw materials for manufacturing its final products supplier of fractured connecting rods to automobile manufactures.



- (iii) The Corporate Debtor approached Operational Creditor for supply of hot rolled steel of various quantities AND AFTER DISCUSSION WITH THE MANAGEMENT OF THE OPERATIONAL CREDITOR and accordingly issued four purchase order as under.

Sr No.	Purchase Order No.	Date of P.O.	Amount of P.O
1.	GPO/RM/AF/19-20/8(1)	05.08.2019	77.73.840.00
2.	GPO/RM/AF/19-20/8	02.05.2019	1,63,68,960.00
3.	GPO/RM/AF/19-20/62	31.01.2020	1.06,51,860.00

- (iv) Operational Creditor has supplied the materials to the Corporate Debtor has supplied the materials to the Corporate Debtor on the basis of the above-mentioned purchase orders issued by Corporate Debtor. Subsequent to the supply of materials, Operational Creditor raised various invoices to Corporate Debtor aggregating to Rs. 2,04,66,847.00 (Rupees Two crores four lakhs sixty six thousand eight hundred forty-seven only), against which an amount of Rs. 1,60,04,297.30 and in addition the Corporate Debtor is also liable to pay interest on delayed payment @ 18% per annum.
- (v) Operational Creditor issued demand notice under Section 8 of the IBC, 2016 on 18th September, 2021 vide speed post.
- (vi) The Corporate Debtor made the payment of Rs. 10,00,000/- (Rupees Ten Lakhs only) on 25th October, 2021 and hence the final outstanding amount which remains unpaid is Rs. 1,60,04,297.00 (Rupees One Crore Sixty Lakhs Four



Thousand Two Hundred Ninety-Seven and paise Thirty) after adjusting the payment of Rs. 10,00,000/- received from the Corporate Debtor.

- (vii) The Corporate Debtor has not responded to the said demand notice dated 18th September, 2021 issued by the Operational Creditor. The Corporate Debtor has not responded to the said demand notice nor has it raised any dispute. On the contrary, the Corporate Debtor has made the payment 10,00,000/- (Rupees Ten Lakhs Only) in October, 2021 after issuance of the said demand notice by Operational Creditor.
- (viii) Hence the Operational Creditor files this present petition to initiate Corporate Insolvency Resolution Process under Section 9 of the IBC, 2016 against the Corporate Debtor.
4. The Corporate Debtor has filed affidavit in reply of Mr. Manhar Parekh, Authorized person of M/s. Adico Forge Private Limited opposing the admission of the above company petition by raising routine pleas.
5. Heard Mr. Jaydeep Mehta, counsel appearing for the Operational Creditor and perused the material available on record. None appeared for the Corporate Debtor not only today but also on earlier occasion on 02.06.2023 when the matter was listed on board. The bare perusal of affidavit in reply makes it very clear that the Corporate Debtor has clearly admitted the “debt” and “default” in their reply and assigned the reason of COVID-19 for not repaying the same. Therefore, this is a clear case of admitted “debt” and “default” and this Bench has no option except to admit the above Company Petition. Accordingly, the above Company Petition is admitted by passing the following:-

**ORDER**

- a. The above Company Petition No. (IB) - 566(MB)/2022 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. Adico Forge Private Limited.
- b. Since the Operational Creditor has not suggested the name of any Interim Resolution Professional (IRP) in the petition, this Bench is hereby appointing an IRP from the panel of RP's furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Vakati Balasubramanyam Reddy** Email Id: (vbsreddy7@gmail.com) Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00662/2017-2018/11131 (Mobile No. 8369170484) as the Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Operational Creditor shall deposit an amount of Rs. 5 Lakh towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses only and not towards fee till his fees is decided by COC.
- d. That this Bench hereby prohibits 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; 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.

- e. 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.
- f. 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.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process 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.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate



debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, this Petition is admitted.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-
MADHU SINHA
MEMBER (TECHNICAL)

/Sunil/

Sd/-
H.V. SUBBA RAO
MEMBER (JUDICIAL)