

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Video Conference

**CORAM: HON'BLE BHASKARA PANTULA MOHAN-MEMBER JUDICIAL
CORAM: HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 01.03.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition IB/150/2021
NAME OF THE COMPANY	Ananya Infra Projects Pvt Ltd
NAME OF THE PETITIONER(S)	Krishna Steels
NAME OF THE RESPONDENT(S)	Ananya Infra Projects Pvt Ltd
UNDER SECTION	9 of IBC

ORDER

Orders pronounced vide separate sheets.

Company Petition IB/150/2021 is hereby admitted.

MEMBER (T)

Nilesh

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.150/9/HDB/2021
Under section 9 of the IB Code, 2016
Under rule 6 of the Insolvency and Bankruptcy
(Application Adjudicating Authority) Rules, 2016.

In the matter of
M /s ANANYA INFRA PROJECTS PRIVATE LIMITED

Between:

M/s. Krishna Steels, Proprietorship Firm
Represented by its Sole Proprietor –
Mr. Krishna Agarwal,
GST Registration No:- 36APHPA7996KIZA
Presently Carrying out its Business from:
5-2-202-205, Balaji Market,
Ranigunj, Secunderabad.

...Petitioner/
Operational Creditor

And

M/s. Ananya Infra Projects Private Limited
CIN No:- U45200TG2013PTC088236
Registered Office:-
House No: 6-10-113/3, Raju Colony,
Vinayak Nagar, Balanagar,
Hyderabad, Telangana – 500042 IN.
E-Mail:- raj@ananyagroup.in

...Respondent/
Corporate Debtor

Date of Order: 01.03.2022

Coram: Shri Bhaskara Pantula Mohan, Member Judicial
Dr. Binod Kumar Sinha, Member Technical

Parties/Counsels present:

For the Operational Creditor: Mr. M. Maharshi Viswaraj, Counsel

For the Corporate Debtor: None [*Ex-Parte*]

Per: Bench

ORDER

1. Under consideration is a Company Application filed by M/s. Krishna Steels (in short "*Petitioner/Operational Creditor*") under section 9 of the Insolvency and Bankruptcy Code, 2016 (in short IB Code, 2016) read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s Ananya Infra Projects Private Limited under the Insolvency and Bankruptcy Code, 2016.
2. Brief facts of the case as submitted by the Operational Creditor are as follows:
 - a) That the Corporate Debtor has approached the Operational Creditor with a request to supply TMT Bars and Cement. After due deliberations and negotiations, the Operational Creditor agreed to supply the TMT Bars and Cement as required by the Corporate Debtor. Accordingly, the Operational Creditor supplied TMT Bars and Cement from time to time at the designated site as per the Instructions / Purchase Orders issued by the Corporate Debtor. That various invoices were raised by the Operational Creditor against each supply of goods which have been duly received and accepted by the Corporate Debtor and also confirmed by them.
 - b) That the Corporate Debtor has never raised any dispute regarding the quality, quantity and technical specifications of the goods supplied. The Corporate Debtor agreed to pay



Interest @ 24% Per Annum if payment is not made within due date. The Corporate Debtor has issued cheque bearing No.454187 dated 07.01.2021 drawn on IndusInd Bank for an amount of Rs.25,00,000/- towards part payment of goods supplied by the Operational Creditor. But the banker of the Corporate Debtor dishonoured the said cheque with the reason "Insufficient Funds".

- c) That the Corporate Debtor has been postponing the payments and requesting time for clearing the due amount. Even after taking enough time, the corporate debtor did not clear the debt till date. The Corporate Debtor is liable to pay the principal amount of Rs.1,05,11,785/- (Rupees One Crore Five Lakh Eleven Thousand Seven Hundred and Eighty Five only) to the Operational Creditor.
 - d) That as the Corporate Debtor failed to pay the amounts due to the Operational Creditor in spite of repeated reminders, the Operational Creditor was constrained to issue Demand Notice under Section 8 of the Insolvency and Bankruptcy Code, 2016 on 07.05.2021.
 - e) That the Corporate Debtor after receipt of the above said Demand Notice neither gave any reply nor raised any dispute. However, till date, the Corporate Debtor did not choose to pay the admitted due amount even after taking sufficient time.
 - f) Reiterating the above, learned counsel for the Operational Creditor prayed to admit the instant Application.
3. It is seen from the record that during the initial phase of the instant proceedings, the Respondent was represented by his counsel Mrs. Sharada Rani. K on 23.09.2021, when time was granted for filing counter and matter was adjourned to 12.11.2021. However, during the hearing held on 12.11.2021, a representative of the Corporate



