



**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 2**

ITEM No302  
CP(IB)/334(AHM)2022

**Proceedings under Section 9 IBC**

**IN THE MATTER OF:**

Rekha Pankaj Maheshwari Prop. Shree Laxmira Alloys  
V/s  
Dharma Extrusions Private Limited

.....Applicant

.....Respondent

**Order delivered on 06/06/2023**

**Coram:**

Mr. Deep Chandra Joshi, Hon'ble Member(J)  
Mr. Ajai Das Mehrotra, Hon'ble Member(T)

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

**SD/-**

**AJAI DAS MEHROTRA  
MEMBER (TECHNICAL)**

**SD/-**

**DEEP CHANDRA JOSHI  
MEMBER (JUDICIAL)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD**

**COURT - II**

**CP (IB) 334/NCLT/AHM/2022**

[Application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency & Bankruptcy Code, 2016]

**In the Matter of:**

**Rekha Pankaj Maheshwari  
Prop. of Shree Laxmira Alloys**

**Applicant/  
Operational Creditor**

**Versus**

**Dharma Extrusions Private Limited**

**Respondent/  
Corporate Debtor**

**Order Pronounced on: 06/06/2023**

**Coram:**

**DEEP CHANDRA JOSHI  
HON'BLE MEMBER(JUDICIAL)  
AJAI DAS MEHROTRA  
HON'BLE MEMBER (TECHNICAL)**



**MEMO OF PARTIES**

**Rekha Pankaj Maheshwari**

Proprietor of Laxmiraj Alloys

298/5/7 Ground Floor, Lakod Complex

GIDC Industrial Estate

Makarpura

VADODARA 390 010

Gujarat State

... **Applicant/Operational Creditor**

**Versus**

**Dharma Extrusion Private Limited**

90/P/4 Village Baska

PO Baska Halol

Panchmahals 389 350

Gujarat State

... **Respondent/Corporate Debtor**

**Appearance:**

For Applicant : Mr. Sahil Rao, Advocate

For the Respondent : Mr. Nishit Raj, Advocate



## ORDER

1. This application is filed on 28.11.2022 under Section 9 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Ms. Rekha Pankaj Maheshwari, proprietor of M/s. **Laxmiraj Alloys** (for brevity 'Applicant'), with a prayer to initiate the Corporate Insolvency Resolution Process against M/s. **Dharma Extrusion Private Limited** (for brevity 'Corporate Debtor').
2. The applicant is a proprietary concern of Ms. Rekha Pankaj Maheshwari, having PAN AWBPM1669G and GST No. 24AWBPM1669G1ZM having its registered office at 298/5/7 Ground Floor, Lakod Complex, GIDC Industrial Estate, Makarpura, Vadodara 390 10, Gujarat State. The applicant is stockist and supplier of copper, brass, aluminium, gun-metal, bronze sheets, Rod, Strip, wire & non-ferrous metals.
3. The corporate debtor is a private limited company incorporated under the Companies Act, 1956 having CIN U28113GJ2009PTC057555 and having office at 90/P/4 Village Baska, PO Baska Halol,



Panchmahals, 389 350 Gujarat State. The authorised share capital of the corporate debtor is Rs. 3,20,00,000/- and paid up share capital is Rs. 3,01,25,000/-. The corporate debtor is engaged in the business of Aluminum Plate, Copper Strip, Copper Dinner Plate, Copper Sheet, Aluminum Rod etc.

4. It is submitted by the applicant that a total sum of 1,26,69,462/- (Rupees one crore twenty-six lacs sixty-nine thousand four hundred sixty-two only) is due and payable by the corporate debtor which includes interest amount of Rs. 5,43,937 (Rupees five lacs forty-three thousand nine hundred thirty-seven only) towards the goods supplied under seventeen invoices attached to the application, during the period from 02.06.2022 to 03.09.2022. As per the terms and conditions in each invoice, payment of each invoice was to be made within 40 days from the date of invoice. According to the applicant the last invoice fell due on 13.10.2022.
5. The applicant further submits that having failed to receive the overdue payments from the corporate debtor, demand notices in Form 3 and Form 4 under Section 8 of the Insolvency & Bankruptcy Code read with Rule 5 of the Insolvency and Bankruptcy Regulations, 2016, both dated 25.10.2022, were issued. Track consignment report



evidencing delivery of said notices at the registered address available at MCA portal on 27.10.2022, is annexed to the application. The applicant has submitted a copy of reply sent by the corporate debtor vide letter dated 08.11.2022 inter alia admitting the debt.

6. Thereafter, the applicant filed the instant application on 28.11.2022 under Section 9 of the Insolvency and Bankruptcy Code, 2016.
7. The corporate debtor filed affidavit in reply inter alia admitting the debt of Rs. 1,21,25,525/-
8. As per part IV, Form 5 total amount of debt is Rs. 1,26,69,462/- (Rupees twenty-six lacs sixty-nine thousand four hundred sixty-two only). Date of last invoice raised is 03.09.2022 and due date of last invoice is 13.10.2022. Accordingly, date of default is 13.10.2022. Therefore, application filed on 28.11.2022 is within limitation and not barred by law.
9. Registered office of the corporate debtor is situated in Panchmahals District, Gujarat State and, therefore, this Tribunal has jurisdiction to entertain and try this application.
10. Heard submissions and perused the documents on record. The documents annexed with the application clearly establishes that default has occurred and operational debt is due and payable by the corporate debtor. Moreover, the corporate debtor has admitted the



operational debt in its reply dated 08.11.2022 and an affidavit has been filed to that effect.

11. The applicant is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. Moreover, in view of the admission and acknowledgement of debt and default by the corporate debtor, it is apparent that the corporate debtor is incapable of discharging its debts and requires resolution. The present application is complete and it is filed within limitation and meets the threshold required under the Code. This application is hereby admitted, in terms of section 9 (5) of IBC, 2016 and CIRP is ordered to be initiated.
  
12. The applicant has proposed the name of the Interim Resolution Professional (IRP). Therefore, we hereby appoint **Mr. Hitesh Narayanbhai Agarwal**, with registration No. IBBI/IPA-001/ IP-P-01183/2019-2020/12639 and having address Ground floor, Hotel Bansal, near Lalita Tower, behind Railway Station, Alkapuri, Vadodara, Gujarat- 390005 email ID caagrwalhitesh@gmail.com as IRP of the corporate debtor subject to the condition that no disciplinary proceedings are pending against her. Specific consent of the IRP in Form 2, along with disclosures as required under IBBI (Insolvency Resolution Process for Corporate



Persons) Regulations, 2016 be filed within a period of one week from the receipt of this order.

13. We direct the Operational Creditor to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely **Mr. Hitesh Narayanbhai Agarwal** to meet the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week 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.
14. As a consequence of the application being admitted in terms of Section 9 (5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14 (1) shall follow in relation to the Corporate debtor, prohibiting actions as per clauses (a) to (d) of Section 14 (1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall remain in force.



15. A copy of the order be communicated to the applicant, IRP and the corporate debtor. A copy of order along with complete copy of application be served to IRP by the applicant within 7 days of order. In addition, a copy of the order be forwarded to IBBI for its records and taking steps for updating the Master Data of the corporate debtor in MCA portal, and to forward the compliance report to the Registrar, NCLT.

**SD/-**

**AJAI DAS MEHROTRA  
MEMBER (TECHNICAL)**

**SD/-**

**DEEP CHANDRA JOSHI  
MEMBER (JUDICIAL)**

*Nair/ Abhishek LRA*