

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT - II**

C.P. (IB)- 4563 (MB)/ 2019

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

UltraTech Cement Ltd.,

Having its registered office at: Ahura Centre, "B" Wing, Mahakali Caves Road, Andheri (E), Mumbai- 400 093 (Maharashtra)

.....Operational Creditor

Vs

M/s. Jaatvedas Construction Co. Pvt. Ltd.,
(CIN No.: U45202MH2011PTC213252)

Having its Registered Office at: F/306, 3rd Floor, Eastern Business District, LBS Road, Bhandup West, Mumbai – 400 078 (Maharashtra).

.....Corporate Debtor

Order delivered on:- 16.09.2022

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Operational Creditor : Mr. Amit Tungare, Advocate

For the Corporate Debtor : Mr. Sumit Khanna, Advocate

ORDER

Per :- Justice P.N. Deshmukh, Member Judicial

1. This Company Petition is filed by *UltraTech Cement Ltd.* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *M/s. Jaatvedas Construction Co. Pvt. Ltd.* (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, 2016 (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 Principal sum of **Rs.3,62,49,478/-** (Rupees Three Crores Sixty- Two Lakhs Forty-Nine Thousand Four Hundred Seventy- Eight Only) together with interest of **Rs. 42,94,965/-** (Rupees Forty-Two Lakhs Ninety-Four Thousand Nine Hundred Sixty- Five) aggregating to a sum of **Rs.4,05,44,443/-** (Rupees Four Crores Five Lakhs Forty-Four Thousand Four Hundred Forty-Three Only).
3. The Operational Creditor is engaged in the business of manufacture and supply of cement and Ready- Mix Concrete. The Corporate Debtor, in the course of their business of realty sector infrastructural developments, approached the Operational Creditor for supply of Ready-Mix Concrete (RMC)

to be sold and delivered at the project site through various purchase orders starting from 29th December 2016 to 4th September 2018. The Operational Creditor rendered the aforesaid services and raised various invoices upon the Corporate Debtor. The purchase orders along with the invoices have been duly attached to this Petition.

4. The Operational Creditor sent a **Demand Notice dated 27th August 2019** calling upon the Corporate Debtor to pay an amount of Rs. 4,24,68,957/- including the interest on the principal amount. The Corporate Debtor made an initial payment of Rs. 16,29,625/- towards the outstanding debt which was adjusted in favour of the Corporate Debtor in the books of the Operational Creditor. A **Second Demand Notice dated 26th November 2019** was issued by the Operational Creditor in respect of the balance amount amounting to a sum of Rs. 4,05,44,443/- which remained unpaid by the Corporate Debtor despite several reminders.
5. The Corporate Debtor filed a Reply to this Petition dated 29th July 2022 stating that their business fell victim to bad business environment faced by the industry as a result of which heavy losses were borne by the Corporate Debtor especially during the pandemic. Consequently, the Corporate Debtor expressly admits their default in meeting their payment obligations and state that they are unable to meet their commitment at present.

FINDINGS

6. We have heard the submissions of the Counsel appearing for the Operational Creditor and Counsel appearing for the Corporate Debtor. It is evident from the Ledger records annexed to this Petition that an aggregate operational debt of Rs. 4,05,44,443/- exists and remains unpaid till date. It is noted that there is no pre-existing dispute between the parties. In fact, the Corporate Debtor states that they are unable to make any further payments and admit their liability in clear terms. The date of default is recorded as 20th March 2019 which was the due date of the last invoice raised by the Operational Creditor.

7. The Operational Creditor has thus successfully demonstrated and proved the debt and default in this case and has also proved that there is no credible reason for the Corporate Debtor to put the payment of the invoices on hold indefinitely. We, therefore, conclude that this Petition satisfies all the necessary requirements for admission under Section 9 of the Code.

8. For the foregoing reasons, the instant Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

ORDER

- a. **The above Company Petition No. (IB) -4563 (MB)/2019 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is

ordered against **M/s. Jaatvedas Construction Co. Pvt. Ltd.**

- b. This Bench hereby appoints **Mr. Sitansh Magia**, Insolvency Professional, Registration No: IBBI/IPA-002/IP-N00293/2017-18/10850 as the Interim Resolution Professional having registered office at Flat-9, Bhaveshwar Sadan, Plot No. 207, Tamil Sangam Road, Sion East, Mumbai 400 022 to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Operational Creditor shall deposit an amount of Rs.2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- 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 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 concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

Sd/-

JUSTICE P. N. DESHMUKH
(MEMBER JUDICIAL)

AN
16.09.2022