

**IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI**  
**COURT – VI**

**Item No.1**  
**IB-235/ND/2023**

**In the matter of:**

**M/s. Jain Metal Traders**

**...Applicant**

***Versus***

**M/s. Magppie Global Houseware Pvt. Ltd.**

**...Respondent**

**Order under Section 9, IBC, 2016**

**Order delivered on 15.06.2023**

**CORAM:**

**SHRI. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)**

**SHRI. RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

Order pronounced in open Court vide separate sheets.

IB-235/ND/2023 is admitted.

SD/-

**(RAHUL BHATNAGAR)**

**MEMBER (TECHNICAL)**

SD/-

**(BACHU VENKAT BALARAM DAS)**

**MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**NEW DELHI**

**BENCH-VI**

**IB-235/(ND)/2023**

Section: Under Section 9 of the Insolvency and Bankruptcy Code, 2016 and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

**In the matter of:**

**M/S. JAIN METAL TRADERS**

**REGISTERED OFFICE AT:** KHASRA NO.97/8/2/1,  
FIAZU KISHAN INDL. AREA, KUNDLI DISTRICT,  
SONEPAT, HARYANA- 131028

...APPLICANT/OPERATIONAL CREDITOR

**Versus**

**M/S. MAGPPIE GLOBAL HOUSEWARE PRIVATE LIMITED**

**REGISTERED OFFICE AT:** KHASRA NO 324, BLOCK J, SARUP  
NAGAR, NEW DELHI-110042

...RESPONDENT/CORPORATE DEBTOR

**CORAM:**

**SHRI. BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)**

**SHRI.RAHUL BHATNAGAR, MEMBER (TECHNICAL)**

**Counsel for Applicant:** Mr. Anurag Kumar

**Counsel for Respondent:** Mr. Lakshay Agarwal

**ORDER**

**PER: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)**

**Date: 15.06.2023**

1. This is an application filed by the Applicant M/s. Jain Metal Traders, the Applicant/Operational Creditor seeking initiation of CIRP under Section 9 of the Insolvency and Bankruptcy Code 2016 ("the Code") against M/s. Magppie Global Houseware Pvt. Ltd. for a debt of Rs. 1,71,72,241/- (Rupees One Crore Seventy-One Lakhs Seventy-Two Thousand Two Hundred and Fourty One).
2. The Applicant, M/s. Jain Metal Traders (the "Operational Creditor/OC") is a sole proprietorship concern, having its registered office at Khasra No. 97/8/2/1, Hari Kishan Industrial Area, Kundli District, Sonapat, Haryana-131028 engaged in the trading and supplying of stainless steel utensils. The Corporate

Debtor, M/s. Magppie Global Houseware Private Limited (the Corporate Debtor/ CD) is a Company duly registered under the Companies Law of India, having its registered office at Khasra No 324, Block J, Sarup Nagar, New Delhi-110042 and is a recipient of goods from the Operational Creditor.

- 3.** The Operational Creditor entered into an agreement for supply of goods with the Corporate Debtor since 2012. As per the Purchase Orders, the Operational Creditor duly supplied the goods to the Corporate Debtor which were received by the Corporate Debtor without any dispute. The Operational Creditor raised various invoices vide, Invoice No. 23 dated, 11.07.2019; Invoice No. 28 dated 11.07.2019; Invoice No. 33 dated 16.07.2019; Invoice No. 34 dated 16.07.2019; Invoice No. 33 dated 18.02.2021; Invoice No. 34 dated 18.02.2021 and Invoice No. 2 dated 30.09.2021. It is the case of the Applicant that the total Operational debt due from the Corporate Debtor is Rs.1,71,72,241/-.
- 4.** The Applicant sent a letter dated 01.07.2022 informing the Corporate Debtor about the confirmation of accounts from 01.04.2021 and 30.06.2022. The said letter was duly received

signed and stamped by the Corporate Debtor acknowledging and admitting with the debt is payable.

