



**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
CHENNAI BENCH – II, CHENNAI**

**IBA/315/2020**

*(filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w  
Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating  
Authority) Rules, 2016)*

*In the matter of **RMA METALS & ALLOYS PRIVATE LIMITED***

**MANJU DHARIWAL**

Sole Proprietor of  
M/s. Padmavathi Metals & Wires  
No. 20/2 Subbu Chetty Street,  
Waltax Road,  
Chennai – 600 003.

*...Applicant / Operational Creditor*

-Vs-

**RMA METALS & ALLOYS PRIVATE LIMITED**

[CIN: U25206TN1973PTC006354]  
New No. 129, North Phasemanampet Road,  
SIDCO Industrial Estate,  
Ambatur, Chennai – 600 098.

*...Respondent / Corporate Debtor*

*Order Pronounced on **09<sup>th</sup> December, 2022***

CORAM:

**DR. DEEPTI MUKESH, MEMBER (JUDICIAL)**  
**SAMEER KAKAR, MEMBER (TECHNICAL)**

*For Operational Creditor : Ms. P.S. Deepika, Advocate  
For Corporate Debtor : Mr. P. Jesus Moris Ravi, Advocate*

**ORDER**

**Per: DR. DEEPTI MUKESH, MEMBER (JUDICIAL)**

This Application has been filed by one **MANJU DHARIWAL**  
(hereinafter referred to as the 'Operational Creditor') as the Sole  
Proprietor of M/s. Padmavathi Metals & Wires, on 14.02.2020



under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the 'Code') r/w Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, against **RMA METALS & ALLOYS PRIVATE LIMITED** (hereinafter referred to as the 'Corporate Debtor'). The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP).

2. From Part - I of the Application, it is seen that one Ms. Manju Dhariwal, the Sole Proprietor of M/s. Padmavathi Metals & Wires has filed the Application against the Corporate Debtor. The business address as per the Application is stated to be situated at No. 20/2 Subbu Chetty Street, Waltax Road, Chennai – 600 003. Affidavit dated 10.02.2020 filed verifying the present Application was filed for the same.

3. Part - II of the Application lays down the details of the Corporate Debtor. It can be seen that the Corporate Debtor is a Company incorporated under the Companies Act, 1956 on 11.05.1973 with CIN: U25206TN1973PTC006354. The registered office of the Corporate Debtor is situated at New No. 129, North Phasemanampet Road, SIDCO Industrial Estate, Ambatur, Chennai – 600 098. The Authorised Share Capital of the Corporate Debtor is stated to be Rs.1,00,00,000/- (Rupees One Crores Only) and the



and Paid-up Share Capital is stated to be 10,00,000/- (Rupees Ten Lakhs Only).

4. From Part – III of the Application, it can be seen that the Operational Creditor has not proposed any Insolvency Professional and has sought to refer the matter to the Board.

5. From Part-IV of the Application, it can be seen that a total sum of Rs. 26,56,533/- (Rupees Twenty Six Lakh Fifty-Six Thousand Five Hundred and Thirty-Three Only) consisting of both principal and interest component which is being claimed by the Operational Creditor as the Operational Debt as on the date of preferring the present Application. According to the Applicant, 26.12.2019 is the date of default.

6. Part – V of the Application discloses about the details of the documents which have been filed by the Operational Creditor in order to prove the 'Operational debt', which are extracted as follows;

- i. Form 4 Notice with Purchase Order, Invoices, Email and Ledger Statement along with the Proof of Service
- ii. Certificate of Incorporation, MoA & AoA, and Financial Statements of Corporate Debtor
- iii. Purchase Orders
- iv. Tax Invoices
- v. E-Mail correspondence



vi. Consolidated Customer Statement Report

7. The Operational Creditor is engaged in the distribution business of 'Ferrous' & 'Non-Ferrous' metals and scraps throughout the Country. It is stated that during December, 2018 – January, 2019, the Corporate Debtor had placed three 'Purchase Orders' for the supply of certain products which include 'Tin Ingots', 'Aluminium Scrap' and 'Copper Scrap' to the Operational Creditor. The Operational Creditor further states that the supply against the purchase orders were duly effected and that the invoice(s) were raised by the Operational Creditor as under:

