

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B) No. 500/7/NCLT/AHM/2019

Coram: **Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL**
Hon'ble Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 27.08.2019**

Name of the Company: Meridian Telesoft Ltd.
V/s.
Swayam Metals Ltd.

Section of the Companies Act: Section 7 of the Insolvency and Bankruptcy Code

| <u>S.NO.</u> | <u>NAME (CAPITAL LETTERS)</u> | <u>DESIGNATION</u> | <u>REPRESENTATION</u> | <u>SIGNATURE</u> |
|--------------|-------------------------------|--------------------|-----------------------|------------------|
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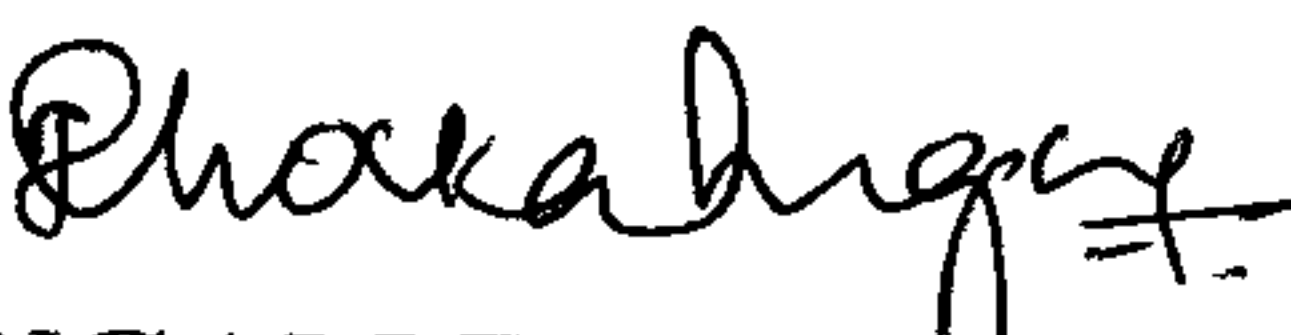
1.

2.

ORDER

None appeared on behalf of the parties.

The Order is pronounced in the open court, vide separate sheet.


CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

Dated this the 27th day of August, 2019


MANORAMA KUMARI
MEMBER JUDICIAL

CP (IB) No 500/7/NCLT/AHM/2019

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AHMEDABAD BENCH**

C.P. No.(IB) 500/7/NCLT/AHM/2019

In the matter of:

Meridian Telesoft Limited

Second Floor, Jyoti Plaza
Shyamal Cross Roads,
AHMEDABAD 380 015

:

Petitioner
[Financial Creditor]

Versus

Swayam Metals Limited

(Formerly known as Somani Strips Ltd.)
26/1, 27/1-2 GIDC Estate
Kalol – 382 725
Dist. Gandhinagar
Gujarat State

:

Respondent
[Corporate Debtor]

Order delivered on 27th August, 2019

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

Appearance:

FCA Mr. Kiran Shah for applicant/Financial creditor
CA Mr. Atul Sheth for respondent

ORDER

[Per : Ms. Manorama Kumari, Member (Judicial)]

1. M/s. Meridian Telesoft Limited, through authorised signatory Mr. Pradip Chimanlal Shah, Director filed this petition under section 7 of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the Rules") seeking reliefs under Section 7(5)(a) and Section 13(1)(a)(b)(c) of the Code.





2. That the applicant/financial creditor Meridian Telesoft Limited, incorporated on 09.10.1992, having its Registered office at 5, Second Floor, Jyoti Plaza, Shyamal Cross Roads, Ahmedabad 380 015, Gujarat State and having identification number U65910GJ1992PLC018401 is in the business of providing business loans.

3. That the respondent M/s. Swayam Metals Limited (formerly known as Somani Trips Ltd.) is a company incorporated under the Companies Act, 1956 on 25.05.1992 having identification No. L27100GJ1992PLC017705 and having its registered office at 26/1, 27/1-2, GIDC Estate, Kalol (North Gujarat) Dist. Gandhinagar. That Authorised share capital of the respondent company is Rs. 8,10,00,000/- and paid up share capital is Rs. 3,51,44,000/-.

4. That, the respondent got sanctioned and disbursed a loan of **Rs. 5,00,000/- (Rupees five lacs only)** from the applicant/operational creditor on 1st April 2010 against execution of promissory note dated 3rd April, 2010. As per the promissory note, placed at page No. 154 to the application, the loan will carry interest at the rate of 12% per annum. That, as per the calculation placed at **page No. 74** to the application, an amount of Rs. 14,07,337/- **(Rupees fourteen lacs seven thousand three hundred thirty-seven only)** is payable by the respondent to the

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applicant which includes interest @ 12% per annum
Rs. 9,07,337/- accrued till 15.05.2019.

