

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

CP (IB) No.198/MB-IV/2021

Under Section 9 of the IBC, 2016

In the matter of

PN Steel Traders Private Limited

[CIN: U63090MH2013PTC241579]

...Operational Creditor

v/s.

Kyora Mettaliks Private Limited

[CIN: U51100MH2017PTC296452]

...Corporate Debtor

Order Delivered on: 27.01.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner:

Mr. Sukanya Bhaumik, Ld. Counsel

For the Respondent:

Mr. Ayush Rajani PCA a/w Ms.
Mitali Bhatt i/b AKR Advisors, Ld.
Authorised Representative

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. This is a Company Petition filed under section 9 of the Insolvency & Bankruptcy Code, 2016 (IBC) by PN Steel Traders Private Limited, (“the Operational Creditor”), seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Kyora Meltaliks Private Limited, (“the Corporate Debtor”).
2. The applicant/OC submitted, that the Corporate Debtor has received Rs.2,50,00,000/- from its sister concern M/s Pakhul Traders Private Limited against supply of HR Coils this amount was assigned to the applicant/OC vide letter dated 03.04.2019 whereby the applicant/OC was to supply goods worth Rs.2,87,44,800/- to the Corporate Debtor in furtherance to this understanding the Corporate Debtor issued a purchased order dated 03.04.2019 for a value of Rs.2,87,44,800/-. The OC/Applicant a balance confirmation certificate dated 05.04.2019 signed by the Corporate Debtor Acknowledging outstanding balance of Rs.2,85,00,000/-.
3. It is further submitted that the Corporate Debtor neither supplied the goods nor refunded the amount of advance.
4. The Corporate Debtor has not responded to the Demand Notice dated 20.11.2020. The Corporate Debtor has filed reply dated 26.06.2021. whereby it has categorically stated it has no source of funds to repay the debt due to OC/Applicant.

5. We have heard both the Counsel and perused the material on record.
6. The Operational Creditor has filed present application stating the date of default to be 10.10.2019 in part IV of Form 5 and the amount of debt claimed is 1,05,72,336/-. The application is filed on 27.01.2021. There is no record of pre-existing dispute.
7. Since, the debt and default exist and no pre-existing dispute has been brought to our notice, it is a fit case for admission u/9 of IBC,2016.

ORDER

8. The petition bearing CP(IB) 55/MB-IV/2021 filed by **PN Steel Traders Private Limited**, the Operational Creditor, under section 9 of the IBC read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Kyora Mettaliks Private Limited** (“the Corporate Debtor) is **admitted**.
 - a) 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;

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- (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 (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, -
- (v) 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;
- (vi) 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) The Operational Creditor has proposed Ms. Neerja Kartik, an Insolvency Professional registered with Indian Institute of Insolvency Professionals of ICAI having Registration Number IBBI/IPA-001/IP-P01445/2018-2019/12137 Email Id neerajakartik@gmail.com Mb No. 9922508850. He is appointed as IRP for conducting CIRP of the Corporate Debtor and to carry the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.
- (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 Rs.5,00,000/- (Rupees five 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, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (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/-

PRABHAT KUMAR
Member (Technical)
27.01.2023

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)