



S.No.2

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH – 1  
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON  
01-05-2023 AT 10:30 AM**

**CP(IB) No. 53/9/HDB/2023**  
u/s. 9 of IBC, 2016

**IN THE MATTER OF:**

M/s Carbon Fuels

**...Operational Creditor**

**VS**

Sri Raghavendra Ferro Alloys Private Limited

**...Corporate Debtor**

**C O R A M :-**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)  
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)**

**ORDER**

Order in CP 53/2023 pronounced. Recorded vide separate sheets. In the result, the Company Petition is admitted. Moratorium declared against the Corporate Debtor. IRP appointed as per the terms and conditions mentioned in the Order.

**Sd/-**

**MEMBER (T)**

**Sd/-**

**MEMBER (J)**



**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH-1**

**CP (IB) No. 53/9/HDB/2023**

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

**Between**

M/s Carbon Fuels  
Principal Place of Business: C-1404  
Bhavyas Tulasivanam,  
Usha Mullapudi Road, Kukatpally,  
Hyderabad – 500072, Telangana,  
Represented by its Partner,  
Mr. Suresh Chanumolu

**...Operational Creditor**

Versus

Sri Raghavendra Ferro Alloys Private Limited  
CIN U27109TG2004PTC043803  
Registered Office: 19-55, Vasavi Nagar  
Nakrekal, Nalgonda – 508211, Telangana  
E.mail: srfap@gmail.com

**...Corporate Debtor**

**Date of order:01.05.2023**

**Coram:**

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)  
Sh. Charan Singh, Hon'ble Member (Technical)



**Appearance:**

For Applicant: Mr. A Nagaraj Kumar, Advocate.

**PER: BENCH**

**ORDER**

1. Under consideration before us is the petition filed by Operational Creditor herein stating that Sri Raghavendra Ferro Alloys Private Limited/ Corporate Debtor committed default of Rs.1,99,10,943. Hence this petition filed under Section 9 of Insolvency and Bankruptcy Code (hereinafter to be referred as “Code”), read with Rule 6 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking admission of the Petition, commencement of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.
2. **The averments in brief of the Application are that;**
  - a. It is averred that operational creditor was registered partnership firm with Registration No. 1914 of 2021, dated 21.06.2021. The Corporate Debtor issued purchase orders to Operational Debtor for supply of Steam Coal. Pursuant to the terms of Purchase Orders issued by the Corporate Debtor, starting from 21.01.2022 to 17.05.2022 the Operational Creditor supplied



Steam Coal in total aggregating to an amount of Rs.6,49,10,943/- and in turn received a partial amount of Rs.4,50,00,000/- on running account basis, leaving a balance outstanding of an amount of Rs.1,99,10,943/-.

- b. It is averred that the Corporate Debtor on 08.06.2022 forwarded through email the ledge statement of the Operational Creditor maintained in its books of accounts for the period ending 31.03.2022, confirming that an amount of Rs.3,91,53,361.62 is outstanding payable. The Operational Creditor vide email dated 19.07.2022 intimated to the Corporate Debtor that pursuant to MSME guidelines, the Operational Creditor is entitled to receive 12% interest on payments delayed beyond 90 days.
- c. It is averred that the failure and neglect of the Corporate Debtor, the Operational Creditor through their Counsel issued and forwarded the requisite Demand Notice/Form 3 dated 28.12.2022 to the Corporate Debtor under IBC, and the same was dispatched through registered post, and served on the Corporate Debtor on 30.12.2022 and there is no response received from the Corporate Debtor.
- d. It is further averred that the Corporate Debtor is liable to pay to the Operational Creditor an unpaid operational debt of an amount of Rs.1,99,10,943/- along with interest @ 12% per annum from the due date till the realisation of actual payment. Thus, prayed the Tribunal to initiate CIRP against the Corporate



