



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

C.P. No. 470/IBC/MB/2022

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

**M/s. PREM ENTERPRISES SOLE
PROPRIETORSHIP OF MR. ATURL
SHARMA**

Having registered office at: C-23,
Ground Floor, Gali No. 3, Jagatpuri,
East Delhi, Delhi – 110093.

.....Operational Creditor

Vs

**M/s. TAURIAN MINERALS
PROCESSING PVT. LTD.**

(CIN: U72200MH2008PTC187178)

Registered office at: 703, 7th floor, Plot
868, Orchid CHS, B G Kher Marg,
Campa Cola Compound, Worli,
Mumbai – 400018.

.....Corporate Debtor

Order delivered on: 31.03.2023

Coram:

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Ms. Madhu Sinha, Member (Technical)

For the Operational Creditor: Adv. Amit Tungare

For the Corporate Debtor : Adv. Heena Vichare



[Per: Kuldip Kumar Kareer, Member (Judicial)]

1. The above Company Petition is filed by M/s. Prem Enterprises which is a sole proprietorship of Mr. Atul Sharma having office at C-23, Ground Floor, Gali No. 3, East Delhi, Delhi – 110 093 (hereinafter called as Operational Creditor) seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against M/s. Taurian Minerals Processing Pvt. Ltd. company under Companies Act, 1956 incorporate on 29.09.2008 with CIN: U72200MH2008PTC187178 and having their registered office at 703, 7th floor, Plot -868, Orchid CHS, B. G. Kher Marg, Campa Cola Compound, Worli, Mumbai – 400 018 (hereinafter called as Corporate Debtor) by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called “Code” read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of an unresolved Operational Debt of Rs. 1,40,32,838/-.
2. In the present petition the Corporate Debtor had approached the Operational Creditor for supply of steel sheets and thereby steel sheets were supplied to the Corporate Debtor from 28.06.2021 to 28.08.2021.



3. Operational Creditor submits that supply of steel sheets worth Rs. 1,47,51,883/- was made to the Corporate Debtor and till date only part payment of Rs. 7,15,000/- has been received from Corporate Debtor after deducting TDS of Rs. 4,045/-.
4. After that on various occasions, letters were written to the Corporate Debtor for non-payment of debt and repayment of the outstanding amount. The debt amount has been acknowledged by the Corporate Debtor on 15.11.2021.
5. Operational Creditor had sent final notice dated 15.01.2022 for repayment of loan along with interest or else non-payment of loan legal actions will be initiated by the Operational Creditor against Corporate Debtor. Even after that demand notice dated 05.02.2022 under IBC, 2016 was issued, till date no payment been made by the Corporate Debtor. Hence the petition.

Reply of Corporate Debtor

6. The Corporate Debtor vide its Affidavit in reply (“Reply”) dated 02.06.2022 submitted that the Operational Creditor should not be allowed to use this forum for recovery of debts



and opportunity for an amicable settlement should be provided to the Corporate Debtor.

7. The Corporate Debtor submits that company is into the business of manufacturing cum trading, crushing, screening and Mobile plant, and its components and other structures and trading of its spare parts.
8. The Corporate Debtor further submits that the transaction entered into between the Operational Creditor and Corporate Debtor is regarding supply of steel sheets and steel sheets were supplied to the Corporate Debtor from June, 2021 to August, 2021.
9. The Corporate Debtor submits that company was performing satisfactorily and was servicing all its debts due to various creditors. However, during the last two years, due to global pandemic scenario the company has been affected very badly and this has in turn affected Cash Flows and profitability significantly and the resultant non-servicing of debts.
10. The Corporate Debtor further submits that the company has business associates, to whom customized product have



been supplied and the Corporate Debtor has built up excellent relations with them, after prolonged continuous efforts and such associates are integral part of business cycle and if Corporate Debtor Company is admitted in the Insolvency Proceedings, the supplies to these valuable business associates will also get adversely affected and this will lead to permanent loss of trustworthy and loyal business associates which has been developed through decades of devoted attention and hard work.

11. The Corporate Debtor further submits that the company must be given an opportunity to clear all the outstanding dues in next 15 months and also assures that company will also make all the possible efforts to revive their operations through restructuring of debts, enhancement and assessment plans to increase the working capital limits of the Corporate Debtor.

Finding

12. We have heard counsel for the parties and gone through record.
13. Counsel for the Operational Creditor has argued that the Operational Creditor supplied goods to the Corporate



Debtor vide invoices at **“Exh-F”** during the period from 26.06.2021 to 27.08.2021. As the Corporate Debtor failed to make the payment in respect of the invoices, the demand notice dated 05.02.2022 was duly served upon the Corporate Debtor and in reply dated 16.02.2022 the Corporate Debtor has not raised any dispute and has rather acknowledged its liability. The counsel for the Operational Creditor further referred to letter dated 15.11.2021 at **“Exh-J”**, whereby the Corporate Debtor has acknowledged its liability to pay an amount of Rs. 1,40,32,838/-.

14. According to the counsel for the Operational Creditor a clear cut case of admission of the petition under Section 9 of the Code is made out as debts and its default stands proved on record.
15. On the other hand, counsel for the Corporate Debtor has simply sought time to settle the account as due to adverse circumstances resulting from Covid-19 pandemic, the Corporate Debtor has been in dire financial straits.
16. Having considered the contention raised by the counsel for the parties, we are of the considered view that it stands established on record that the Operational Creditor supplied goods to the Corporate Debtor on account of which



sum of Rs. 1,40,32,838/- is outstanding against the Corporate Debtor. In the letter dated 15.11.2021 at “**Exh-J**” the Corporate Debtor has unequivocally acknowledged its liability to pay the aforesaid amount to the Operational Creditor. Thus, it stands established that there is existence of operational “**debt**” in respect of which “**default**” has been committed by the Corporate Debtor. Therefore, in our considered view, a strong case is made out for the admission under Section 9 of Insolvency & Bankruptcy Code, 2016.

17. Accordingly, the above Company Petition is ‘**admitted**’ by passing the following:

ORDER

- A. The above Company Petition No. (IB) 470 of 2022 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **M/s. Taurian Minerals Processing Pvt. Ltd.**
- B. Since the Operational Creditor has suggested the name of IRP to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench hereby appoints **Mr. Kunal Jayant Waje**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P-02472/2021-2022/13815, having Email



Id ***ipkunalwaje@gmail.com*** as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

C. The Operational Creditor shall deposit an amount of Rs. 2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only towards expenses and not towards his fee till his fee is decided by COC.

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 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; 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 Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

K. Accordingly, the C.P.(IB) 470 (MB) of 2022 is **admitted.**

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

Sd/-
MADHU SINHA
Member (Technical)

Sd/-
KULDIP KUMAR KAREER
Member (Judicial)