IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

C.P. (IB)No.4694/NCLT/MB/2018

Under Section 9 of the I&B Code, 2016

In the matter of:

Prabhat Steel Traders Private Limited

...Operational Creditor/ Applicant

V/s

Ankur Iron (India) Private Limited

...Corporate Debtor / Respondent

Order Dated: 10.01.2020

Coram: Mr Rajesh Sharma, Hon'ble Member (Technical); Mr Bhaskara Pantula Mohan, Hon'ble Member (Judicial)

For the Applicant: Adv. Angad Singh i/b Law Chamber of Siddharth Murarka

For the Respondent: Adv. Kajal Sarvaiyaa/w Adv. Rita Yadav i/b Reeti law Associates

Per:Rajesh Sharma, Member (Technical)

ORDER

1. This is anapplication being C.P. (IB) No. 4694/NCLT/MB/2018 filed by **Prabhat Steel Traders Private Limited,**the Operational Creditor/Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Ankur Iron (India) Private Limited,**Corporate Debtor, for initiating Corporate Insolvency Resolution Process(**CIRP**).

2. The Application is filed by Mr. Jignesh DhirajlalRajgor, authorised signatory of Operational Creditor, claiming a total default of 1,05,11,435/- (Rupees One Crore Five Lakh Eleven Thousand Four Hundred and Thirty-Five Only) including interest @21% p.a. The

statement for particulars of claim amount is annexed to the Application.

3. The Applicant submitted that it supplied and delivered various goods to the Corporate Debtor and raisedInvoicesfor the same from 05.12.2015 and 27.01.2016.Further the Applicant submitted that theCopy of Invoice showing interest @21% p.a. after due date. Copies of the said Invoicesare annexed to the Application.

4. The Applicant submitted that it sent a balance confirmation letter dated 31.03.2016 confirming the balance amount of Rs.69,83,470/-. Further the Applicant submitted the copy of ledger account of Corporate Debtor for the period from 01.04.2016 to 31.03.2017 which shows the balance amount of Rs.56,83,470/- as principal amount.

5. The Applicant submitted that the Corporate Debtor issued seven cheques dated 10.05.2018 amounting to Rs.69,83,470/-. Further submitted that at the time of clearance all cheques were dishonoured with remark “Fund Insufficient”. the Copies of all cheques and bank return memos are annexed to the Application.

6. The Applicant submitted that it issued a demand Notice dated 09.06.2018, to pay the outstanding amount including interest @21% p.a.The Corporate Debtor defaulted in making payment of the outstanding bills. Therefore, the Applicant issued Demand Notice dated 31.08.2018 to the Corporate Debtor under Section 8 of the I&B Code demanding payment of outstanding amount of Rs.1,05,11,435/-including interest thereon at 21% p.a. The Corporate Debtor did not reply to the Demand Notice.

7. The Applicant filed present Application on 19.12.2018. The Applicant was directed to serve the Court Notice to the Corporate Debtor vide our Order dated 26.02.2019. The Applicant filed its Affidavit of Service of Notice on 11.06.2019. Thus, it is on record that the court notice was duly served upon the Corporate Debtorhowever, the Corporate Debtor chose not to file any objections in its defence.

8. Adv. Kajal Sarvaiyaa/w Adv. Rita Yadav i/b Reeti law Associates appear as counsel for Corporate Debtor and admitted the debt and

requested the Bench to admit the case, as per our daily order dated 23.10.2019.

9. We have heard the parties and perused the records.

10. On perusal of the documents submitted by the Applicant, it is clear that Applicant has supplied and delivered various goods more than ☐1,00,000/- (Rupees One Lakh Only) of which the Corporate Debtor has failed to make payment. Therefore, operational debt of more than Rupees One Lakh is due and payable by the Corporate Debtor which is also admitted by the counsel for Corporate Debtor vide ourdated 23.10.2019.

11. The Applicant, supplied and delivered various goods to the Corporate Debtor for which the Corporate Debtor has failed to make payments, is an Operational Creditor as per the provisionsof the I&B Code, 2016. The Corporate Debtor has not raised any dispute in respect of the goods and the amount to be paid to the Applicant. The Corporate Debtor chose not to file any reply to the petition. Thus, the debt amount of more than Rupees One Lakh and default by the Corporate Debtor has also been established and there is no pre-existing dispute.

12. The Application is complete and has been filed under proper form. Copy of the Demand Notice dated 31.08.2018 along with postal track report reflecting due receipt of Notice by Corporate Debtor and Affidavit in compliance of section 9(3)(b) dated 10.12.2018 stating that the Applicant has not received any notice of dispute from the Corporate Debtor have been filed with this Bench.

13. The Applicant has not proposed the name of **Interim Resolution Professional**, to carry out the functions as mentioned under I&B Code.

14. The Application under sub-section (2) of Section 9 of I&B Code, 2016 is complete. The existing operational debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the Application filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This Application filed under Section 9 of I&B Code, 2016, presented by **Prabhat Steel Traders Private Limited,** Operational Creditor / Applicant against **Ankur Iron (India) Private Limited**, Corporate Debtor for initiating corporate insolvency resolution process is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

a) 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;

b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

c) 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;

d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

II. That 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.

III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to

a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
b. a surety in a contract of guarantee to a Corporate Debtor.

IV. That the order of moratorium shall have effect from the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.

V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.

VI. That this Bench appoints **Mr. Santanu T Ray,** a registered insolvency resolution professional having Registration Number **IBBI/IPA-002/IP-N00360/2017-2018/11055**as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

15. The Registry is directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-	**Sd/-**
RAJESH SHARMA	**BHASKARA PANTULA MOHAN**
Member (Technical)	Member (Judicial)
10.01.2020	