5. In support of its claim, the applicant/financial creditor has submitted copy of the following documents: -

| Sr. No. | Particulars | Page Nos. |
|---------|--|-----------|
| 01 | Affidavit in form NCLT 6 | 6-6 |
| 02 | Written communication of the proposed IRP in Form 2 | 7-8 |
| 03 | Certificate of incorporation and certificate of change of name of corporate debtor | 9-10 |
| 04 | Memorandum of Association and Article of Association of corporate debtor | 11-64 |
| 05 | Ledger accounts | 65-73 |
| 06 | Interest calculation | 74-74 |
| 07 | Board resolution authorising loan to corporate debtor and loan agreement with corporate debtor | 75-78 |
| 08 | Statement of bank accounts where deposits are made or credits received normally by the financial creditor in respect of the debt of the corporate debtor | 79-153 |
| 09 | Promissory note | 154-154 |
| 10 | Proof of despatch of petition to corporate debtor | 155-155 |
| 11 | Power of attorney authorising Mr. Pradip Shah, director of the company to proceed against respondent under Section 7 of IB Code | 155-155 |

Findings

6. Heard both sides at length as also perused the documents annexed with application.
7. On perusal of the record it is found that no dispute has been raised by the respondent regarding the claim made by the financial creditor.
8. On perusal of the record it is found that the unsecured loan sanctioned by the applicant has been acknowledged by the respondent company from time to time. Record available at

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Page 3 | 7


page No. 65 to 73 is the acknowledgement of loan, interest accrued thereon and balance of the loan account, issued by the respondent company from **17.07.2011 to 05.04.2019**.

9. On perusal of the record it is found that the respondent company has filed affidavit admitting the liability of Rs. 14,07,337/- payable to the financial creditor towards the unsecured loan.
10. In view of the above, while going through the documents so filed by the petitioner, it is found that, corporate debtor admitted and acknowledged liability by letters of acknowledgement of debt/balance confirmation letters from time to time in favour of the petitioner.
11. In the instant application, from the material placed on record by the Applicant, this Authority is satisfied that the Corporate Debtor committed default in paying the financial debt to the Applicant and the respondent company has acknowledged the debt.
12. In the instant case, the documents produced by the Financial Creditor clearly establish the 'debt' and there is default on the part of the Corporate Debtor in payment of the 'financial debt'.

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13. There is no dispute in the case that the petitioner is the financial creditor. The application is also furnished in the prescribed form – 1 of the Rules and the prescribed fee has also been paid. Along with the application, the applicant proposed the name of the Resolution Professional namely Shri Prakash Udhawdas Tekwani, Chartered Accountant. The Adjudicating Authority hereby appoint CA Prakash Udhawdas Tekwani, 387 Karnavati Complex, Opp. Central Bank of India, Revdi Basar Cross Roads, Kalupur, Ahmedabad 380 001, Gujarat State (Email ID prakashtekwani@yahoo.com) having registration No. IBBI/IPA-001/IP-01220/2018-2019/11942 to act as an interim resolution professional. Form 2 of the proposed interim resolution professional has been annexed and placed at page No. 7-8 to the application where declaration is made that no disciplinary proceeding is pending against him with the Board or Indian Institute of Insolvency Professionals of ICAI.
14. On perusal of record and as also discussed above, it is held that there is existence of default and that the application under Section 7 (2) of the Code is also complete in all respect.
15. In view of the above, the petitioner/financial creditor having fulfilled all the requirements of Section 7 of the Code, the instant petition deserves to be admitted.




16. The petition is, therefore, admitted and the moratorium is declared for prohibiting all of the following in terms of sub-section (1) of Section 14 of the Code: -

- (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 Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
- (iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

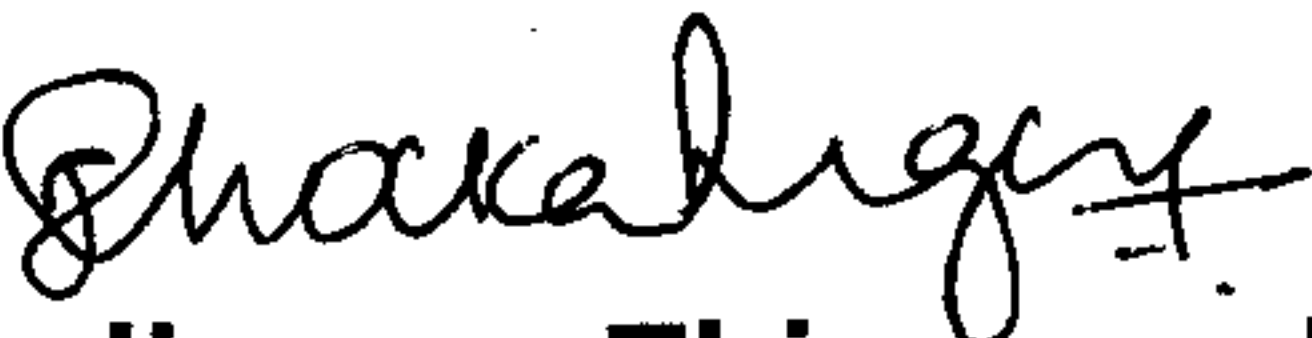
17. It is further directed that the supply of goods and essential services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) shall, however,






not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.

18. The order of moratorium shall have effect from the date of receipt of authenticated copy 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.
19. This Petition stands disposed of accordingly with no order as to costs.
20. Communicate a copy of this order to the Applicant, Financial Creditor, Corporate Debtor and to the Interim Insolvency Resolution Professional.


Chockalingam Thirunavukkarasu
Adjudicating Authority
Member (Technical)


Ms. Manorama Kumari
Adjudicating Authority
Member (Judicial)

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