S No.	Invoice Number	Date of Invoice	Amount
1.	PMW/18-19/172	26.12.2018	Rs. 9,13,839/-
2.	PMW/18-19/173	26.12.2018	Rs. 3,03,024/-
3.	PMW/18-19/189	22.01.2019	Rs. 5,04,806/-
4.	PMW/18-19/195	01.02.2019	Rs. 4,05,018/-
<b>Total</b>			Rs. 21,26,687/-

8. It is stated that the Operational Creditor had addressed several reminders over phone and through E-Mail for the payment of dues with respect to the above invoices from the Corporate Debtor. Copy of the said E-Mail is placed at page 65 of Application. The Operational Creditor was constrained to issue the Statutory Notice under Section 8 of the Code dated 13.01.2020 on the



Corporate Debtor. The said Notice is stated to have been served on the Corporate Debtor on 22.01.2020. A perusal of the Acknowledgement Card which is placed at page 29 of the application shows that the Demand Notice was received by the Corporate Debtor on 17.01.2020. It is stated that there was no reply from the Corporate Debtor against the said notice, thus the present Application came to be filed on 14.12.2020 before this Tribunal. The Operational Creditor has duly filed an Affidavit dated 10.02.2020 in terms of 9(3)(b) of the Code.

9. The Corporate Debtor had filed reply dated 05.06.2022 wherein the Corporate Debtor summarily denies any transactions with the Operational Creditor and states that the Corporate Debtor is not liable to pay to Operational Creditor. It is further submitted by the Corporate Debtor that the Operational Creditor has not placed any documentary evidence substantiating the transaction and supply of the materials.

10. We have perused the documents filed and relied upon by the Operational Creditor. After perusal of the three purchase orders issued by the Corporate Debtor in favour of the Operational Creditor and the 4 individual invoices raised as against the respective orders, the argument of the Corporate Debtor that no documentary evidence has been filed cannot be sustained. It is also clear that the supply / delivery of the goods to the Corporate



Debtor had been made as the invoices raised, reflect details including 'Despatch Document No.' and 'Delivery Note Date'. The Operational Creditor has attached copy of invoice no.PMW/18-19/189 dated 22.01.2019 of Rs. 5,04,806/- which is appended as below:

**Tax Invoice**

(TRIPLICATE FOR SUPPLIER)

<b>Padmavathi Metals &amp; Wires</b> 20/2,Subbu Chetty Street,Waltax Road,Chennai-600003 Godown:28,Chetty Street,Porur,Chennai-600116 Tamil Nadu,India GSTIN/UIN: 33AAFDP4452Q1ZL State Name : Tamil Nadu, Code : 33 E-Mail : metascrap_pmw@yahoo.com	Invoice No. <b>PMW/18-19/189</b>	Dated <b>22-Jan-2019</b>
	Delivery Note	Mode/Terms of Payment <b>7 Days</b>
	Buyer's Order No. <b>PO:RMA/18-19/012</b>	Dated <b>21-Jan-2019</b>
<b>Buyer</b> <b>RMA METALS AND ALLOYS PVT LTD</b> NEW NO.129, NORTH PHASE, SIDCO INDUSTRIAL ESTATE, AMBATTUR, CHENNAI, Tamil Nadu - 600098, India GSTIN/UIN : 33AACCR7872A1ZK State Name : Tamil Nadu, Code : 33	Despatch Document No. <b>5710 8000 52700 - 22/1/19</b>	Delivery Note Date
	Despatched through <b>VAN</b>	Destination <b>AMBATTUR</b>
	Bill of Lading/LR-RR No.	Motor Vehicle No. <b>TN-04-AS-9587</b>
	Terms of Delivery <b>EX-FACTORY</b>	

Sl No.	No. & Kind of Pkgs.	Description of Goods	HSN/SAC	Quantity	Rate	per	Amount
1	8	Tin Ingots	8001	206.350 Kgs	1,720.00	Kgs	3,54,922.00
2	3	Tin Ingots	8001	45.550 Kgs	1,600.00	Kgs	72,890.00
							4,27,802.00
							CGST 9 % 38,502.18
							SGST 9 % 38,502.18
							Round Off (-)0.36
<b>Total</b>							<b>₹ 5,04,806.00</b>

