

NATIONAL COMPANY LAW TRIBUNAL,
COURT- V, MUMBAI BENCH

101) IA(I.B.C)/2585(MB)2021

In

C.P. (IB)/4309(MB)2018

CORAM:

SMT. ANURADHA SANJAY BHATIA
Member (Technical)

SMT. SUCHITRA KANUPARTHI
Member (Judicial)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **22.11.2021**

NAME OF THE PARTIES: GRV STEELS PRIVATE LIMITED

Vs.

NIRMANGOLD ALLOY PRIVATE LIMITED

APPLICATION FILED UNDER SECTION 60(5) OF THE INSOLVENCY AND
BANKRUPTCY CODE, 2016.

ORDER

1. This Company Petition is filed by GRV Steels Private Limited (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process ("CIRP") against Nirmangold Alloys Private Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 22.05.2017 in making payment to the extent of Rs. 1,88,21,833/- which is inclusive of Interest @24% p.a. on the delayed payments, by invoking the provisions of Sections 8 & 9 of I & B Code (hereinafter called "Code") read with Rule 6 of Insolvency & Bankruptcy (AAA) Rules, 2016.
2. Mr. Nithish Bangera, PCS, appeared for the Petitioner and submitted that they are leading steel trading company since 2016 and Corporate Debtor company is into the business of sheet metal pressing and pipe processing since 2011. The Petitioner was in continuous supply of coils to the Corporate Debtor since March 2017 to December 2017.
3. Counsel for the Petitioner submits that sales invoices were issued in favor of Corporate Debtor aggregating to Rs. 1,55,71,263/- along with interest

@24% amounting to Rs. 37,88,135/-. Counsel for the Petitioner has shown proof of ledger accounts, invoices, challan and balance confirmation in this regard which confirms proof of debt and default of non-payment of dues. The total outstanding debt is Rs. 1,88,21,833/- and the date of default is 22.05.2017.

4. Counsel for the Petitioner further submits that a Demand Notice was issued in Form-3 on 08.10.2018 demanding a sum of Rs. 1,88,21,833/- , however, even after receiving the said Demand notice, the Corporate Debtor has failed and neglected to reply to the notice and has not paid the due amount.
5. Counsel for the Petitioner further mentions that an Affidavit was filed to that effect as required U/s 9(3)(b) of the Code and also stated in the Affidavit that in spite of receiving the Demand Notice, the Petitioner have failed to pay the outstanding amount.
6. List of the documents annexed to the Petition:
 - a. Demand notice
 - b. Acknowledgment of delivery of demand notice
 - c. Copy of Purchase Order
 - d. Copy of sales invoice
 - e. Copy of delivery challan
 - f. Copy of Bounce cheque
 - g. Bank Statement
 - h. Ledger Statement
 - i. Balance confirmation
 - j. Copy of master data
7. There was no representation on behalf of Corporate Debtor on previous occasions when the matter was previously listed despite publication of notice made on 02.11.2021. Respondent is set ex parte herein. Upon perusal of documents annexed to the Petition, the petition was admitted as there is a clear liability of amount due under the Invoice.
8. Heard Counsel for the Petitioner at length. After the petition was admitted, one Mr. Navin Arora, Advocate, appeared for the Corporate

Debtor post admission of the matter and sought for recall of admission order, however, his request for recall of admission order is rejected.

9. This Bench having been satisfied with the Application filed by the Operational Creditor which is in compliance of provisions of section 8 & 9 of the Insolvency and Bankruptcy Code admits this Application declaring moratorium with the directions as mentioned below:

- a) 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 or 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.
- 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 22.11.2021 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.
- e) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

f) That this Bench hereby appoints Mr. Prakash Naringrekar bearing Registration no. IBBI/IPA-002/IP-N00270/2017-18/10783 as an Interim Resolution Professional (IRP) to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

10. IA 2585 of 2021 has been filed for early listing of CP 4309 of 2018 and the same is allowed and disposed of.

11. Accordingly, this Petition is **admitted**.

12. The Registry is hereby directed to communicate this order to both the parties and also to the IRP immediately.

Sd/-

ANURADHA SANJAY BHATIA
Member (Technical)

sd/-

SUCHITRA KANUPARTHI
Member (Judicial)

/n/