

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

**CP NO. (IB) 174/ALD/2019**

**In the matter of**

**An application under Section 9 of Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy. (Application to Adjudicating Authority Rules, 2016)**

*And*

**In the matter of:**

**M/S MAHAJAGDAMBA TUBES PRIVATE LIMITED**

Having Registered Office at:

7/115-C, Swaroop Nagar, Kanpur nagar

Kanpur, Uttar Pradesh-208002

... Applicant

*Versus*

**M/S QUALITY STEELS PRODUCTS LIMITED.**

Having Registered Office at :

133/1, Juhi Gaushala, Kanpur Nagar

Kanpur, Uttar Pradesh-208014

**ORDER RESERVED ON 08.12.2021  
ORDER PRONOUNCED ON 20.12.2021**

**CORAM : SH. RAJASEKHAR V.K., MEMBER (JUDICIAL)  
SH. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)**

**Appearances (via Video Conference):**

For Operational Creditor : *Sh. Akash Chandra Maurya, Adv.*

For Corporate Debtor : *Sh. Shadab Alam, Adv.*

**ORDER**

**Per :Sh. Virendra Kumar Gupta, Member (Technical)**

1. The present application has been filed by Operational Creditor, namely *M/s Mahajagdamba Tubes Private Limited* under Section 9 of Insolvency & Bankruptcy Code, 2016 (herein after referred to as“IBC,2016”) for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as“CIRP”)

—Sd—

against the Corporate Debtor, namely, *Quality Steel Products Ltd.* The amount of debt has been claimed as of Rs.95,68,188.32 {Rupees Ninety Five Lacs Sixty Eight Thousand One Hundred and Eighty Eight and paise Thirty Two only) along with interest of Rs. 57,58,310.60{Rupees Fifty Seven Lacs Fifty Eight Thousand Three Hundred and Ten and paise Sixty only}.

2. In support of its claim the operational creditor has placed on record the email dated 02.04.2016 sent by the corporate debtor showing the ledger account of the operational creditor maintained by the corporate debtor which is duly signed by the directors of the corporate debtor as well as the copy of the invoices raised by the operational creditor, the copy of the demand notice U/s 8 IBC sent to the corporate debtor dated 17.04.2019 which was duly delivered on 20.04.2019, the tracking report of the same has also been placed on record. Affidavit in compliance of Section 9(3) (b) of IBC, 2016 has also been placed on record.
3. On query of this Bench as regard to what were the defenses taken by the Corporate Debtor, Ld. Counsel for the Operational Creditor submitted that two objections were taken, which were; (1) the application is barred by limitation; and (2) Directors of the Operational Creditor were not legally capable to sign and file this application because their DIN had been deactivated.
4. The Learned Counsel for the Corporate Debtor has submitted that the application was not maintainable as the same was barred by limitation because the debt was last due on 27.05.2016 and the notice of the petition was served on the corporate debtor on 25.08.2019 and secondly, that the Directors of Company were disqualified by the ROC Thus, the Resolution passed by the Directors to this effect and consequently signatures on the applications were valid.

5. In reply to the arguments raised by the corporate debtor , the counsel for the Operational Creditor submitted that the Directors were never disqualified but were only deactivated on account of non filing of KYC and the said defect was removed and the directors are active directors since 2012. With regard to aspect of limitation, it is submitted that the last payment had been made on 27.05.2016 and the petition was filed on 10.05.2019 which is well within limitation.
  
6. After hearing the learned counsel for the parties and on perusal of the record it is found that, the petitioner has brought on record the MCA data, which clearly reflects that the directors who have signed the documents are active directors. In regard to the application being within limitation, this Adjudicating Authority is of the view as in the present case, last payment was made by the corporate debtor to the operational creditor on 27.05.2016 and the present application is filed on 10.05.2019. As the limitation period as such circumstances is to be reckoned with from the date of last payment as per the provision of Section 19 of the Limitation Act, 1963, therefore, this Adjudicating Authority does not find force in the any of the contentions placed by the learned counsel for the respondent. We further hold that for the purposes of computation of limitation, service of notice of petition filed under Sec 9 IBC is not of relevant consideration, hence, this plea of the Corporate Debtor is devoid of merits and thus rejected.
  
7. Further, there is no pre - existing dispute regarding the operational debt from the side of the corporate debtor. Thus, as such debt is payable and default has occurred in payment thereof.
  
8. The name of IRP has not been proposed which is not mandatory in case of application filed under Sec 9 of IBC, 2016. Hence, we shall appoint an IRP from the list approved by IBBI. The petition is otherwise complete and defect free.

9. In view of the above discussion, we admit this application and order as under:
- i) The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor M/s Quality Steels Products Limited. is hereby **admitted**.
  - ii) We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
  - iii) The Operational Creditor has not proposed the name of the interim Resolution Professional (IRP). Therefore, this Adjudicating Authority hereby appoint **Mr. Varun Goel IBBI/IPA-001/IP-P02165/2020-2021/13339 Email: varun@casnva.com Mobile No. 9999805504** to act as an IRP under Section 13 (1)(c) of the Code.
  - iv) The I.R.P. shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
  - v) Moratorium under Section 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 the possession of the corporate debtor.
  - vi) The supply of essential goods or services rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.
  - vii) 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.

- viii)** The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- ix)** 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 Section 31 or passes an order for liquidation of the corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- x)** The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.
- xi)** The Operational Creditor/Applicant is directed to deposit Rs.2,00,000/- (Rupees Two lakh only) with the IRP appointed hereinabove within two weeks from this order. IRP can claim the preliminary expenses and fees subject to the approval by the CoC and after constitution of CoC.
- xii)** Registry is hereby directed to communicate the order to the Operational Creditor, the Corporate Debtor, the I.R.P. and the jurisdictional Registrar of Companies by Speed Post as well as through email.
- xiii)** List the matter on 16<sup>th</sup> February, 2022 for the filing of the progress report.
- xiv)** Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

—Sd—

**Virendra Kumar Gupta**  
Member (Technical)

—Sd—

**Rajasekhar V.K.**  
Member (Judicial)