

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI (COURT NO. IV)**

Company Petition No. IB- 2029/ND/2019

(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 OF:

M/s SONIA FORGINGS PRIVATE LIMITED

...Applicant/Operational Creditor

VERSUS

M/s MASS METALS PRIVATE LIMITED

...Respondent/Corporate Debtor

Pronounced on: 07.11.2019

DR. DEEPTI MUKESH

HON'BLE MEMBER (Judicial)

SHRI HEMANT KUMAR SARANGI

HON'BLE MEMBER (Technical)

For the Applicant: Mr. Pulkit Gupta, Adv.

For the Respondent: Mr. Tarun Sharma, Adv.

MEMO OF PARTIES

M/s SONIA FORGINGS PRIVATE LIMITED

Through its director:

Sh. Krishan Lal

Having its registered office at:

A-1164, Phase-IV, Industrial Area,

Bhiwadi, Dist- Alwar, Rajasthan

...Applicant/Operational Creditor

VERSUS

M/s MASS METALS PRIVATE LIMITED

Having its registered office at:

Plot No. 49A, 1st Floor,

Street No.30 New Rohtak Road,

Anand Parbat, New Delhi- 110005

Also, at:

J-36, Udyog Nagar, Rohtak Road,

Nangloi, New Delhi-110041

254, Mohalla Gwallor Panchgaon,

Manesar District, Gurgaon, Haryana

...Respondent/ Corporate Debtor

ORDER

DR. DEEPTI MUKESH, MEMBER (J)

1. The present application is filed under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s Sonia Forgings Private Limited (for brevity 'Operational Creditor') through its director Sh. Krishan Lal authorizing him to file present application vide Board resolution dated 26.07.2019 with a prayer to initiate the Corporate Insolvency process against M/s Mass Metals Private Limited (for brevity 'Corporate Debtor').
2. The Operational Creditor namely M/s Sonia Forgings Private Limited is a company incorporated under the provisions of Companies Act, 1956 having CIN no. U27107RJ1993PTC007791 and having its registered office at A-1164, Phase – IV, Industrial Area, Bhiwadi, District- Alwar, Rajasthan.
3. The Respondent, the Corporate Debtor namely M/s Mass Metals Private Limited is a company incorporated on

28.08.1990 under the provisions of Companies Act, 1956 with CIN No. U74899DL1990PTC041296, having its registered office at Plot No. 49A, 1st Floor, Street No. 30, New Rohtak Road, Anand Parbat, Delhi -110005.

4. The Authorised Share Capital of the respondent company is Rs. 3,00,00,000/- and Paid Up Share Capital of the company is Rs. 1,91,59,000/- as per Master Data of the company.
5. It is stated that the Operational Creditor has a long-term business relationship with the Corporate Debtor to do job works. The Corporate Debtor has placed various orders for job works such as cutting, forging, shotblasting etc. with the Operational Creditor during the period April 2016 to March 2018. The Operational Creditor maintained a running account of the Corporate Debtor.
6. The Operational Creditor has raised various invoices during the period April 2016 to March 2018 for total amount of Rs.17,39,057/-(Rupees Seventeen Lakhs Thirty- Nine Thousand and Fifty- Seven only) which are annexed with the application. It is further submitted by the Operational Creditor that as on 09.03.2018, there is an outstanding

principal amount of Rs.17,39,057/- (Rupees Seventeen Lakhs Thirty- Nine Thousand and Fifty- Seven only) plus interest @18% p.a. payable by the Corporate Debtor. The aforesaid debt has been categorically admitted by the Corporate Debtor vide letter dated 31.03.2018, confirming that as on 31.03.2018, there is balance outstanding amount payable to Operational Creditor of Rs.17,39,057/-. The copy of said letter is annexed with the application.

7. In spite of various requests made and reminders sent by the Operational creditor, the Corporate Debtor never bothered to reply nor paid outstanding dues.
8. On not receiving the outstanding amount from the Corporate debtor, the Operational creditor sent a demand notice dated 01.06.2019 under Section 8 of the Insolvency and Bankruptcy Code, 2016 to the Corporate debtor asking them to make the payment of balance amount of Rs.17,39,057/- (Rupees Seventeen Lakhs Thirty- Nine Thousand and Fifty- Seven only) along with the interest @18% p.a. which amounts to further sum of Rs. 5,72,280/- (Rupees Five Lakhs Seventy- Two Thousand Two Hundred and Eighty only) failing which the

Operational Creditor shall initiate the Corporate Insolvency Resolution process. Demand notice dated 01.06.2019 was duly received by the Corporate debtor. The tracking report of the speed-post dated 01.06.2019 be the proof of service of demand notice is annexed with the present application.

9. The Corporate debtor neither sent a notice of dispute nor filed reply nor made any payment to Operational Creditor. Hence, this application was filed to initiate CIRP under Section 9 of the Code.
10. The Operational Creditor has stated that total debt due and payable is Rs. 24,48,684/- (Rupees Twenty- Four Lakhs Forty- Eight Thousand Six Hundred and Eighty- Four only) as on 31.03.2018 including interest @18% p.a. payable since 31.03.2018 till realization as mentioned in Part IV of Form V.
11. On 28.08.2019, Ld. Counsel for the Corporate Debtor accepted the notice and made a submission before this Bench that Corporate Debtor is admitting the debt and the said submission is also recorded in the daily order dated 28.08.2019. No formal reply is filed.

12. The applicant has filed an affidavit dated 22.08.2019 under Section 9(3)(b) stating that no notice of dispute from the Corporate debtor is received.
13. The applicant has attached the copy of bank certificate issued by SBI Bank, Bhiwadi Branch, Rajasthan in compliance with the requirement of Section 9(3)(c) of the IBC 2016.
14. The registered office of respondent is situated in New Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
15. The present application is filed on 20.08.2019 which is within the period of limitation.
16. In view of above, we are satisfied that the Operational Creditor is entitled to claim its dues, establishing the default in payment of the operational debt beyond doubt, moreover since the Corporate Debtor has admitted its inability to pay its debts. Hence, the present application is admitted.
17. The Operational creditor has proposed the name of an Interim Resolution Professional of Mr. Vishnu Dutt having registration No. IBBI/IPA-001/IP-P00102/2017-18/10202 and email address is vishnudutt2050@yahoo.com and contact number is

8800402222, who is appointed by this Bench as the IRP of the Corporate debtor. The IRP is directed to take all such steps as are required under the statute, more specifically in terms of Sections 15,17,18,20 and 21 of the Code.

18. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) shall follow in relation to the Respondent prohibiting proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come in vogue.
19. In terms of above order, the Application stands admitted in terms of Section 9(5) of IBC, 2016.
20. The applicant/Operational Creditor shall deposit a sum of Rs. 2 lakhs in a separate account towards the immediate expenses to be incurred and accounted for by the IRP. The amount shall be reimbursed to Operational Creditor after the COC has approved the expenses of the IRP before appointing Resolution Professional.
21. The registry is directed to communicate a copy of the order to the Operational Creditor, the Corporate Debtor, the Interim

Resolution Professional with copy of the application and the Registrar of Companies, NCR, New Delhi at the earliest but not later than seven days from today. The Registrar of Companies shall update its website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this application must be notified.

Sd/-

(SH. HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

sd/-

(DR. DEEPTI MUKESH)
MEMBER (JUDICIAL)