

**NATIONAL COMPANY LAW TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI**

**ORDER SHEET OF THE HEARING ON 12<sup>TH</sup> JANUARY, 2024, 10:30 A.M.**

CP (IB)/7/GB/2023

**Present: 1. Hon'ble Member (Judicial), Shri H.V. Subba Rao  
2. Hon'ble Member (Technical), Shri Satya Ranjan Prasad**

Name of the Company	M/s Jalan Sales Corporation (OC) Vs M/s Sree Bajrang Infracon Pvt. Ltd. (CD)
Under Section	U/s 9 of IBC, 2016

For Petitioner (s) : Mr. Mukesh Sharma, Adv.

For Respondent (s) :

**ORDER**

Order Pronounced through VC *vide* separate sheets.

Sd/-

**Satya Ranjan Prasad**  
**Member (Technical)**

Sd/-

**H.V. Subba Rao**  
**Member (Judicial)**

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**CP (IB) No.7/GB/2023**

*In the matter of:*

**Insolvency and Bankruptcy Code, 2016.** An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 to initiate Corporate Insolvency Resolution Process;

**-And-**

*In the matter of:*

**M/s Jalan Sales Corporation,** 120, M.G. Road, Fancy Bazar, Guwahati, Kamrup (M), Assam-781001;

**... Applicant/Operational Creditor**

**-Versus-**

**M/s Sree Bajrang Infracon Private Limited,** Gyankonika Apartment, 2<sup>nd</sup> Block, 4-C, Byelane-3, Basisthapur, Guwahati, Kamrup (M), Assam-781028.

**... Respondent/Corporate Debtor**

***Coram:***

Shri H. V. Subba Rao : Member (Judicial)

Shri Satya Ranjan Prasad : Member (Technical)

***Appearances (through video conferencing):***

For the Petitioners : Mr. M. Sharma, Adv.

For the Respondent : Mr. R. Dubey, Adv.

**Order reserved on: 12.12.2023**

**Order pronounced on: 12.01.2024**

**ORDER**

1. This Company petition is filed by M/s. Jalan Sales Corporation (hereinafter referred to as “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution

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Process (CIRP) against M/s. Sree Bajrang Infracon Private Limited, (hereinafter called “Corporate Debtor”) by invoking the provisions of Section 9 of Insolvency and Bankruptcy Code, 2016 (hereinafter called “Code”) read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for resolution of a sum of Rs. 5,89,34,857.80/- (Rupees Five Crores Eighty-Nine Lakh Thirty Four Thousand Eight Hundred and Fifty-Seven and Eighty Paise Only) [Principle Rs. 3,00,68,805/- (Three Crore Sixty-Eight Thousand Eight Hundred Five Only) along with interest of Rs. 2,88,66,052.80/- (Rupees Two Crore Eighty-Eight Lakh Sixty-Six Thousand and Fifty-Two and Eighty Paise Only)] being an Operational Debt due and payable by the Corporate Debtor.

2. As per the Petitioner the brief facts of the case are as follows:

- 2.1 The Petitioner i.e. M/s Jalan Sales Corporation is a partnership firm, carrying out the business of dealing in and manufacturing of hardware materials, Iron and Steel scrap and products, etc. The Corporate Debtor (hereinafter ‘CD’), M/s Sree Bajrang Infracon Private Limited is engaged in the business of building of complete constructions or parts thereof and civil engineering.
- 2.2 The CD initially approached the OC in the month of March, 2021 and had purchased a huge quantity of TMT Bars and Rods for their construction business and since then, they have been purchasing the said products from time to time. Initially, the CD made certain part payments and post-dated cheques which were issued in the name of the OC which got dishonoured on various occasions.
- 2.3 Having no other choice the OC filed criminal case under the Negotiable Instruments Act, 1881 having Cr. Case No. 618/2022 and Money Suit No. 144/2022, which was later withdrawn after due negotiation between the OC and the CD whereby a MoU was executed between both the parties on 27.02.2023 wherein the CD assured OC that the outstanding dues and post-dated cheques for Rs.35,33,333/- on each cheque amounting to

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Rs.1,06,00,000/- would be paid. However, the said post-dated cheques again bounced reflecting a *malafide* intention on part of the CD against repayments of outstanding dues.