Debtor appeared in person and sought time stating that the Counsel for the Corporate Debtor was unavailable due to personal inconvenience. Again, during the hearing held on 07.12.2021, on a request by the Corporate Debtor, further time was granted for filing counter as a last chance and the matter was posted for hearing to 14.12.2021. But during the hearing held on 14.12.2021, neither any representation on behalf of the Respondent was made nor any counter was filed by the Respondent. Hence, the Corporate Debtor was set *Ex-parte* and the matter was adjourned to 03.01.2022. Then on 03.01.2022 also the Respondent remained absent, and the Counsel for Operational Creditor alone could be heard and the matter was reserved for orders.

4. Since the Respondent has neither filed its Counter nor availed the opportunity of being heard in the manner provided in accordance with principles of natural justice, we have no other option but to dispose of the instant application without the Respondent's assistance.
5. Heard learned counsel of the Applicant and perused the record.
6. This Adjudicating Authority is satisfied that the Operational Creditor has proved its case by placing evidence that there exists an operational debt for an amount exceeding the pecuniary threshold as provided in Section 4 of the IB Code, 2016 and default has occurred for which the Corporate Debtor was liable to pay. There has neither been any reply to Statutory Notice u/s 8 of the IBC, 2016 on behalf of the Corporate Debtor nor the contentions raised by the Applicant in the instant application have been denied by way of an affidavit by the Corporate Debtor. Further, the Operational Creditor has fulfilled all the stipulations as required under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, having satisfied with

Adopt

- the submissions made by the Petitioner/Operational Creditor, this Adjudicating Authority is inclined to admit the instant Application.
7. Accordingly, the instant application is hereby admitted and this Adjudicating Authority orders commencement of the Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor herein, which shall ordinarily be completed within the timelines stipulated in the IB Code, 2016 (as amended), reckoning from the day of this order.
 8. It is seen from the record that one Mr. Madasa Kumar, Insolvency Professional, has filed his written consent in Form 2 dated 24.01.2022 stating that, he has been proposed by Operational Creditor to act as IRP in the instant matter. However, it is observed that the said Insolvency Professional is already acting as Resolution Professional/Liquidator in 5 matters. Therefore, this Adjudicating Authority deems it fit to appoint an Insolvency Professional from the list of Insolvency Professional as issued by IBBI, as IRP in the instant matter.
 9. Accordingly, this Adjudicating Authority hereby appoints Mr. Jarathi Kalyana Chakravarthy, having Registration No. IBBI/IPA-003/IP-N000147/2017-2018/11612, e-mail id: jkc.jarathi75@gmail.com as Interim Resolution Professional from the list of Insolvency Professionals as issued by IBBI. The IRP is directed to file his written consent in Form 2 along with Authorization for Assignment within three days from the date of this order.
 10. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IB Code, 2016 within three days from the date the copy of this order is



received, and call for submissions of claim in the manner as prescribed.

11. We direct the Operational Creditor/Petitioner to pay a sum of Rs.2,00,000/- towards the advance fee of IRP, which shall be ratified and reimbursed later on by the CoC.

12. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP in terms of Section 14 of the IB Code, 2016. It is hereby ordered to prohibit all of the following namely:-

- 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 or 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 rights 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 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.*
- e. *Suspension or termination of any license, permit, registration, quota, concession, clearances 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, 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, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*

13. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any 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. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority

14. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.
15. The Petitioner/Operational Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
16. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor.
17. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
18. Accordingly, CP (IB) No.150/9/HDB/2021 is hereby admitted.

Dr. Binod Kumar Sinha
Member Technical

Bhaskara Pantula Mohan
Member Judicial