- e. As directed by this Adjudicating Authority the applicant has taken notice to the respondent and the same was delivered on 27.02.2023 as per the proof of service filed. However, the corporate debtor was called absent and none appeared for the Corporate Debtor. Hence the Corporate Debtor was ex-parte vide order dated 02.03.2023
2. In the above backdrop the point that emerges for consideration by this Tribunal is:
- Whether an Operational debt as claimed by the applicant is due and payable by the Corporate Debtor to the applicant? If so, whether the Corporate Debtor defaulted in payment of the said Operational debt?**
3. We have carefully examined the record placed before us by the Applicant. The record placed before us discloses that the Corporate Debtor issued purchase orders to Operational Debtor for supply of Steam Coal. Pursuant to the same the Operational Creditor supplied Steam Coal in total aggregating to an amount of Rs.6,49,10,943/-, as per the terms of Purchase Orders between 21.01.2022 and 17.05.2022 and in turn received a partial amount of Rs.4,50,00,000/- on running account basis, leaving a balance outstanding of an amount of Rs.1,99,10,943/-.
4. Record also reveals that the Corporate Debtor on 08.06.2022 forwarded through email the ledge statement of the Operational Creditor maintained in its books of accounts for the period ending



31.03.2022, confirming that an amount of Rs.3,91,53,361.62 is outstanding payable. The Operational Creditor vide email dated 19.07.2022 intimated to the Corporate Debtor that pursuant to MSME guidelines, the Operational Creditor is entitled to receive 12% interest on payments delayed beyond 90 days. The Operational Creditor through their Counsel issued and forwarded the requisite Demand Notice/Form 3 dated 28.12.2022 to the Corporate Debtor under IBC, and the same was dispatched through registered post, and served on the Corporate Debtor on 30.12.2022 and there is no response received from the Corporate Debtor.

5. Despite service of notice and opportunity the corporate debtor did not choose to contest the same, hence the averments remained un rebutted. Since, the Corporate Debtor neither raised the disputes nor made payment and the defaulted is more than Rs. 1 crore, being the minimum threshold limit fixed under IBC, 2016, hence, under the circumstances, the Adjudicating Authority is inclined to admit the petition and put the Corporate Debtor into Corporate Insolvency Resolution Process.
6. Hence, the Adjudicating Authority admits the Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:
  - (a) The Bench hereby prohibits 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; transferring , encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

- (b) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (c) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (d) That the order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.
- (e) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.



- (f) The Operational Creditor prayed this Adjudicating Authority to appoint the IRP. This Bench hereby appoints Shri. Sreedhar Nukala, having IBBI Registration No: IBBI/IPA-001/IP-P00432/2017-2018/10755, with email id: sreenuka\_1@yahoo.com and mobile number as 9848146369 as to carry the functions as mentioned under the Insolvency & Bankruptcy Code. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with. Proposed IRP shall file Form-B issued by the IBBI within three days hereafter. This information is also available in IBBI Website. Authorisation for Assignment is valid to 29.11.2023. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.
- (g) The Registry of this Tribunal is directed to send a copy of this order to the Registrar of Companies, Hyderabad for marking appropriate remarks against the Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.
- (h) The Registry is also directed to communicate the IRP and Operational Creditor and send copy of this order.
- (i) The petitioner is directed to pay a sum of Rs.1,00,000/- to the interim resolution professional to meet out the expenses to



perform the functions assigned to him in accordance with Regulation 6 of IBBI regulation, 2016.

- (j) This shall, however, be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the petitioner.
- (k) Accordingly petition is admitted.
- (l) The Operational Creditor is directed to communicate this order to the IRP appointed in this case.
- (m) The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.
- (n) Accordingly, this Petition is admitted.

**-SD-**

*CHARAN SINGH*  
*MEMBER (TECHNICAL)*

**-SD-**

*Dr. VENKATA RAMAKRISHNA BADARINATH NANDULA*  
*MEMBER (JUDICIAL)*

*Pavani*