

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

C.P. (IB)-4114 (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

Bhartia Petro

Having its Registered Office at: Plot No. 19,
New Cotton Market, Ganeshpeth, Nagpur,
Maharashtra- 440 018

.....Operational Creditor

Vs

Hudli And Sons Metallics Pvt. Ltd.

(CIN No.: U27310PN2005PTC21085)

Having its Registered Office at: Plot No. C-
19/ C- 20, MIDC Shirol (P), Tah:
Hatkanagale, Kolhapur, Maharashtra – 416
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.....Corporate Debtor

Order delivered on:- 03.06.2022

Coram:

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

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

Appearances:

For the Operational Creditor : Mr. Piyush Pande, Advocate

For the Corporate Debtor : None

ORDER

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

1. This Company Petition is filed by *Bhartia Petro* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Hudli And Sons Metallica 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.3,04,991/-** (Rupees Three Lakhs Four Thousand Nine Hundred Ninety-One Only) together with interest up to 20th March 2019 amounting to **Rs. 10,361/-** (Rupees Ten Thousand Three Hundred Sixty-One) @ **18% per annum** aggregating to a sum of **Rs.3,15,352/-** (Rupees Three Lakhs Fifteen Thousand Three Hundred Fifty-Two only).
3. The Operational Creditor is engaged in the business of manufacturing of casting finished or semi-finished products. The Corporate Debtor approached the Operational Creditor for providing products referred to as “BP Coat 2015” which the Operational Creditor supplied from 9th April 2018 to 7th

February 2019. The Operational Creditor raised **10 Invoices** from **14th August 2018 to 7th February 2019** on account of the products supplied by them. A record of the amounts due for the products sold to the Corporate Debtor was duly maintained by the Operational Creditor by way of a running ledger account, copies of which have been annexed to this Petition along with copies of the unpaid Invoices.

4. The Corporate Debtor has defaulted the payment of a total sum of Rs. 3,15,352/- since **8th May 2019** which was the due date of payment of the last invoice. The Corporate Debtor has not made any payment towards the outstanding invoices despite receipt and acknowledgement of the invoices sent by post. Consequently, the Operational Creditor sent a **Demand Notice dated 26th March 2019** under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the Corporate Debtor demanding repayment of the outstanding dues. The Corporate Debtor has not replied to the said Notice and failed to clear the outstanding dues. It is seen from the various order sheets that matter went unrepresented throughout and finally this Bench vide its Order dated **16th September 2021**, the Corporate Debtor was set ex-parte and right to file reply was also closed.

FINDINGS

5. We have heard the submissions of the Counsel appearing for the Operational Creditor. It is seen from the records that the Corporate Debtor failed to appear before this Tribunal on multiple occasions despite notice. The Corporate Debtor has

neither filed any Reply to the Demand Notice issued by the Operational Creditor nor has filed any Reply to this Petition. This clearly indicates the reluctance of the Corporate Debtor to fulfil their obligations.

6. The Operational Creditor has successfully demonstrated and proved the debt and default in this case. It is noted that no pre-existing dispute exists with regard to the services rendered by the Operational Creditor. Therefore, this Bench is of the view that that this Petition satisfies all the necessary requirements for admission under Section 9 of the Code and has decided to proceed ex- parte against the Corporate Debtor.
7. For the aforementioned reasons, the instant Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:
 - a. **The above Company Petition No. (IB) -4114 (MB)/ 2019 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Hudli And Sons Metallics Pvt. Ltd.
 - b. This Bench hereby appoints **Mr. Ram Ratan Kanoongo**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00070/2017-18/10156 as the Interim Resolution Professional having email address rrkanoongo@gmail.com 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)