

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

CP No.4537 (IB)/MB/C-II/2019

Under Section 9 of the IBC, 2016

In the matter of

Teevra Impex Private Limited,

[CIN: U5909MH2017PTC303395],

Office No. 201, 2nd Floor, Metro Avenue,
Near WEH Metro Station, Andheri,
Mumbai – 400 093

...Operational Creditor
v/s.

Aadit Metal Trade Private Limited,

[CIN: U51420MH2004PTC145880],

Office Address - Ground Floor, Building
No. 118/120, Ardisher Dadi Street, V.P.
Road, C.P.Tank, Mumbai – 400 004.
Email ID: aaditmetaltrade@gmail.com

...Corporate Debtor

Order Delivered on 16.06.2021

Coram:

Mr. H.V. Subba Rao

Hon'ble Member (Judicial)

Mr. Ravikumar Duraisamy

Hon'ble Member (Technical)

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Appearance:

For the Petitioner : Mr. Nimisha Rathod, Advocate

For the Respondent : Ms. Aarti, Advocate

Per: Ravikumar Duraisamy, Member

ORDER

1. This is a Company Petition filed under section 9 of the Insolvency & Bankruptcy Code, 2016 (**IBC**) by **Teevra Impex Private Limited** (“the Operational Creditor”), [CIN: U5909MH2017PTC303395], seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Aadit Metal Trade Private Limited** (“the Corporate Debtor”) [CIN: U51420MH2004PTC145880].
2. The Corporate Debtor is a company incorporated on 23.04.2004 under the Companies Act, 1956, as a Private Company limited by shares with the Registrar of Companies, Maharashtra, Mumbai. Its registered office is at Ground Floor, Building No. 118/120, Ardisher Dadi Street, V.P. Road, C. P. Tank, Mumbai – 400 004. Therefore, this Bench has jurisdiction to deal with the present petition.
3. The present petition was filed on 13.12.2019 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of Rs.32,32,708/-

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(Rupees Thirty-two Lakhs Thirty-two Thousand Seven Hundred and Eight only). As per the term of invoice, entire amount became due after seven days of Invoice. i.e. 12.06.2019, however, Operational Creditor agreed on an extended day of 60 days from the date of Invoice and therefore default started from 05.08.2019 (i.e. the date on which invoices should have been paid).

4. The Operational Creditor had raised two invoices for supply of TMT/Round Bars for a total value of Rs.85,76,908/- (Rupees Eighty-Five Lacs Seventy-Six Thousand Nine Hundred Eight only) on 04.06.2019 and 05.06.2019 (Annexure-2). The details of the invoices are Invoice No. 461 for Rs.51,62,079/- (Rupees Fifty-one Lacs Sixty-two Thousand and Seventy-nine Eight Only) and Invoice No. 462 for Rs.34,14,829/- (Rupees Thirty-Four Lacs Fourteen Thousand Eight Hundred Twenty-nine Only). The rent against ware house charges are Rs.1,55,800/- (Rupees One Lakh Fifty-five Thousand Eight hundred only).
5. Thereafter, Operational Creditor sent an email on 13.11.2019, by which a final notice till 18.11.2019 was given to pay all the dues, which Corporate Debtor again failed.
6. Finally, when Corporate Debtor failed beyond all reasonable exercise on the part of Operational Creditor, then a Notice was served in Form 3 under Insolvency and Bankruptcy Code,

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2016 (Annexure-5). Proof of delivery of Form 3 on 26.11.2019 is Annexure 6. The Notice was replied to by the Corporator (Annexure-7). After the reply the Corporate debtor is still not intending to make payment and wants the Operational Creditor to withdraw the notice, which is absolute illegal requirement on the part of the Corporate debtor. Thereafter a letter was received from the Corporate Debtor (Aadit Metal Trade Private Limited) as a reply to Form 3 wherein it is requested to withdraw the notice without any concrete proposal of payment.

7. The captioned Petition was filed on December 13, 2019 and thereafter, notices were issued to Corporate Debtor by the bench and ample chances were given to the Corporate Debtor for its reply. The Corporate Debtor has failed to file any reply, even after ample opportunities were provided to it.
8. We have heard the arguments of Operational Creditor on merits and perused the records.
9. In its reply to the Demand notice dated 02.12.2019, the Corporate Debtor does not dispute the liability towards Operational Creditor but sought for time to pay its debt, the Corporate Debtor is not in a position to pay of its liability.

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10. On the date of final hearing Counsel for the Corporate Debtor submitted that they are willing to settle the issue and ready to make entire payment within a period of Two years. The proposal of the Corporate Debtor is not acceptable to the Operational Creditor.
11. The application made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount of one lakh rupees stipulated under section 4(1) of the IBC. Therefore, the debt and default stands established and there is no pre-existing dispute brought on record. Hence, there is no reason to deny the admission of the Petition. In view of this, Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.
12. The Operational Creditor did not propose any name as Interim Resolution Professional (IRP).
13. It is, accordingly, hereby ordered as follows: -
 - (a) The petition bearing **CP No.4537 (IB)/MB/C-II/2019** filed by **Teevra Impex Private Limited**, the Operational Creditor, under section 9 of the IBC read with rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules,

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2016 for initiation of CIRP against **Aadit Metal Trade Private Limited** (“the Corporate Debtor”) [CIN: U51420MH2004PTC145880], the Corporate Debtor, is **admitted**.

- (b) There shall be a moratorium under section 14 of the IBC, in regard to the following:
- (i) 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;
 - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - (iii) 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 Securitisation and Reconstruction of Operational Assets and Enforcement of Security Interest (Sarfaesi) Act, 2002;
 - (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (c) Notwithstanding the above, during the period of moratorium, -

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- (i) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
 - (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) **Mr. Rupnarayan Shankarlal More**, Registration No.IBBI/IPA-001/IP-P00713/2017-18/11210, having address at 101, Gulmohar CHSL, Aarey Cross Road, Near Rajasthani Hall, Goregaon (West), Mumbai - 400101, Email Id: rnmoresassociates@gmail.com, is hereby appointed as IRP of the Corporate Debtor to carry out the functions as mentioned

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under IBC. The IRP shall carry out functions as contemplated under sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.

- (g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (h) The Operational Creditor shall deposit a sum of ₹1,00,000/- (Rupees one lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (i) The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor by Speed Post and email immediately, and in any case, not later than two days from the date of this Order. A copy of this Order shall also be communicated to the IRP immediately such appointment.

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- (j) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-
H.V. SUBBA RAO
Member (Judicial)
16.06.2021

SAM

Sd/-
RAVIKUMAR DURAISAMY
Member (Technical)