



**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI (COURT NO. VI)
Company Petition No. IB-237/PB/2021**

*[Under Section 10 of the Insolvency and Bankruptcy Code, 2016
and Rule 7 of the Insolvency and Bankruptcy (Application to
Adjudicating Authority), Rules, 2016.]*

IN THE MATTER OF:

M/s. Mittal Lumber Pvt. Ltd.

Registered office at:

7411/31, Amar Colony, Rohtak Road,
Nangloi, New Delhi - 110041

.... Corporate Applicant

CORAM:

SHRI. BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)
SHRI RAHUL BHATNAGAR, MEMBER (TECHNICAL)

FOR THE APPLICANT: Mr. Rishabh Sachdeva, Adv



ORDER

PER-RAHUL BHATNAGAR, MEMBER (TECHNICAL)

ORDER PRONOUNCED ON: 24.05.2023

1. This is an application filed under Section 10 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') r/w rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the AAA Rules') by Mr. Pradeep Kumar Jain, being the Director authorized vide board resolution dated 05.10.2020 for initiation of Corporate Insolvency process in respect of M/s. Mittal Lumber Private Limited., the Corporate Debtor being the Corporate Applicant itself.
2. The Applicant has averred that the company was incorporated on 28.02.1991 as a Public Limited company under the provision of Companies Act, 1956 with the Registrar of Companies N.C.T. of New Delhi and Haryana, bearing CIN No. U74899DL1991PTC043305 and having registered office at 7411/31, Amar Colony, Rohtak Road, Nangloi, New Delhi – 110041. The nominal share capital of the company is Rs 20,00,000/- and Share Capital of the Company is Rs. 20,00,000.



3. The Corporate Applicant, in the year 2014, availed multiple loan from Corporation Bank (including buyers' credit). In the year 2014 another loan was availed from Corporation Bank. Total Debt raised from the Corporation Bank as mentioned in part 3 is reproduced as under: -

DEBTS RAISED	
SECURED LOANS	PRINCIPAL
Corporation Bank CTTC 140007	22,745,249.00
Corporation Bank- L/c Liability (secured upto Rs. 676.00 Lacs)	39,585,822.00
Corporation Bank – Vehicle Term Loan (Agt Car)	6,98,152.00
TOTAL	6,30,29,223.00

From June 2016 onwards M/s Mittal Lumber Private Limited (Corporate Applicant) could not repay the loan and installments due to financial difficulties.

4. The Corporation Bank filed an application on 12th January 2017 for recovery of the loan amount. The Debt recovery



Tribunal vide order dated 14th September 2019, allowed the application filed by the Corporation Bank

5. That in the year 2017, the Corporate Applicant filed a Securitization Application under section 17(1) of the SARFAESI Act 2002 in the Debts Recovery Tribunal at Lucknow. The DRT Lucknow set aside the possession notice dated 30th March 2017. Thereafter the Corporation Bank went in appeal to the DRAT Allahabad against the order dated 12th March, 2018. On 31st October 2019 the DRAT Allahabad set aside the order of the DRT Lucknow.
6. The Corporate Applicant is unable to repay / reimburse the abovementioned amount to its creditor. Hence, the present application was filed by the Corporate Applicant, for initiation of corporate insolvency resolution process, under Section 10 of the Insolvency and Bankruptcy Code, 2016.
7. The Corporate Applicant has annexed the minutes of the Extraordinary General Meeting dated 02.11.2019 in compliance of Section 10(2)(c). The members of the Corporate Applicant resolved by way of Special Resolution as follows: -



"RESOLVED THAT pursuant to the provisions of Section 100 and all other applicable provisions and rules, If any, of the Companies Act, 2013 (including any statutory modification(s), amendment(s) or reenactment(s) thereof for the time being in force) and other applicable provisions of the Act and the rules and regulations made thereunder and the enabling provisions of the Memorandum and Articles of Association of the Company, consent of the members be and is hereby accorded to grant or approve filing of the application under section 10 of IBC, 2016.

