

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

CP No. 475/IBC/MB/2019

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of

Kaved Steel Products Private Limited

Address :- D-531, 544, 5th Floor, Clover Center Moledina Road, Camp Pune – Maharashtra.

.....Operational Creditor

V/s

Netra Mercantile Private Limited

Having Registered Office at : Room No. 105, Green House Premises Co-op Housing Society, Green Street, Opp. Old Custom House, Fort, Mumbai – 400023.

.....Corporate Debtor

Order delivered on:- 16.12.2022

Coram:

Hon'ble Member (Judicial)	:	Justice P.N. Deshmukh (Retd.)
Hon'ble Member (Technical)	:	Mr. Shyam Babu Gautam

Appearances:

For the Operational Creditor	:	Mr. Anshul Bhatt, PCS
For the Corporate Debtor	:	None Present

ORDER

Per :- Shyam Babu Gautam, Member Technical

1. This Company Petition is filed by *Kaved Steel Products Private Limited* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Netra Mercantile Private Limited* (hereinafter called “Corporate Debtor”) alleging that the Corporate debtor committed default in making payment to the Operational Creditor. This petition has been filed by invoking the provisions of Section 9 Insolvency and Bankruptcy Code, 2016 (hereinafter called “the Code”) read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The present petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of Rs. 70,83,925/- (Rupees Seventy Lakhs Eighty-Three Thousand Nine Hundred and Twenty-Five Only). The Debt fell due on 14.06.2013
3. The Operational Creditor is into the business of trading of steel products. The Corporate Debtor is engaged into steel business. In the course of running business, the Corporate Debtor had placed a purchase orders for supply of steel products in the year 2013. The Operational Creditor issued a debit note on the Corporate Debtor towards discounting charges and bank charges.
4. The Corporate Debtor had made a part payment of Rs. 50,00,000. The Operational Creditor approached the Corporate Debtor several times and requested to clear the remaining due amount. But all the requests made by the Operational Creditor went in vain. The Operational

Creditor sent a Demand Notice dated 17.12.2018. The Demand Notice was duly served on the Corporate Debtor via hand delivery. The Corporate Debtor has not sent any reply to the Demand Notice. The Operational Creditor has submitted the Ledger account from 01.05.2013 to 31.03.2018.

5. The Corporate Debtor filed its reply dated 04.01.2022. The Corporate Debtor stated that the Corporate Debtor accepted the debit note from the Operational Creditor being amount debited towards discounting charges and bank charges.
6. Further the Corporate Debtor Company is not carrying any business since 2016 and due to which the losses of the Company were carried forward. The Corporate Debtor Company is unable to pay the debt of the Operational Creditor.

FINDINGS

7. We have heard the submissions of the Counsel appearing for the Operational Creditor. It is seen from the records that the debt fell due on 14.06.2013. The Operational Creditor has filed the present petition on 01.02.2019. The Operational Creditor has not established or substantiated any proof that the Petition is within the time frame and filed within three years from the date of debt fell due. The Petition is barred by limitation.
8. In view of the above, the CP 475 of 2019 is dismissed as Non-maintainable.

Sd/-
SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

Sd/-
JUSTICE P. N DESHMUKH
(MEMBER JUDICIAL)