- 5.** The Corporate Debtor failed to pay the amount and therefore the Applicant has filed the present application under Section 9 of IBC seeking initiation of CIRP against the Corporate Debtor.
- 6.** It is submitted by the Ld. Counsel appearing for the Operational Creditor that the date of default is 13.10.2021 and the last payment was made on 21.05.2022.
- 7.** The Operational Creditor issued a demand notice on 10.01.2023 to which the Corporate Debtor replied after the expiry of 10 days' period as provided under Section 8 sub-section 2, IBC, on 24.02.2023.
- 8.** We have heard the submissions made by Ld. Counsel for the Operational Creditor as well as Ld. Counsel for the Corporate Debtor. Ld. Counsel for the Operational Creditor has submitted that as per the agreement the goods were supplied to the Corporate Debtor and invoices were raised which has not been disputed by the Corporate Debtor. Further, the Corporate Debtor has failed to make any payment and therefore, prayed that the

present application be admitted and CIRP be initiated against the Corporate Debtor.

**9.** Ld. Counsel appearing for the Corporate Debtor submitted that the Corporate Debtor raised certain pre-existing dispute, but could not produce any document to that effect. Ld. Counsel further submitted that the pre-existing dispute with regard to quality of the goods was informed telephonically to the Operational Creditor which was denied by the Operational Creditor. Ld. Counsel for the Corporate Debtor also submitted that the Corporate Debtor has admitted having received the supply of the goods as well as the invoices.

**10.** Having heard the submissions of Ld. Counsel appearing for both the parties and perused the records, we are of the considered view that the Corporate Debtor has failed to prove that there is any pre-existing dispute raised by the Corporate Debtor in as much as the Corporate Debtor has failed to produce any document to that effect and also admitted its liability.

**11.** We are therefore of the view that the Operational Creditor has been able to establish that the present case is a fit case for admission. Therefore, this Adjudicating Authority is of the view

that there is an operational debt which is due from the Corporate Debtor and the Corporate Debtor has defaulted in making payment of the amount due and along with that, in the absence of any preexistence of dispute, this tribunal admits this application and initiates CIRP on the Corporate Debtor with immediate effect.

**12.** The name of Insolvency Resolution Professional has not been proposed in the Application filed by the Operational Creditor. This Adjudicating Authority, hereby appoints Mr. Girish Kamal Gupta, (Email – girishkamalca@gmail.com), Reg. No: IBBI/IPA-001/IP-P01146/2018-19/11831 to act as Insolvency Resolution Professional from the panel of Insolvency Professionals (IPs) valid from the period 01.01.2023-30.06.2023 issued by IBBI in terms of Section 16(4) of the IBC, 2016. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report within 30 days before this Bench.

**13.** The Applicant shall deposit a sum of Rs. 2 lakhs to enable the IRP to meet the immediate expenses. The same shall be

accounted for by the IRP and shall be reimbursed to the Applicant to be recovered as costs of the CIRP.

**14.** In pursuance of Section 13 (2) of the Code, we direct that public announcement shall be made by the Interim Resolution Professional, immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations, 2016) with regard to admission of this application under Section 9 of the Insolvency & Bankruptcy Code, 2016.

**15.** We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

- (a) 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;*
- (b) transferring, encumbering, alienating or disposing of by the corporate debtor 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 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;*
- (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

**16.** It is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances 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, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period.

**17.** It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central

Government and the supply of essential goods or services to the Corporate Debtor, as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018, which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.

**18.** The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor, are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional, as may be required by him, in managing the day-to-day affairs of the 'Corporate Debtor'. In case there is any violation committed by

the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of his obligation, imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

**19.** The office is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCT of Delhi & Haryana, at the earliest possible but not later than seven days from today. The Registrar of Companies shall update its website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified to the public at large.

SD/-

**(RAHUL BHATNAGAR)**  
**MEMBER (TECHNICAL)**

SD/-

**(BACHU VENKAT BALARAM DAS)**  
**MEMBER (JUDICIAL)**