IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P. No. 1185/I&BP/2019
Under section 8 &9 of the IBC, 2016
In the matter of
Shreeji Steel Tubes
a Partnership Firm,
c/o Ronak Modi, Partner, Office No. 4, 1st Floor, 93-A, Nagdevi Street, Masjid Bunder (west), Mumbai – 400 003

.... Petitioner

v/s.

Safri Tradelink Private Limited
901, Budhwar Peth, Opp. Gujarat Lodge, Pune – 411 002

…. Corporate Debtor

Order delivered on: 11.09.2019

Coram:
Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)
Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner : Mr. Angad Singh, Advocate i/b Law Chambers of Siddharth Murarka
For the Corporate Debtor : None present.

Per: Suchitra Kanuparthi, Member (J)

ORDER

1. This company Petition is filed by Shreeji Steel Tubes (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Safri Tradelink Private Limited (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default on 12.12.2018 in making payment to the extent of Rs. 3,60,450/- including interest @ 30% p.a., by invoking the provisions of Section 8 and 9 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 5 and 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Petition reveals that on 15.06.2018 as per the orders by the Corporate Debtor, the Petitioner supplied and delivered MS pipes to the Corporate Debtor and raised invoice for Rs. 4,13,548/-. On 11.09.2018, the Corporate Debtor issued a

cheque amounting to Rs. 4,13,548/- in favor of the Petitioner, which was dishonored and returned with a remark "Funds Insufficient".

3. Further on 14.11.2018 the Corporate Debtor issued a letter and confirmed the outstanding balance of Rs. 4,13,548/- and assured that the payment will be cleared before 31.12.2018 along with interest. Thereafter, on 01.12.2018 and 11.12.2018, the Corporate Debtor made part-payments of Rs. 50,000/- and Rs. 1,00,000/- respectively.

4. Thereafter, on account of non-payment of the balance dues, the Petitioner on 22.12.2018, issued Demand Notice demanding a sum of Rs. 3,60,450/- including interest @30% p.a. under Section 8 of the Code. However, there was no reply from the Corporate Debtor for the Demand Notice and the Petitioner has filed affidavit as required under Section 9(3)(b) of the Code stating that there was no notice of dispute given by the Corporate Debtor.

5. The counsel for the Petitioner submitted that the petition was served on the Corporate Debtor on 18.03.2019 and proof of service was filed to that effect. Subsequently, the counsel for the Petitioner intimated the date of hearing to the Corporate Debtor on 21.08.2019 but there was no representation from the Corporate Debtor's side. The matter was posted to 29.08.2019. On 29.08.2019 again the Corporate debtor failed to appear and the matter was reserved for orders.

6. The above discussion clearly shows that there is a clear debt and default as such the Corporate Debtor is liable to pay the amount of Rs. 3,60,450/- (Rupees Three Lakhs Sixty Thousand Four Hundred and Fifty only) including interest @30% p.a. to the Petitioner.

7. One Mr. Neehal Mahamulal Pathan, office at Plot No. 27, R. S. No. 825, Sahjeevan Parisar, Near TPM Church, behind Circuit House, Kolhapur – 416 003; having Registration No. IBBI/IPA-001/IP-P01561/2018-19/12406 has given his consent in Form No. 2 to act as an Interim Resolution Professional.

8. This Bench having been satisfied with the application filed by the Operational Creditor which is in compliance of provisions of Section 8 & 9 of the Insolvency & Bankruptcy Code admits this application declaring Moratorium with the directions as mentioned below:

(a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; 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 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.

(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 11.09.2019 till the completion of the CIRP 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.

(e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.

(f) that this Bench hereby appoints Mr. Neehal Mahamulal Pathan, office at Plot No. 27, R. S. No. 825, Sahjeevan Parisar, Near TPM Church, behind Circuit House, Kolhapur – 416 003; having Registration No. IBBI/IPA-001/IP-P01561/2018-19/12406 as Interim Resolution Professional to carry the functions as mentioned under the Code.

9. Accordingly, this Petition is admitted.

10. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

SD/-
V. Nallasenapathy
Member (Technical)

SD/-
Suchitra Kanuparthi
Member (Judicial)