

THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI COURT III

Company Petition No. IB-1185(ND)/2019

Under Section 9 of the Insolvency and Bankruptcy Code, 2016

In the matter of:

M/s. Oswal Minerals Limited

...Applicant/Petitioner

AND

In the matter of:

M/s. Satellite Cabels Private Limited

...Corporate Debtor

Judgment delivered on: 03.01.2023

Coram:

SHRI BACHUVENKATBALARAM DAS
Hon'ble MEMBER (JUDICIAL)

DR. BINOD KUMAR SINHA
HON'BLE MEMBER (TECHNICAL)

For the Applicant : Mr.Gulshan Kumar Sachdev, Advocate.

For the Respondent : Ex parte

ORDER

Per: BACHUVENKATBALARAM DAS, MEMBER (J)

1. The present petition i.e., CP (IB)-1185(ND)/2022 has been filed under Section 9 of the IBC, 2016 with the prayer to initiate CIR Process against the Corporate Debtor viz, *M/s. Satellite Cabels Private Limited*, declare the Moratorium and appoint the Interim Resolution Professional since it has lost its substratum and it is unable to repay the principal outstanding amount of Rs. 11,83,800/- along with interest of an amount of Rs. 52,248/- a total



sum of Rs. 12,36,048/- being interest @ 18% per annum as per the terms and conditions of the invoice from the due date of the invoices i.e., 13th July, 2018 and 18th July, 2018 in respect of the outstanding invoices dated 13th June, 2018 and 18th June, 2018.

2. The Oswal Minerals Limited (Operational Creditor) is a public Limited Company incorporated under the Companies Act, 1956 on 4th July, 1996 registered with ROC-Chennai vide Corporate Identification Number (CIN)-L30006TN1996PLC035973 and having Registered Office at 8/11 Police Station Road, Pallavaram Chennai-43 Varam, Chennai – 43 Varam, Tamil Nadu 600 043 India.

3. The Corporate failed to make payment of the outstanding dues of the invoices dated 13th June, 2018 and 18th June, 2018 amounting to Rs. 11,83,800/-. The Operational Creditor has filed copies of the ledger of the Corporate Debtor in the books of accounts of the Operational Creditor. It is submitted by the Operational Creditor that the Corporate Debtor is also liable to pay interest amounting to Rs.52,248/- on the outstanding dues @ 18% per annum as per terms of invoices from the due date of the invoices till the date of demand notice. The Operational Creditor made several requests and also sent several reminders to the Corporate Debtor for clearing the outstanding amount. The Corporate Debtor issued two cheques in the name of “**Oswal Minerals Limited**” for the entire outstanding amount but the same got dishonoured and returned back along with the bank CTS return memo with the remark “**Exceeds Arrangements**”. The details of the cheques which were returned back as follows: -

Sr. No.	Name of the Bank	Date	Cheque No.	Status (Return date)	Amount
1.	Dena Bank	20 th July, 2018	031450	31 st August, 2018	5,92,341/-
2.	Dena	25 th July,	031449	31 st	5,91,460/-



	Bank	2018		August, 2018	
--	------	------	--	-----------------	--

4. Thereafter, the Operational Creditor has issued Statutory Demand Notice in Form 3 under Section 8 of IBC, 2016 on 12.10.2018 to the Corporate Debtor. It is also submitted that the Operational Creditor had sent the said Demand Notice through Email and Speed Post to the Corporate Debtor on 12.10.2018 and filed the proof of service. However, no reply has been given by Corporate debtor to the said Demand notice. Since the Corporate Debtor did not make the payment, the Operational Creditor has filed the present petition under Section 9 of IBC, 2016 and seeking initiation of CIR Process against the Corporate Debtor.

5. The Corporate Debtor filed its reply dated 17.09.2019 as per the Courts record. However, the Corporate Debtor had already been set ex parte on 23.08.2022. From the perusal of the reply affidavit, it is observed that the Corporate Debtor admitted that there was a business relationship with the Operational Creditor and due to financial crunch being faced by the Company due to the absence of Directors, the payment could not be made. We have gone through the reply affidavit carefully. The Corporate Debtor has not raised any pre-existing dispute. Considering the facts and circumstances of the case, and in the view of the admission of debt by the Corporate debtor we are constrained to admit the present petition and direct to initiation the CIR Process against the Corporate Debtor.

7. The Operational Creditor in part – III of form 1 has proposed the name of Mr. Mr. Kedarram R. Laddha having Registration No: IBBI/IPA- 001/IP-P00586/2017-2018/11115 for appointment as IRP. We observed that the Insolvency and Bankruptcy Board of India (Disciplinary Committee) In exercise of the powers conferred under section 220 (2) of the Code read Regulation 11 of the IBBI (Insolvency Professionals) Regulations, 2016 and Regulation 13 of the IBBI (Inspection and Investigation) Regulations, 2017 suspended the registration of Mr. Kedarram R. Laddha having Registration



No. IBBI/IPA- 001/IP-P00586/2017-2018/11115 for a period of three years w.e.f. 23rd July,2022.

8. Accordingly, this bench appoints Mr. Santanu Kumar Samanta having IBBI Registration No IBBI/IPA-001/IP-P02324/2020-2021/13511 and e-mail ID: santanukumar@yahoo.com (Mob. 9810031794) as the Interim Resolution Professional of the corporate debtor. Mr. Santanu Kumar Samanta is appointed as interim Resolution Professional of the Corporate Debtor subject to the condition that no disciplinary proceedings are pending against him. The IRP appointed is directed to place on record the Authorization For Assignment (AFA) , specific consent in Form 2 of the Insolvency and Bankruptcy Board of India (Application to adjudicating Authority) Rule, 2016 and disclosures as required under IBBI (Insolvency Resolution process for the corporate persons) Regulations 2016 within 3 days of pronouncement of this order.

9. The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is ordered to prohibit all of the following, namely: -

- (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 (54 of 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.
- (e) The explanation below section - 14 (1) also stipulates “that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance 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”.
9. The supply of essential goods or services of the Corporate Debtor shall not be terminated, suspended, or interrupted during moratorium period. The provisions of Sub- section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.
10. We hereby direct the Operational Creditor to pay a sum of Rs. 2, 00,000/- to the IRP, as required under the provisions of the Code to meet out the initial expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
11. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the IBC, 2016.
12. The Learned Counsel for the Operational Creditor and the Registry are directed to send the copy of this Order to the IRP with immediate effect, so that he could take charge of the CD’s assets etc., and make compliance



with this Order as per the provisions of IBC, 2016. On receiving the order, the IRP is directed to communicate this Order to the Operational Creditor, the Corporate Debtor, and the concerned RoC.

13. The CP/IB-1185(ND)/2022 is **admitted**.

—sd—

03.01.23

(Dr. BINOD KUMAR SINHA)
MEMBER (TECHNICAL)

—sd—

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)