



**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK**

CP (IB) NO. 31/CB/2022

In the Matter of:

An application under Section 9 (1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the Matter of:

Kalinga Enterprises Private Limited, having its registered office at- C 4/5, Civil Township, Rourkela- 769004

...Operational Creditor

-Versus-

Maa Manasha Devi Alloys Private Limited, having its registered Office at Plot No. 783 (D), Jayadev Vihar, Bhubaneswar- 751015

...Corporate Debtor

Appearances (through video conference):

For the Petitioner : Mr. Rahul Agarwal, CS.

For the Respondent : Set *ex-parte*

Order reserved on: 19.09.2022

Order pronounced on: 31.10.2022

Coram:

Shri P. Mohan Raj : Member (Judicial)
Shri Satya Ranjan Prasad : Member (Technical)



ORDER

Per P. Mohan Raj, Member, (Judicial)

1. This application has been filed by **Kalinga Enterprises Private Limited** as an Operational Creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with rule 6 of the Insolvency and bankruptcy Rules, 2016 (Application to Adjudicating Authority) to initiate Corporate Insolvency Resolution Process (CIRP) against **Maa Manasha Devi Alloys Private Limited**, (hereinafter referred to as “the Corporate debtor”) a Company registered under the provision of Companies Act, 1956.

2. Notices sent to the Respondent/Corporate debtor served, in spite of service of notices Respondent/Corporate debtor not turned up hence Respondent was Set *ex-parte*.

3. It is averred in the petition that the Operational Creditor had supplied Iron ores to the corporate debtor as per its requirement and the same has duly delivered at its desired address. No disputes relating to quality, quantity or any other things has been raised by the corporate debtor.

4. The operational creditor issued demand notice under Section 8 of the code, 2016 dated 04.04.2022 upon the corporate debtor raising a demand for an amount totalling to Rs.1,16,25,583.01/- (Rupees One Crore Sixteen Lacs Twenty-Five Thousand Five Hundred and Eighty-Three Point Zero One Only) inclusive of the Interest component. The above amount includes, Rs.4,61,228.82/- (Rupees Four Lacs Sixty-One Thousand Two Hundred and Twenty-Eight Point Eight Two



Only) as interest @ 12 % per annum on the aforesaid amount for the period starting from the date on which the debt fell due till 31.03.2022 plus Rs. 83,2021 (Rupees Eighty-Three Thousand Two Hundred and One Only) as GST on Interest @ 18% on the aforesaid amount.

5. The corporate debtor replied to the demand notice of Operational Creditor. The corporate debtor has alleged that the Quality of the goods which were supplied was not good and they had sent several complaints to Operational Creditor. Hence filed this petition.

6. On the Petitioner side raised three invoices to the tune of Rs.1,18,15,387/-and the respondent Paid a sum of Rs.3,67,027/- the remaining balance of Principal amount is Rs.1,10,81,333/- and interest at 12% per annum for delayed payment Rs. 4,61,228.82/- but there is no interest clause mentioned in the invoices. The petitioner also claims 18% GST on interest at Rs.83,021/- On the petitioner side submitted that there was an oral arrangement made with the respondent to claim interest, but in the absence of any written contract it is determined that the petitioner is not entitle for any interest and GST there on. The principal amount due is Rs.1,10,81,333/-this amount itself met the threshold amount. The Respondent in its reply notice admitted the quantum of materials supplied and amount payable. The respondent in reply notice complaint about the quality of materials supplied, but respondent not specify the defect and also not forth come to contest the case, in the absence any material it appears that the defence taken by the respondent in reply notice is vague and unsustainable.

7. In view of the forgoing, this Adjudicating Authority is of the view that CIRP needs to be initiated against the Corporate Debtor. The Operational Creditor has not suggested the name of any Interim Resolution Professional. Therefore, this Tribunal appoints **Mr. Suresh Chandra Mohanty**, Registration No: **IBBI/IPA-003/IP-N00335C01/2019-2020/12804** and E-mail Id: mohantysc@gmail.com residence of **Plot No-370/1861/2157, Shakti Bhavan , At-Patia, Po- KIIT , Bhubaneswar, Khordha, Orissa-751 024** from the list of Interim Resolution Professional, Liquidator, Resolution Professional and Bankruptcy Trustee for Cuttack Zone, issued by the Insolvency and Bankruptcy Board of India. There is nothing on record to say that any disciplinary proceedings against the proposed Interim Resolution Professional is pending.

1. In view of the above, we are inclined to **ADMIT** the application by following Order.

ORDER

- (i) The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process against **Maa Manasha Devi Alloys Private Limited**,
- (ii) Moratorium Order is passed for a public announcement as stated in Sec. 13 of the IBC, 2016. The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the



initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

(iii) Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

- 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 (54 of 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.



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- (iv) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
- (v) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process. Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Sec.31 or passes an order for liquidation of corporate debtor under Sec.33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- (vii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the Resolution Professional upon receipt of the copy of this order.
- (viii) **Mr. Suresh Chandra Mohanty**, Registration No: **IBBI/IPA-003/IP-N00335C01/2019-2020/12804** and E-mail Id: mohantysc@gmail.com residence of **Plot No-370/1861/2157, Shakti Bhavan , At- Patia, Po- KIIT , Bhubaneswar, Khordha, Orissa-751 024** is appointed as Interim Resolution Professional registered with the ICSI Insolvency Professionals Agency, as Interim Resolution



Professional for ascertaining the particulars of Creditors and convening a meeting of Committee of Creditors for evolving a resolution plan subject to production of written consent within one week from the date of receipt of this Order. He shall file Form-2, and that no disciplinary proceedings are pending against her with the Board.

- (ix) We direct the Operational Creditor to deposit a sum of ₹ 1,00,000/- (Rupees One Lakh only) with Interim Resolution Professional to meet out the expenses to perform the functions assigned to her in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016. The needful shall be done within three days from the date of receipt of this Order by the Operational Creditor. The amount, however, is subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Operational Creditor.
- (x) Directions are also issued to the ex-management to provide all documents in their possession and furnish every information in the knowledge within a period of one week from the date of admission of the petitioner to the IRP, otherwise coercive steps to follow.
- (xi) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors.



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(xii) Registry is hereby directed to communicate the order under Section 9 (5) (i) of the I.B. Code, 2016 to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post as well as through E-mail.

2. Interim Resolution Professional to file 1st Progress Report on 05.12.2022

List the matter on 05.12.2022

8. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps,

9. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

SATYARANJAN PRASAD Digitally signed by SATYARANJAN PRASAD
Date: 2022.10.31 17:46:25 +05'30'

Satya Ranjan Prasad
Member (Technical)

PANDIAN MOHAN RAJ Digitally signed by PANDIAN MOHAN RAJ
Date: 2022.10.31 15:25:49 +05'30'

P. Mohan Raj.
Member (Judicial)

Signed on this 31st day of October, 2022.

Supriya-P.s_