

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP No. 343/I&BC/NCLT/MB/MAH/2019

In the matter of Application filed by the
'Operational Creditor' to initiate Corporate
Insolvency Resolution Process **Under Section 9**
of the Insolvency and Bankruptcy Code, 2016
(Application to Adjudicating Authority) Rules,
2016

Prabhat Steel Traders Private Limited : Petitioner/Operational Creditor

V/s

Shree Sai Steel Industries India Pvt. Ltd : Respondent/Corporate Debtor

Order delivered on: 26.09.2019

Coram :

Hon'ble M.K. Shrawat, Member (J)
Hon'ble Chandra Bhan Singh, Member (T)

For the Petitioner(s) : Advocate Mr. Angad Singh i/b Law Chamber or Siddharth Murarka

For the Respondent(s) : None for Respondents.

Per: M.K. Shrawat, Member (J)

ORDER

1. A Petition on Form No. 1 was filed on 10.01.2019 by the **"Operational Creditor"** **M/s Prabhat Steel Traders Private Limited, under section 9** of the Insolvency and Bankruptcy Code , 2016 read with Rule 4 of the Insolvency & Bankruptcy Application to Adjudicating Authority Rules, 2016 for initiating Corporate Insolvency Resolution Process against the **"Corporate Debtor"** **M/s Shree Sai Industries India Private Limited for a total debt amount of Rs. 5,97,09,566/-** as per Chapter IV of the requisite form detailed as under :-

" Prinicpal - Rs. 2,05,28,636.00

Interest - Rs. 3,91,80,930.00 @ (21% p.a. till 30.11.2018)

Total - Rs. 5,97,09,566.00

And Interest @ 21% p.a. After 01.12.2018 on

Rs. 2,05,28,636.00 i.e. Rs. 3,59,251.00 per month."

2. As prescribed under **Section 8** of the Insolvency & Bankruptcy Code a **Demand Notice dated 09.06.2018** was served upon the Respondent/debtor. In the said Notice it was informed that a 'Supply of goods Order' was placed by the Corporate Debtor and in compliance goods were supplied. As per the invoices the description of the goods supplied was stated to be "Hot Rolled & Pilled Round Bars". It has also been informed that the debt amount was confirmed by the debtor as per the statement of account for the period 1st April 2016 to 31st March 2017.

Brief History of the case:

3. This case was listed in the past and the Petitioner has informed that a Reply has been filed from the side of the Corporate Debtor, however, on number of occasions remained absent in the Court. Reply of the Respondent is carefully perused. In the impugned Reply mainly the provisions of Civil Procedure Code has been relied upon. However, there is no evidence of existence of dispute at the time when the Petition was filed. On receiving the Reply a Rejoinder has been filed by the Petitioner vehemently objecting the arguments raised and again annexed the invoices in support of the outstanding debt. A Sur-rejoinder from the side of the Respondent/debtor is also on record wherein reiterated the same arguments and pleaded that there was no cause of action based upon which the impugned Company Petition has been filed.

FINDINGS.

4. Considering the totality of the facts and circumstances of the case, it is now ascertained that the goods were supplied on demand, however, without any reason the value of the goods have not been paid by the Respondent/debtor. The Invoices raised remained unpaid. As per the **Ledger Account** along with the Statement of Account the outstanding **debt** in question was duly **acknowledged** by the Respondent Debtor. As a consequence, this Bench is of the view that this is a fit case of existence of Debt and Default in payment of the said Debt; hence this Petition deserves '**Admission**'.
5. Further this Bench has also perused the Form-2 i.e. written consent of the proposed Interim Resolution Professional submitted along with this application/petition by the Operational Creditor and there is nothing on record which proves that any disciplinary action is pending against the said proposed Interim Resolution Professional. Hence, after perusal of the provisions of the Code as well as facts and circumstances of this

case along with the evidences placed on record by the Petitioner, it is hereby held that this Petition/Application is **Admitted**.

6. The Operational Creditor has proposed the name of Insolvency Professional. The IRP proposed by the Financial Creditor viz., **Mr. Bhaskar Gopal Shetty**, Address : C-77, Shanti Shopping Centre, Mira Road East, Maharashtra-401107, having registration No. IBBI/IPA-001/IPA-001/IP-P-01285/2018-19/12003 is hereby appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process.
7. Having admitted the Petition/Application, the provisions of **Moratorium** as prescribed under **Section 14 of the Code** shall be operative henceforth with effect from the date of order by prohibiting institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the “Corporate Debtor” shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under Section 31 of the Code.
8. That as prescribed under **Section 13 of the Code** on declaration of Moratorium the next step of **Public Announcement** of the Initiation of Corporate Insolvency Resolution Process shall be carried out by the IRP immediately on appointment, as per the provisions of the Code.
9. That the Interim Resolution Professional shall perform the duties as assigned under **Section 18 and Section 15** of the Code and inform the progress of the CIRP as well as the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.
10. The Petition is hereby **“Admitted”**. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of the Order.
11. Ordered Accordingly.

Sd/-

CHANDRA BHAN SINGH
Member (Technical)

26.09.2019
Aah

Sd/-

M.K. SHRAWAT
Member (Judicial)