

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH -1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON **21-06-2022**
AT 10:30 AM THROUGH VIDEO CONFERENCE

CP (IB) No. 79/9/HDB/2022
U/s. 9 of IBC, 2016.

IN THE MATTER OF:

Siddhi Ganesh Metals Pvt Ltd

... **Operational Creditor**

Vs.

M/s. S V Equipments Pvt Ltd

... **Corporate Debtor**

Coram:

DR. N. VENKATA RAMAKRISHNA BADARINATH, HON'BLE MEMBER (JUDICIAL)
SHRI VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)

ORDER

Orders in CP (IB) No. 79/9/HDB/2022 passed vide separate sheets. In result, the Petition is admitted by declaring moratorium for the purposes referred to in Section 14 of the Code.

Sd/-

MEMBER (T)

Sd/-

MEMBER(J)

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1**

CP (IB) No. 79/9/HDB/2022

*Under Section 9 of the Insolvency and Bankruptcy Code, 2016
read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating
Authority) Rules, 2016.*

In the matter between

M/s.Siddhi Ganesh Metals Pvt Ltd

S.No. 8, Ispat Bhavan, 5-4-23, Distillery Road,

Secunderabad-500 003,

Telangana.

... Operational Creditor

VERSUS

M/s. S V Equipments Pvt Ltd

Plot No.214, Phase 3,

IDA Pashamylaram,

Patencheru, Medak,

Telangana-502 307.

... Corporate Debtor

Date of order: 21.06.2022

Coram:

Dr N.Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)

Shri Veera Brahma Rao Arekapudi, Hon'ble Member (Technical)

Appearance:

For the Petitioner : Shri. Sourabh Agarwal, PCS

PER: BENCH

1. Under consideration before us is the petition filed by Operational Creditor herein stating that M/s. S V Equipments Private Limited/ Corporate Debtor committed default of Rs.1,40,81,649/-. Hence, this petition is filed under Section 9 of Insolvency & Bankruptcy Code, 2016, R/w Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the Petition, commencement of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

2. **AVERMENTS:**

2.1 It is averred that operational creditor was incorporated in the year of 2011 under Companies Act, 1956. The operational creditor objective is to trade in steel and allied products. Corporate debtor is also dealing in steel products. During the course of business the corporate debtor in the month of March, 2021 approached Operational Creditor and issued a purchase order of SS Sheets approximately 1000 Metric Tone's on different dates i.e 23.06.2021 and 04.06.2021. A copy of the purchase orders are annexed to the application at page no.24&25.

2.2 The operational creditor and corporate debtor agreed to the terms and conditions (material should be supplied immediate mentioned in the purchase orders and payment terms are 60

days credit from the date of supply) as per the purchase order operational creditor raised the bills of Rs.1,80,81,649/-. Copy of Tax invoices are annexed to the Application from page no.26-34.

2.3 It is averred that despite of several reminders, the aforesaid outstanding dues were not paid by the Corporate Debtor. Due to blockage of funds, the operational creditor was effected and was forced to pay extra interest on his bank limits and incurred extra expenditure of Rs.2.00 Crores. Subsequently, on 22.11.2021, the operational creditor issued statutory notice for the said amount Rs. 1,80,81,649/-. After receipt of the notice corporate debtor issued reply dated 09.12.2021 by admitting the claim and paid an amount of Rs.20,00,000/- on 19.12.2021 and an amount of Rs.20,00,000/- on 13.01.2022 from the total demand. Thus the total outstanding due is of Rs.1,40,81,649/-.

2.4 It is further affirmed that notice contemplated under Section 8 of I&B Code, 2016 was issued to the corporate debtor address on 01.12.2021 demanding a sum of Rs.1,40,81,649/- , but Corporate Debtor failed in clearing the dues. Thus prayed the Tribunal to initiate CIRP against the Corporate Debtor.

3. FINDINGS:

- 3.1 It is noted that the Corporate Debtor has utilized the material and had defaulted in paying the amount as per the agreement entered between them.
 - 3.2 It is noted that a demand notice was issued to the Corporate Debtor and the same was delivered to the registered office of Corporate Debtor and Corporate Debtor has replied to the demand notice and paid an amount of Rs.40,000/- out of total debt and failed to pay the remaining debt in spite of receipt of demand notice and no dispute was raised.
 - 3.3 It is noted that the Adjudicating Authority directed the operational creditor to issue notice to the corporate debtor on 15.03.2022 and 01.04.2022. The notice which was sent to the respondent got returned with endorsement "Addressee Refused". Thus this Adjudicating Authority set the Corporate Debtor ex-parte vide order dated 28.04.2022.
 - 3.4 It is further noted that the claim amount is more than Rs. 1 crore, being the minimum threshold limit fixed under IBC, 2016, hence, under the circumstances, the Adjudicating Authority is inclined to admit the petition and put the Corporate Debtor into Corporate Insolvency Resolution Process.
4. We have carefully examined the record and found that corporate debtor had issued mandatory notice and the same has been returned

unserved. Therefore, the contentions in the Application remains un rebutted.

5. We hold that there is sufficient service. Even demand notice discloses that since the respondent had not responded to the notices, we treat that corporate debtor remains un rebutted. Thus Corporate debtor was treated as ex-parte. In view of Section 8 (2) of the Code, the Corporate Debtor is required to raise a dispute or make payment within 10 days after the receipt of the Demand Notice. Since, the Corporate Debtor neither raised the disputes nor made payment and the defaulted is more than Rs. 1 crore, being the minimum threshold limit fixed under IBC, 2016, hence, under the circumstances, the Adjudicating Authority is inclined to admit the petition and put the Corporate Debtor into Corporate Insolvency Resolution Process

6. Hence, the Adjudicating Authority admits the Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:
 - (a) The 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

- (b) 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.
- (c) 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.
- (d) That the order of moratorium shall have effect from the date 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, whichever is earlier.
- (e) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.
- (f) The Operational Creditor prayed this Adjudicating Authority to appoint the IRP. This Bench hereby appoints Shri. Sreedhar

Nukala, having IBBI Registration No: IBBI/IPA-001/IP-P00432/2017-2018/10755, with email id: sreenuka_1@yahoo.com as to carry the functions as mentioned under the Insolvency & Bankruptcy Code. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with. Proposed IRP shall file Form-B issued by the IBBI within three days hereafter. This information is also available in IBBI Website. Authorisation for Assignment is valid to 30.11.2022. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.

- (g) The Registry of this Tribunal is directed to send a copy of this order to the Registrar of Companies, Hyderabad for marking appropriate remarks against the Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.
- (h) The Registry is also directed to communicate the IRP and Operational Creditor and send copy of this order.
- (i) The petitioner is directed to pay a sum of Rs.1,00,000/- to the interim resolution professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of IBBI regulation, 2016.

- (j) This shall, however, be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the petitioner.
- (k) Accordingly petition is admitted.
- (l) The Operational Creditor is directed to communicate this order to the IRP appointed in this case.

Sd/-

Veera Brahma Rao Arekapudi
Member Technical

Sd/-

Dr. N.V.Ramakrishna Badarinath
Member Judicial

Pavani