



**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**AHMEDABAD**  
**DIVISION BENCH**  
**COURT - 1**

ITEM No.106  
C.P.(IB)/125(AHM)2021

**Proceedings under Section 9 IBC**

**IN THE MATTER OF:**

Somani Multibiz Pvt Ltd  
V/s  
Ila Metals Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on: 08/02/2023**

**Coram:**

Dr. Madan B. Gosavi, Hon'ble Member(J)  
Mr.Kaushalendra Kumar Singh, Hon'ble Member(T)

**PRESENT:**

For the Applicant :  
For the Respondent :

**ORDER**

The case is fixed for pronouncement of order. The order is pronounced in the open court, vide separate sheet.

-SD-  
**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

-SD-  
**DR. MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT-I**

**CP (IB) No.125/NCLT/AHM/2021**

**CP (IB) No.125 of 2021**

(An application for initiation of Corporate Insolvency Resolution Process under section 9 of the Insolvency & Bankruptcy Code, 2016)

**In the matter of:**

**Somani Multibiz Pvt Ltd**

(Formerly known as Somani Jewels & Crystals Private Limited)

(CIN: U51100GJ2018PLC105480)

Having office at;

38-A, Sumel Business Park-5, Asarwa,  
Chamunda Bridge, Ahmedabad - 380016.

**...Operational Creditor**

**Versus**

**Ila Metals Pvt Ltd**

(CIN: U93090GJ2018PTC101401)

Having office at;

B-86, Vrajdham Society, Kamla Nagar,  
Ajwa Road, Vadodara - 390019

**...Corporate Debtor**

**Order pronounced on 08.02.2023**

**Coram: Dr. Madan B. Gosavi (Member Judicial)**

**Kaushalendra Kumar Singh (Member Technical)**

**Appearance:**

Mr. Suhas Bhattbhatt, PCS appeared for the Operational Creditor

**ORDER**

1. This application has been filed on 30-07-2021 by M/s. Somani Multibiz Private Limited, the Operational Creditor under section 9 of the Insolvency and Bankruptcy Code, 2016 (**IBC, 2016**) for initiation of Corporate Insolvency Resolution Process (**CIRP**) against the Corporate Debtor i.e. Ila Metals Private Limited. The amount claimed as debt in default is stated to be Rs. 1,79,24,908.30/- [outstanding amount against invoices of Rs. 1,70,03,744.10/- with 12% interest p.a. of Rs. 9,21,164.20/-].

2. The facts in brief are that the Corporate Debtor and Operational Creditor were in a business relationship of sale and purchase of gold bar. The Corporate Debtor and Operational Creditor were in a business relationship on the basis of a term sheet which was duly signed by both the parties on 01.12.2020. The Operational Creditor has supplied gold bars to the Corporate Debtor towards which the Operational Creditor has raised the following invoices:

<b>Sr. No.</b>	<b>Invoice Date</b>	<b>Inv. No.</b>	<b>Amount in Rs.</b>	<b>Purchase Order No.</b>	<b>Date of delivery</b>
1.	07.12.2020	2578	5,21,509.00/-	62/2020	07.12.2020
2.	09.12.2020	2584	39,60,209.92/-	65/2020	09.12.2020
3.	09.12.2020	2583	20,24,481.48/-	66/2020	09.12.2020
4.	15.12.2020	2589	45,70,369.56/-	72/2020	15.12.2020
5.	13.12.2020	2618	59,27,174.14/-	78/2020	13.12.2020
<b>TOTAL</b>			<b>1,70,03,744.10/-</b>		



3. The Operational Creditor has raised 5 invoices between the period of 07.12.2020 to 31.12.2020. The outstanding amount receivable against invoices is Rs. 1,70,03,744.10/-. The Operational Creditor has also included interest at 12% which amounts to Rs. 9,21,164.20/-. Hence, the total amount claimed by the Operational Creditor is Rs. 1,79,24,908.30/-.

4. The Operational Creditor submitted that demand notice dated 31.05.2021 was issued to the Corporate Debtor in Form 3 under section 8(1) of IBC, 2016 for the payment of debt of Rs. 1,70,03,744.10/- along with interest at 12% p.a., which was duly delivered at the registered address of the Corporate Debtor.

