IN THE NATIONAL COMPANY LAW TRIBUNAL,

MUMBAI BENCH, COURT – II

C.P.(IB)-3242(MB)/2018

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

In the matter of

Coastal International Private Limited

Address for Correspondence: 102, Lakshya, 48-1-34/3, Srinagar, Vishakhapatnam-530016.

……Operational Creditor

Vs

AT&F India Fabrication Private Limited

Having Registered Office at: 902, 9th Floor, Sanjona Chambers, BSKD Marg, Opp. I.I.P.S., Govandi Station Road, Deonar, Mumbai Bandra Suburban, Maharashtra 400088.

…….Corporate Debtor

Order delivered on: 11.11.2022

Coram:

Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Shri Shyam Babu Gautam

Appearances:

For the Operational Creditor : Ms. Sneha Agrawal

For the Corporate Debtor : Absent

ORDER

Per- Justice P.N. Deshmukh (Retd.), Member Judicial

1. The Present Application is filed 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 Coastal International Private Limited (for brevity 'Operational Creditor') through its Director, Mr. Gottumukkala Venkata Appala Narasimha Raju, who has been duly authorised vide resolution dated 20.06.2018 for initiating Insolvency Resolution Process (CIRP) against AT&F India Fabrication Private Limited (for brevity 'Corporate Debtor') for default in repaying an amount of **₹67,74,372.52** and further interest @ 18% p.a. on the said amount of ₹58,50,000 from the date of filing of the Application till payment.

2. On reading the application and other material placed before this Bench, pursuant to Quotation (Revised) dated 20.02.2017 given

by Operational Creditor to Corporate Debtor. The Corporate Debtor issued Letter of Intent (LOI) and Work Order bearing No. ATF/HO/PONTOON/2016-17/051 dated 23.02.2017 (through e-mail) and assigned the contract/work of Balloon launching of Barges (02 Nos.) Pontoons at Ghoga site Bhavnagar, Gujarat to Operational Creditor.

As per the said LOI and Work Order, the Operational Creditor carried out the work and raised the Invoices upon the Corporate Debtor. The copy of the said invoices bearing No. CIPL/AT&F/01/2016-17, amounting to Rs. 35,00,000/- dated 20.03.2017 (sent by Email dated 20.03.2017) and Invoice bearing No. CIPL/AT&F/01A/2016-17, amounting to Rs. 65,00,000/- dated 31.03.2017 (sent by DTDC Express Ltd. Courier). The Corporate Debtor has from time to time made part payment of Rs. 39,50,000/- and has also deducted TDS of Rs. 2,00,000/-. This Operational Creditor has issued Section 8 notice (Form 3) on 21.05.2018.

3. The Corporate Debtor while replying to Section 8 notice requested to fix up an immediate appointment for inspection of the documents referred and relied upon in section 8 notice and same was provided by the Operational Creditor. It is seen from the record that last and final opportunity was also granted to the Corporate Debtor to file his reply, if any, failing which, right to reply will be closed. On 14.09.2022, when the matter was called

upon for hearing, none appeared for the Corporate Debtor nor filed any reply. In view of the same, the matter was taken up for hearing and Counsel appeared for the Operational Creditor argued the matter. The Corporate Debtor has not filed any reply to the petition and has not raised any dispute over the claim nor against the interest claimed over the principal sum.

4. The Operational Creditor has annexed copies of ***the Quotation, work order and Letter of Intent dated 20.02.2017***. The Operational Creditor has also filed the copies of ***invoices dated 20.03.2017 and 31.03.2017*** along with the copy of ***Section 8 notice***.

5. On perusal of the application and material annexed to this application, we are of the considered view that The Corporate Debtor has not filed any reply to the petition and has not raised any dispute over the claim nor against the interest claimed over the sum. Moreover, this Operational Creditor has proved existence of debt and default and the Petitioner has filed the present Petition before this Tribunal on 27.08.2018 and as such the Notification effected in increasing the threshold limit from Rupees One Lakh to Rupees One Crore as on and from 24.03.2020 does not apply to the present case. Under the said circumstances, since the debt and default on the part of the Corporate Debtor being proved, we hereby admit this petition by appointing ***Mr. Shilachandra Rajaram Hajgude*** (Insolvency

Professional) as IRP with a direction to the IRP to compute this claim by deducting the payments made by the Corporate Debtor during the pendency of this Company Petition. The Petitioner shall pay the remuneration of the IRP as well as initial costs to the IRP until constitution of the Committee of Creditors, Accordingly this petition is admitted with the direction as follows:-

a. **The above Company Petition (IB)3242/(MB)/2018 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s AT&F India Fabrication Private Limited.

b. This Bench hereby appoints ***Mr. Shilachandra Rajaram Hajgude***, having Registration No: ***IBBI/IPA-001/IP-P02438/2021-2022/13701***, E-mail: ***shilchandra@gmail.com***, as the Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Operational Creditor shall deposit an amount of Rs. 2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.

d. That this 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 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; 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. 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.

f. 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.

g. That the order of moratorium shall have effect from the date of pronouncement 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, as the case may be.

h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

j. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

6. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-	Sd/-
SHYAM BABU GAUTAM	**JUSTICE P.N. DESHMUKH**
(MEMBER TECHNICAL)	**(MEMBER JUDICIAL)**

Arpan, LRA