

NATIONAL COMPANY LAW TRIBUNAL
COURT-I, MUMBAI BENCH

Item No. 27

C.P.(IB)3979/MB/2019

CORAM:

MS. ANU JAGMOHAN SINGH

SH. H. V. SUBBA RAO

HON'BLE MEMBER (TECHNICAL) HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON 11.08.2023

NAME OF THE PARTIES: **GALAXY METAL IMPEX V/S ECOMAN
ENVIRO SOLUTIONS PVT. LTD**

Section 9 of the Insolvency and Bankruptcy Code, 2016

ORDER

- 1) Ms. Seema Kulkarni, Ld. Counsel for the Operational Creditor and Mr. T.V. Louis, Ld. Counsel for the Corporate Debtor are present. The above matter is specifically listed on Board today in view of the following Specific Order that was passed on 31.07.2023.

“Both sides present. The matter was listed on Board today for the 4th time in July Month for completing the settlement. The Ld. Counsel appearing for the applicant submits that they have filed an application for withdrawal of the Company petition which is pending for registration before Registry. The representative of the

Operational Creditor further submits that the Corporate Debtor having given post-dated cheque dt. 30.07.2023 requested him to hold the said cheque for another 10 days which he is ready and willing to oblige. It appears that both parties are taking time by consent by using this forum for adjournment. Both sides are directed to complete their settlement by next date failing which the above Company petition would be admitted into the CIRP on that date since the Corporate Debtor has admitted the debt and default by way of settlement. List this matter High on Board on 11.08.2023”.

- 2) Despite the above specific Order, the Counsel appearing for the Corporate Debtor along with the representatives of the Corporate Debtor in Person once again requesting time today for depositing the cheque amount that was given to the Operational Creditor or issue Demand Draft towards first instalment.
- 3) It is very clear from the conduct of the Corporate Debtor that the Corporate Debtor having issued post-dated cheque for Rs. 2,00,000/- dt. 30.07.2023 and having lured the Operational Creditor into a settlement, requested the Operational Creditor not to present the cheque for encashment for another 10 days on 30.07.2023, which was obliged by the Operational Creditor and accordingly, the matter is listed today for passing appropriate withdrawal Order.

- 4) It is very clear from the conduct of the Corporate Debtor that the Corporate Debtor is duping both the Operational Creditor and this Tribunal by taking adjournments under the pretext of settlement and by issuing post dated cheques under the colour of settlement.
- 5) Therefore, it is very clear from the conduct of the Corporate Debtor that the Corporate Debtor having admitted “debt” and “default” and having entered into the settlement is buying time on one pretext or the other without any intention to pay the amount due and payable to the Operational Creditor.
- 6) Therefore, the only course open to the Tribunal in the present circumstances is only to admit the Company Petition and Order initiation of Corporate Insolvency Resolution Process against the Corporate Debtor.
- 7) Accordingly, the above Company Petition is Admitted, by passing the following:-

ORDER

- a. The Company Petition bearing **CP (IB) 3979/MB/C-I/2019** filed by **Galaxy Metal Impex**, the Operational Creditor, under section 9 of the IBC for initiating Corporate Insolvency Resolution Process

(CIRP) against **Ecoman Enviro Solutions Pvt. Ltd.**, the Corporate Debtor, is **Admitted**.

b. There shall be a moratorium under section 14 of the IBC, in regard to the following:

- (i) 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;
- (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
- (iii) 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 (SARFAESI) Act, 2002;
- (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

c. Notwithstanding the above, during the period of moratorium: -

- (i) The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;

- (ii) The provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- d. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- e. Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- f. **Mr. Swapnil Mukund Agrawal**, having Registration No. **IBBI/IPA-001/IP-P00845/2017-2018/11429**, having Email Address: **swapnil.ip845@gmail.com**, having Mobile No. **9371455299**, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC. **The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions issued/as may be issued by the Insolvency & Bankruptcy Board**

of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.

- g. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- h. The **Operational Creditor** shall deposit a sum of **Rs.2,00,000/- (Two Lakhs Only) forthwith towards the initial CIRP costs, by way of Demand Draft in favour of the IRP** to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC). **The IRP shall spend the above amount only towards expenses and not towards his fee till his fee is decided by the Committee of Creditors.**
- i. Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.

j. IRP is directed to send a copy of this Order to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

k. Ordered accordingly.

Sd/-

**ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)**

Vedant Kedare

Sd/-

**H. V. SUBBA RAO
MEMBER (JUDICIAL)**