

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**JAIPUR BENCH (RAJASTHAN)**

**CP No. (IB)-205/7/JPR/2019**

**Coram: DR. POONDLA BHASKARA MOHAN,  
HON'BLE JUDICIAL MEMBER**

**SHRI RAGHU NAYYAR,  
HON'BLE TECHNICAL MEMBER**

**IN THE MATTER OF SECTION 7 OF IBC, 2016.**

**IN THE MATTER OF:**

**PUNJAB NATIONAL BANK  
Plot No. 4, Sector 10, Dwarka,  
New Delhi - 110075**

**...FINANCIAL CREDITOR/APPLICANT**

**VERSUS**

**ATLAS ALLOY (INDIA) PRIVATE LIMITED  
Plot NO. 125-128, Shree Radhavalabh Industrial Area,  
Village Piplaz, Tehsil Beawer,  
District Ajmer - 305202 (Rajasthan)**

**...CORPORATE DEBTOR/RESPONDENT**

**FOR PETITIONER (S)  
FOR RESPONDENT(S)**

**: Vikas Jain, ADV.  
: None Appeared**

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**ORDER PRONOUNCED ON: - 20.09.2019****ORDER**

1. This application is filed by the Punjab National Bank, (for brevity “Applicant”), claiming to be a Financial Creditor, through Shri Durga Prasad Meghwal, its Authorised Signatory and Senior Manager, who is duly authorized vide Power of Attorney dated 13.07.2001 to file this application against the Corporate Debtor, Atlas Alloy (India) Private Limited (for brevity “Corporate Debtor”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 seeking initiation of the Corporate Insolvency Resolution Process (CIRP), pursuant to default in repayment of loan amount by the Corporate Debtor to the Applicant.
2. The Applicant is a Banking Company, constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 on 31.03.1970 and the PAN Number of the Applicant Company is AACP0165G. The Registered Office of the Company is at Plot No. 4, Sector 10, Dwarka, New Delhi - 110075.
3. The Respondent is a Private Limited company, incorporated under the Companies Act, 1956, on 04.10.1990 and duly registered with the Registrar

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Registered Office of the Company is at G-78-80, RIICO Industrial Area, Phase-I, Ajmer Road, Beawar, Ajmer 305901 (Rajasthan). The authorized share capital of the company is Rs. 1,25,00,000/- (Rupees One Crore Twenty-Five Lakh Only) and paid up share capital is Rs. 1,24,78,720/- (Rupees One Crore Twenty-Four Lakh Seventy-Eight Thousand Seven Hundred Twenty Only).

4. It is the case of the Applicant that the Respondent has availed various credit facilities namely Cash Credit Facility of Rs. 4,00,00,000, Bills Discounting Facility of Rs. 5,00,00,000/- and Term Loan Facility of Rs. 1,80,00,000 in year 2005 and the said facilities were renewed and the limits have been enhanced from time to time by the Applicant as per the request of the Respondent. The Corporate Debtor has executed a Hypothecation Agreement dated 09.11.2011 to secure the Term Loan. It is inferred from the Hypothecation Agreement that the Term Loan is to be repaid by the Corporate Debtor in 24 quarterly instalments of Rs. 7,50,000/- plus interest at the rate of 15.75% and additional interest at the rate of 2% in case of default. Copy of Hypothecation Agreement is annexed as Annexure- 18. The Applicant further submits that the Corporate Debtor has executed various other loan and security documents.
5. The Applicant further submits that since the Corporate Debtor did not maintain financial discipline, the Loan Accounts of the Corporate Debtor



were classified as NPA on 30.09.2017 and recall notices dated 03.10.2017 were issued to the Corporate Debtor and Guarantors but all went in vain. Thereafter the Applicant has issued Demand Notice dated 26.12.2017 under Section 13 (2) of the SARFAESI Act, 2002 to the Corporate Debtor and Guarantors and demanded an outstanding amount of Rs. 11,25,09,298.94/- but the outstanding amount was not repaid. Copy of Demand Notices were annexed as Annexure-5 with the Application. The Applicant submits that Recovery Suit (OA) before DRT, Jaipur is filed and is pending till the date of filing of the Application before this Tribunal.