"RESOLVED FURTHER THAT Mr. Pradeep Kumar Jain, Director be and is hereby severally authorized to do or cause to be done all such acts, deeds and things, settle any queries, difficulties, doubts that may arise with regard to filing of the application, finalize the terms and conditions and execute such agreements, documents and writings and to make such filings as may be necessary, expedient and desirable", in order to give effect to this Resolution in the best interest of the Company."

8. The Corporate Applicant has enclosed the audited balance sheet as on 31.03.2017
9. The total outstanding amount due and payable by the Corporate Applicant is as under:
 - Total Debt raised from Corporation Bank (Secured Loans)- 6,30,29,233/-
 - Total Unsecured Loan- 78,81,283.40/-



10. The registered office of the Corporate Applicant is situated at Delhi and therefore this Tribunal has jurisdiction to entertain this application.

11. The present application is filed on the Performa prescribed under Rule 7 of the Insolvency and Bankruptcy Code, 2016 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 r/w Section 10 of the code and is complete.

12. This Adjudicating Authority vide order dated 13.07.2022 directed the Ld. Counsel for the Corporate Applicant to serve the notice to the Creditors of the Petitioners. The Corporate Applicant has complied with the aforesaid direction and submitted an affidavit of service dated 26.07.2022. Subsequently, Corporation Bank (Creditor of the Corporate Applicant) was merged with Union Bank of India and the Petitioner was directed to serve the notice of the petition to Union Bank of India, however, despite service of the petition by petitioner as well as court officer, no one has appeared on behalf of the Bank.

13. Since, no objector had come forward and neither any document is available on record to show any objection raised



by any creditor and considering the documents on records and submission made, this Bench is of the view that the Corporate Applicant has defaulted in making payment of its debt to the creditors. Hence, this application is admitted.

14. Sub-section (3) (b) of Section 10 mandates the Corporate Applicant to furnish the name of an Interim Resolution Professional. In compliance thereof, the Corporate Applicant has proposed the name of Mr. Devendra Umrao for appointment as Interim Resolution Professional having registration number IBBI/IPA-003/IPA-ICAI-N-00223/2019-2020/12640 and e-mail [address - dev.umrao@gmail.com](mailto:dev.umrao@gmail.com). Mr. Devendra Umrao has agreed to accept the appointment as the interim resolution professional and has signed a communication in Form 2 in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 dated 26.02.2021. Accordingly, it is seen that the requirement of Section 10 (3) (b) of the Code has been satisfied.

15. Section 16(1) and Section 16 (2) of the Code mandate that the Resolution Professional proposed in the Application u/s 7 or



10 of the Code shall be appointed as the Interim Resolution Professional (IRP) by the Adjudicating Authority (Tribunal) if no disciplinary proceedings are pending against him. Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, require the proposed Interim Resolution Professional to make a declaration in Form 2 confirming his eligibility to be appointed as a Resolution Professional as well as a declaration confirming that no disciplinary proceedings are pending against him in the Insolvency and Bankruptcy Board or elsewhere. The proposed Interim Resolution Professional Mr. Devendra Umrao has submitted the declaration in Form 2 dated 26.02.2021. The proposed Interim Resolution Professional Mr. Devendra Umrao has valid Authorisation for Assignment which is valid upto 10.11.2023.

16.As a consequence of the application being admitted, moratorium as envisaged under the provisions of Section 14(1), shall follow in relation to the corporate debtor, prohibiting as per proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in force.



17. A copy of the order shall be communicated to the Applicant by the Registry. The said order shall be communicated to the IRP above named. Applicant is also directed to provide a copy of the complete paper book with copy of this order to the IRP. In addition, a copy of said order shall also be forwarded to IBBI for its records and to RoC for updating the Master Data. RoC shall send compliance report to the Registrar, NCLT.

Sd/-

**(RAHUL BHATNAGAR)
MEMBER (TECHNICAL)**

Sd/-

**(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)**