



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

**CP (IB) No.1126/MB-IV/2020**

Under Section 9 of the I&B Code, 2016

In the matter of:

**AJS Impex Private Limited**

[CIN: U74900MH2006PTC161680]

...Financial Creditor/Applicant

V/s

**Matrushree Export Pvt Ltd**

[CIN: U99999MH1991PTC064072]

...Corporate Debtor/Respondent

**Order Dated: 03.02.2023**

*Coram:*

Mr. Prabhat Kumar  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

For the Petitioner(s) : Ms. G. Aniruth Purusothaman,  
Advocate.

For the Respondent(s) : None.

**ORDER**

***Per: Prabhat Kumar, Member (Technical)***

1. This is an application bearing C.P. (IB) No. 1126/MB/C-IV/2020 filed by AJS Impex Private Limited, the Financial Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (I&B Code)

seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Matrushree Export Pvt Ltd, Corporate Debtor.

2. The Operational Creditor is a Company. The Application is filed by Mr. Ganesh B. Pawar, Manager of Operational Creditor, duly Authorised vide Board Resolution<sup>1</sup> dated 10.02.2020, claiming total outstanding amount<sup>2</sup> of Rs.4,77,75,052/- (Rupees four crore seventy-seven lakh seventy-five thousand fifty-two only), of which Rs.3,87,32,038/- is the Principal amount and Rs.90,41,014/- is the Interest amount.
3. The Date of Default as per the summary of Invoices referred in Part-IV is 01.02.2019. The Petition is filed on 26.05.2020, hence this Petition is filed within the period of three years from the Date of Default.
4. The Operational Creditor supplied steel products to the Corporate Debtor in the year 2019. Pursuant to the said supply of goods, the Operational Creditor raised seven invoices dated 30.01.2019 upon the Corporate Debtor for total amount of Rs.3,87,32,038/- (Rupees three crore eighty-seven lakh thirty-two thousand thirty-eight only).
5. The Operational Creditor has filed an Affidavit<sup>3</sup> under section 9 (3) (b) of the Code. The Operational Creditor also filed Ledger<sup>4</sup> for period of 01.04.2019 to 26.05.2020 and from 01.04.2018 to 31.03.2019.
6. The Corporate Debtor has not filed its Reply in the present Petition. After giving several opportunities to the Corporate Debtor, the Corporate Debtor has failed to appear in this application and hence, vide order dated 18.04.2022, the Corporate Debtor was set ex-parte.

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<sup>1</sup> P.15 of the Petition

<sup>2</sup> P.7 of the Petition

<sup>3</sup> Pp 15-14 of the Petition

<sup>4</sup> Pp 27 & 28 of the Petition

*Findings:*

7. We have heard the arguments of the Learned Counsel for Operational Creditor.
8. After perusal of the material on record, this Bench is of considered view that the Operational Creditor has supplied goods to the Corporate Debtor and the Corporate Debtor has failed to pay the outstanding dues of the Operational Creditor against such supply.
9. The Corporate Debtor has failed to appear in the matter after giving several opportunities and has also not filed the reply.
10. On perusal of the documents submitted by the Applicant, it is clear that financial debt amounting to more than Rs.1,00,00,000/- (Rupees One Crore Only) is due and payable by the Corporate Debtor to the Applicant. There is default by the Corporate Debtor in payment of debt amount. Therefore, we do not have any objection on record against the application filed for initiation of CIRP against the corporate debtor. Hence, the Application filed by the Operational Creditor is liable to be admitted.
11. The application is complete and has been filed under the proper form and default of the Corporate Debtor has been established.
12. On perusal of the material on record, this Bench is of considered view that the this is fit case for admission under section 9 of the Code to initiate the CIRP against the Corporate Debtor.
13. The Operational Creditor has not proposed the name of Insolvency Resolution Professional in the matter.

**ORDER**

14. It is, accordingly, hereby ordered as follows: -

- (a) The petition bearing CP (IB) 1126/MB-IV/2020 filed by AJS Impex Private Limited, the Financial Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (I&B Code) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Matrushree Export Pvt Ltd, Corporate Debtor, is **admitted**.
- (b) There shall be a moratorium under section 14 of the IBC, in regard to the following:
  - (i) 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;
  - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - (iii) 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;
  - (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.



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- (c) Notwithstanding the above, during the period of moratorium,-
- (i) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
  - (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal 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.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) Mr. Hitesh Kothari, Registration No. [IBBI/IPA-002/IP-N00324/2017-2018/10929]; Email:[hiteshkotharics@gmail.com](mailto:hiteshkotharics@gmail.com); Contact: 9702246060 is appointed as Interim Resolution Professional to carry the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.

- (g) During the CIRP Period, the management of the Corporate Debtor 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 Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (h) The Operational Creditor shall deposit a sum of Rs.5,00,000/- (Rupees five lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims.
- (i) The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (j) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. 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.

Sd/-  
Prabhat Kumar  
Member (Technical)

03.02.2023

Sd/-  
Kishore Vemulapalli  
Member (Judicial)