5. The Corporate debtor in response sent an email dated 05.07.2021 stating reasons for delay in making payment and requested to clear all the pending dues at the earliest. Proof of the same is placed on record by the Operational Creditor.

6. In view of non-appearance of the Corporate Debtor, the Adjudicating Authority passed an order dated 28.09.2021 directing the Operational Creditor to publish the notice in newspaper in English as well as Vernacular language. The Operational Creditor has also filed the compliance report of the same. As none appeared on behalf of the Corporate Debtor after serving several notices, this Adjudicating Authority passed an order to proceed ex-parte against the Corporate Debtor vide order 30.11.2021.

7. We have heard the learned counsel for the Operational Creditor and perused the material on record. It has been noted that 5 invoices dated 07.12.2020, 09.12.2020, 09.12.2020, 15.12.2020, 31.12.2020 have been raised against the Corporate Debtor for an outstanding amount of Rs. 5,21,509/-, Rs. 39,60,209.92/-, Rs. 20,24,481.48/-, Rs. 45,70,369.56/-, Rs. 59,27,174.14/- respectively. Thus, the outstanding amount against invoices is of Rs. 1,70,03,744.10/-. The interest thereon at 12% p.a. is Rs. 9,21,164.20/-. The present application is filed by the Operational



Creditor on 30.07.2021 and as such the same is within the limitation period. Thus, the present application is not barred by law of limitation.

8. The present application is defect-free and complies with all the relevant provisions of the IBC, 2016. The Operational Creditor did not propose the name of Interim Resolution Professional (**IRP**) in the application. But, later on submitted written consent dated 21.11.2022 in Form AA given by CA. Shivkumar Madanlal Baser having registration number IBBI/IPA-001/IP-P-01263/2018-19/12064 and e-mail Id [ipshivbaser@gmail.com](mailto:ipshivbaser@gmail.com) to act as IRP. In view of the above observations the present application is allowed with the following directions;

### **ORDER**

I. The Corporate Debtor M/s. Somani Multibiz Private Limited is admitted in CIRP under section 9 of IBC, 2016. The moratorium is declared for prohibiting all of the following in terms of section 14(1) of IBC 2016.

- (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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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.*



II. The order of moratorium shall have effect from the date of this order till the completion of CIRP or until this Adjudicating Authority approves the Resolution Plan under section 31(1) of IBC, 2016 or passes an order for Liquidation of Corporate Debtor under section 33 of IBC 2016, as the case may be.

III. Mr. Shivkumar Madanlal Baser having registration number IBBI/IPA-001/IP-P-01263/2018-19/12064 and e-mail Id [ipshivbaser@gmail.com](mailto:ipshivbaser@gmail.com) is appointed to act as Interim Resolution Professional (IRP).

IV. The IRP shall perform all functions as contemplated, *inter-alia*, by sections 17, 18, 20 and 21 of IBC, 2016. It is further made clear that all personnels connected with the Corporate Debtor, its Promoter, or any other person associated with management of the Corporate Debtor are under a legal obligation under section 19 of IBC, 2016 to extend every assistance and co-operation to the IRP. Where any personnel of the Corporate Debtor, its Promoter, or any other person required to assist or co-operate with the IRP, do not assist or co-operate, IRP is at liberty to make the appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

V. This Adjudicating Authority directs the IRP to make a public announcement for initiation of CIRP and call for submission of claims under section 15 as required by section 13(1)(b) of IBC, 2016.

VI. It is further directed that the supply of goods/service to the Corporate Debtor Company continuing, shall not be terminated or suspended, or interrupted during the moratorium period.



VII. The IRP shall be duty-bound to protect and preserve the value of the property of the Corporate Debtor and manage the operations of the Corporate Debtor as a going concern as a part of an obligation imposed by section 20 of IBC, 2016.

VIII. The Operational Creditor is directed to pay an advance of Rs. 50,000/- to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of CIRP and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report.

IX. The Registry is directed to communicate a copy of this order to the Operational Creditor, Corporate Debtor, and the IRP and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order.

X. Accordingly, **CP (IB) No.125 of 2021** is admitted and disposed of.

**-SD-**  
**KAUSHALENDRA KUMAR SINGH**  
**MEMBER (TECHNICAL)**

**-SD-**  
**DR. MADAN B. GOSAVI**  
**MEMBER (JUDICIAL)**

Shweta Desai - LRA