

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT-I**

**CP (IB) NO. 464 of 2022**

Under Section 10 of the Insolvency and Bankruptcy Code, 2016  
read with Rule 7 of the Insolvency and Bankruptcy (Application  
to Adjudication Authority) Rules, 2016

**In the matter of**

**Hellios Tubealloys Private Limited**

CIN : U28990MH2007PTC73724

**... Corporate Applicant**

**Bank of Baroda**

Ashram Road Branch,

Vallabh Sadan,

Ahmedabad-38009

**... Financial Creditors**

*Order Delivered On : 19.12.2023*

*Coram:*

**Hon'ble Member (Judicial) : SH. JUSTICE V. G. BISHT (RETD.)**

**Hon'ble Member (Technical): SH. PRABHAT KUMAR**

*Appearances:*

For the Corporate Applicant : Srushti S. More i/b Ashok Pratap & Co., Advocate

**ORDER**

*Per: JUSTICE V. G. BISHT (RETD.)*

1. This Company Petition is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rules, 2016 by the Corporate Applicant, seeking to initiate its own Corporate Insolvency Resolution Process (“CIRP”). The said application is being preferred by the Corporate Applicant owing to financial stress faced by it, consequent to which it is not in a position to repay the debts due to its creditors.

**Brief Facts**

1. The Corporate Applicant was incorporated on 01.09.2007 under the Companies Act, 1956. Its Corporate Identity Number (“CIN”) is U28990MH2007PTC73724. Its registered office is at 43, 1<sup>ST</sup> Carpenter Street, C. P. Tank, Mumbai – 400 004. Therefore, this Bench has jurisdiction to entertain and decide the Petition. The Authorised share capital of the Corporate debtor is Rs. 12,000,000/- and paid up share capital is Rs. 110,425,340/-.
2. The company is engaged in manufacturing and export of cold drawn Stainless Steel/Duplex and Super Duplex/Alloy Steel/carbon Steel Seamless/Welded Pipes, Tubes.
3. The Corporate Applicant submits that the Corporate applicant had approached Bank of Baroda (BOB) for terms loan and BOB granted term loan for Rs. 366.80 lacs and also granted various other credit facilities for Rs.3005.80 lacs to the Corporate Debtor. Due to adverse marketing conditions and operational difficulties, the Corporate Applicant could not regularise the loan account of BOB and as a result of which, the BOB had classified loan account of the Corporate Applicant as Non-Performing Asset on 29.07.2013 and subsequently issued notice under Section 13(2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (“SARFAESI”). Though the Corporate Applicant had replied to the said notice, none of the submissions were considered by the BOB thereby taking symbolic possession of immovable property of the Corporate Applicant. Considering the above facts, since the Corporate Applicant is in default

of dues of the BOB as well as some of the financial and operational creditors, the present application has been filed under Section 10 of the Code.

4. The debt fell due on various occasions and default occurred, however, for the purpose of this Code, the date of default is stated to be in the year 2014, and the said debt is reflecting in the financial statements as on 31.03.2021 which constitutes acknowledgement of debt. This application was filed on 25.08.2021 and as submitted by the Corporate Applicant, the date of default is stated as 2014. However, the Corporate Applicant has filed the Ledger account of financial debts for the period from 01.04.2019 to 31.08.2021, and such financial statement acknowledges the debt, for example, the ledger account of Bank of Baroda in the books of Corporate Debtor shows the credit balance of Rs. 17,00,00,000/- as on 31.08.2021. Hence, the application falls within the limitation period of three years.
5. The Corporate Person has produced Balance Sheet as on 31.03.2021. It is seen that revenue from operations of the Corporate Applicant is NIL as on 31.03.2021. It shows that the Corporate Applicant is unable to pay the debt.
6. Vide order dated 13.03.2023 this Bench had directed the Corporate Applicant to serve personal notice to all the creditors, either secured/unsecured creditors intimating the next date of hearing by all available means (i.e. Speed Post/ Registered Post, email, etc.) and file affidavit of service enclosing therewith proof of service. The same has been filed and placed on record.

#### **Statutory Compliances**

7. The Corporate Applicant has enclosed a copy of Special Resolution passed by the members of the Corporate Applicant in their Extra-Ordinary General Meeting held on 29.07.2021 for initiating Corporate Insolvency Resolution Process u/s 10 of the Code.
8. The Board of Directors of the Corporate Applicant in their Extra-ordinary General meeting held on 29.07.2021 authorised Mr. Mahesh Shantilal Sanghvi, Director of the Company to file necessary application under the Code.

9. Further, the Corporate Applicant has also enclosed the Audited books of Account for the financial year 2019-2020 and 2020-21 along with the provisional financial statement as at 31.03.2021.
10. The Corporate Applicant has suggested the name of Mrs. Anjali Nirav Choksi having Registration No. IBBI/IPA-001/IP-P00820/2017-18/11382 for appointment as the Interim Resolution Professional (“**IRP**”). The proposed IRP has also submitted her Consent in Form 2 confirming eligibility and that there are no disciplinary proceedings pending against her.
11. This application is filed as per Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016 in Form-6. Required information is also furnished therein.
12. After hearing the submissions and upon perusing the supporting documents annexed with the Petition, this Bench is of the view that the application made by the Corporate Applicant is complete in all respects as required by law. It clearly shows that the Corporate Applicant is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC, at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority **admits** this Petition and orders initiation of CIRP against the Corporate Applicant.

**Order**

13. The above CP(IB) No. 464 of 2022 is hereby **allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Heliios Tubealloys Private Limited
14. Mrs. Anjali Nirav Choksi having Registration No. IBBI/IPA-001/IP-P00820/2017-18/11382, Email Id: anjali.ibc@gmail.com, is hereby appointed as the IRP of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and

Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.

15. 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;
  - 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.
  
16. Notwithstanding the above, during the period of moratorium: -
  - i. 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;
  - ii. 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;
  
17. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority 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.

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18. 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.
19. 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.
20. The Corporate Applicant shall deposit a sum of Rs. 3,00,000/- (Rupees Three Lakhs only) till the formation of Committee of Creditors plus out of pocket expenses 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).
21. The Registry is directed to communicate this Order to the Corporate Applicant and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
22. A copy of this Order be sent to the Registrar of Companies, Mumbai, Maharashtra, 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.
23. Ordered accordingly.

Sd/-

**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

/MK/

Sd/-

**JUSTICE V. G. BISHT**  
**MEMBER (JUDICIAL)**