6. As a consequence of default, this application was filed. As claimed by the applicant, the Corporate Debtor is liable to pay an amount Rs. 13,05,11,934/- as on 31.05.2019 as an outstanding amount, as reflected in Part IV of the Form - 1 filed.

Part IV

S. no.	Particulars of Financial Debt	
1.	Total amount of debt granted date(s) of disbursement.	Cash Credit Facility: Rs. 4,00,00,000/- Bills Discounting Facility: Rs.5,00,00,000/- Term Loan: Rs. 1,80,00,000/-
2.	Amount claimed to be in default and the date on which the default occurred	Outstanding Amount as on 31.05.2019 a) Term Loan Account Rs. 45,77,928/- plus future interest, cost & expenses.

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		<p>b) Cash Credit Account Rs. 12,08,95,707/- plus future interest, cost &amp; expenses.</p> <p>c) Bills Discounting Account Rs. 50,38,299/- plus future interest, cost &amp; expenses.</p> <p>Total (a+b+c) = Rs. 13,05,11,934/-</p> <p>Date of Default is the day on which the Corporate Debtor was declared as NPA i.e. 30.09.2017</p>
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7. Perusal of the records of the proceedings before this Tribunal shows that despite service of notice upon the Corporate Debtor and in view of non-appearance, this Tribunal was constrained to proceed ex-parte against the Corporate Debtor on 05.09.2019 and the submissions of the learned counsel for the Applicant were heard and orders were reserved on 11.09.2019.
8. Upon a detailed consideration of the application and documents filed by the Applicant, it is apparent that the payment of claim amount has been defaulted by the Corporate Debtor. The Registered Office of the Corporate Debtor is situated in Ajmer and therefore this Tribunal has jurisdiction to entertain and try this Application. The matter is within the purview of Law of Limitation.




9. Hence, this Tribunal is inclined to initiate the Corporate Insolvency Resolution Process (CIRP) as against the Corporate Debtor as envisaged under the provisions of IBC, 2016.
10. The Applicant has named one Mr. Satyendra Prasad Khorania having Registration Number IBBI/IPA-002/IP-N00002/2016-17/10002 (email: skhorania@live.com, Mobile No.: 9352132134), duly registered with ICSI Insolvency Professional Agency, to be appointed as the Interim Resolution Professional. The Applicant has filed Consent in Form 2 under Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 stating therein that no disciplinary proceedings are pending against the named IRP.
11. Consequences of initiation of CIRP shall be inter-alia as follows:
- (i) The Resolution Professional proposed by the Applicant is Mr. Satyendra Prasad Khorania who is an IP registered with ICSI Insolvency Professional Agency having Registration No. IBBI/IPA-002/IP-N00002/2016-17/10002. He is hereby appointed as the Insolvency Resolution Professional (IRP) to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of IBC, 2016 including issue of publication in widely circulated Newspaper as contemplated under the provisions



of IBC, 2016 and calling for the claims from the creditors of Corporate Debtor and collation of the same shall be done.

- (ii) Further, as a sequence of admission, moratorium as envisaged under Section 14 of IBC, 2016 is invoked in relation to the Corporate Debtor which will be in vogue during the Corporate Insolvency Resolution Process of the Corporate Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of IBC, 2016 in relation to the Corporate Debtor.
- (iii) The said IRP shall act strictly in compliance with the provisions of IBC, 2016 and with a view to defray his expenses to be incurred and fees on account, the Applicant is directed to deposit a sum of Rs. 2,00,000/- (Two Lacs Only) to the account of IRP within three days from the date of this order. The IRP shall duly file a status report from time to time appraising this Tribunal about the progress of CIRP unfolded in relation to the Corporate Debtor. In terms of Section 17 & 19 of IBC, 2016 all personnel of the Corporate Debtor including promoters and Board of Directors, whose powers shall stand suspended shall extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.

- (iv) In terms of Section 7 of IBC, 2016, this order shall be communicated to the Applicant, Corporate Debtor as well as the Interim Resolution Professional (IRP) appointed by this Tribunal to carry out the CIRP at the earliest, not exceeding one week from today. A copy of this order shall also be communicated to IBBI for its records.
- (v) In the circumstances, this Company Petition is admitted.

Sd—

SH. RAGHU NAYYAR,  
MEMBER (TECHNICAL)

Sd—

DR. POONDLA BHASKARA MOHAN  
MEMBER (JUDICIAL)