Amount Chargeable (in words)

**INR Five Lakh Four Thousand Eight Hundred Six Only**

E. & O.E

HSN/SAC	Taxable Value	Central Tax		State Tax		Total Tax Amount
		Rate	Amount	Rate	Amount	
8001	4,27,802.00	9%	38,502.18	9%	38,502.18	77,004.36
<b>Total</b>	<b>4,27,802.00</b>		<b>38,502.18</b>		<b>38,502.18</b>	<b>77,004.36</b>

Tax Amount (in words) : **INR Seventy Seven Thousand Four and Thirty Six paise Only**

Remarks:  
 BEING THE TIN INGOTS 251.900KGS AS PER INV.NO. 189 DT.22.01.2019

Company's PAN : **AAFDP4452Q**

Declaration  
 We declare that this invoice shows the actual price of the goods described and that all particulars are true and correct.

Company's Bank Details

Bank Name : Punjab National Bank Triplicane  
 A/c No. : 0346002100023809  
 Branch & IFS Code : Triplicane Branch & PUNB0034600

Customer's Seal and Signature

for Padmavathi Metals & Wires



SUBJECT TO CHENNAI JURISDICTION





Perusal of the above invoice would indicate that it bears the seal and signature of the Corporate Debtor. The Operational Creditor has placed the Ledger Account of the Corporate Debtor. We are of the *prima facie* view that the objections raised by the Corporate Debtor are devoid of merits, thus the Operational Creditor has proved the existence of debt and default on the part of the Corporate Debtor.

11. Moreover, the Corporate Debtor has neither produced any document or raised any dispute prior to the issuance of notice under Section 8 of the Code, nor has filed any notice of dispute to the statutory notice issued to it. There is no issue raised by the Corporate Debtor with respect to dispatch and delivery of goods, nor any document for any proceeding pending between the parties. We consider that the Corporate Debtor has endeavoured to create a dispute to wriggle out from Corporate Insolvency Resolution Process.

12. This Application was filed on 14.02.2020 and the said date is prior to the date when the pecuniary limit was increased to Rs. 1 Crore.

13. Thus, taking into consideration the facts and circumstances of the case as well as the position of Law, the present Application filed by the Operational Creditor is required to be **admitted** under Section 9(5) of the IBC, 2016. Since the Operational Creditor has



not named the Insolvency Resolution Professional, this Tribunal based on the latest list furnished by Insolvency and Bankruptcy Board of India applicable for the period between July 2022 - December 2022 appoints **Mr. K.J. Vinod** with Registration Number **[IBBI/IPA-003/IP-N00291/2020-2021/13451]** (E-mail ID:- *kjvinod05@rediffmail.com*) as the "Interim Resolution Professional" subject to the condition that no disciplinary proceedings are pending against such an Interim Resolution Professional named and disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 are made within a period of one week from the date of this order. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

14. As a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:



- a. The institution of suits or continuation of pending suits or proceedings against the respondent including the 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 respondent 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 respondent in respect of its property including any action under the Securitization 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 respondent.

*Explanation.*-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

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15. However, during the pendency of the moratorium period in terms of Section 14(2) (2A) and 14(3) as extracted hereunder:

(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to

- (a) such transactions, agreements or other arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
- (b) a surety in a contract of guarantee to a corporate debtor.

16. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

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- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

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 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.

17. The Operational Creditor is directed to pay a sum of **Rs.1,00,000/- (Rupees One Lakh Only)** to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to her in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

18. Based on the above terms, the Application stands **admitted** in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the Order shall be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records.



Further, the Interim Resolution Professional above named also be furnished with a copy of this Order forthwith by the Registry, who will also communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned, to update master data of the Corporate Debtor.



-Sd-

**SAMEER KAKAR**  
MEMBER (TECHNICAL)



-Sd-

**DR. DEEPTI MUKESH**  
MEMBER (JUDICIAL)

*V.Shreekumar*