- 2.4 Further, The OC had initiated Demand Notice dated 25.04.2023 as prescribed under Rule 5 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 in Form 3 calling upon the CD to make payment of the unpaid debt amount of Rs. 5,89,34,857.80/- (Rupees Five Crore Eighty-Nine Lakh Thirty Four Thousand Eight Hundred and Fifty-Seven and paise Eighty Only) [Principle Rs. 3,00,68,805/- (Three Crore Sixty-Eight Thousand Eight Hundred Five Only) along with interest of Rs. 2,88,66,052.80 (Rupees Two Crore Eighty-Eight Lakh Sixty-Six Thousand and Fifty-Two and Paise Eighty Only)[ Interest accrued @24% p.a] as on 24.04.2023 to the OC. However, there is no response to this notice, despite the same having been served upon the CD/Respondent.
3. This matter was first listed before this Tribunal on 08.06.2023 wherein the Ld. Counsel for Respondent appeared on advance notice and was thereby directed to file reply within 3 weeks' time with advance copy to the Petitioner. On the next date of hearing, *i.e.*, 21.07.2023, the Respondent was given final opportunity to file his reply within 14 days. Thereafter, on 25.08.2023 the time granted to the Respondent for filing his reply was again extended with an intimation that in case there is a failure to do the same, his right to file reply would be forfeited.
4. Further, despite the intimation on the aforementioned previous date of hearing, Respondent failed to file his reply on subsequent dates of hearing *i.e.*, 11.09.2023, 03.10.2023, 16.10.2023 and 22.11.2023 as well, whereby on 22.11.2023, the matter was listed on 01.12.2023 for arguments and disposal. Subsequently, on 01.12.2023, Ld. Counsel for the Petitioner submitted that there were some talks of settlement between the parties and sought adjournment on the same ground, however, failed to report any settlement thereafter.

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5. In view of the forgoing, on 12.12.2023, this Tribunal proceeded with the matter and reserve the order without any reply been filed by the Respondent.
6. It is clear from the records that there is continuing default commencing from 27<sup>th</sup> March, 2021 and which is continuing till date. The above Company Petition being filed on 17.05.2023 is within the limitation period allowed under the Limitation Act, 1963. The Operational Debt claimed is Rs. 5,89,34,857.80/- (Rupees Five Crore Eighty-Nine Lakh Thirty Four Thousand Eight Hundred and Fifty-Seven and Eighty Paise Only) [Principle Rs. 3,00,68,805/- (Three Crore Sixty-Eight Thousand Eight Hundred Five Only) along with interest of Rs. 2,88,66,052.80/- (Rupees Two Crore Eighty-Eight Lakh Sixty-Six Thousand and Fifty-Two and Eighty Paise Only) is above the threshold limit as per the notification dated 24.03.2020 made by the Ministry of Corporate Affairs. The Operational Creditor also suggested the name of the Interim Resolution Professional (IRP) to be appointed and thus the above CP satisfies all the legal requirements for admission. Since, the CD did not choose to file any affidavit in reply, the claim of the Operational Creditor remained uncontroverted. Hence, the application filed by the Petitioner under Section 9 of the IBC, 2016 is found to be complete for the purpose of initiation of Corporate Insolvency Resolution Process in respect of the Corporate Debtor.
7. Accordingly, the above Company Petition No. CP (IB) No.7/GB/2023 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Sree Bajrang Infracon Private Limited, under Section 9 of the IBC Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016, with the following order:
  - 7.1 The Operational Creditor has suggested the name of Mr. Ujwal Kumar Kalita to perform the duties of the Interim Resolution Professional in the petition. This Bench hereby appoints **Mr. Ujwal Kumar Kalita**, Insolvency Professional, and Registration No: IBBI/IPA-002/IP-N00952/2020-2021/13157, having email: [ujwalkalita@gmail.com](mailto:ujwalkalita@gmail.com) and having phone no.

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- (+91) 9765559458 as the interim resolution professional to carry out the functions as mentioned under the Insolvency and Bankruptcy Code, 2016.
- 7.2 The Operational Creditor shall deposit an amount of Rs. 3 Lakh 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 is decided by CoC.
- 7.3 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 rights 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.
- 7.4 The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- 7.5 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.
- 7.6 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

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- 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.
- 7.7 The public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- 7.8 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.
- 7.9 Registry shall send a copy of this order to the Registrar of Companies, Guwahati, for updating the Master Data of the Corporate Debtor.
8. Accordingly, with the above observations and direction, CP (IB) No. 7/GB/2023 is admitted.
9. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
10. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
11. File be consigned to records.

Sd/-

**Satya Ranjan Prasad**  
**Member (Technical)**

Sd/-

**H.V. Subba Rao**  
**Member (Judicial)**

*Signed this on 12<sup>th</sup> day of January, 2024.*