

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT-I**

**CP (IB) NO. 3302 of 2019**

Under Section 10 of the Insolvency and Bankruptcy Code, 2016  
read with Rule 7 of the Insolvency and Bankruptcy (Application  
to Adjudication Authority) Rules, 2016

**In the matter of**

**Kedar International Exim Private Limited**

CIN : U51909PN2012PTC143857

Having its Registered Office at -

B-314, Kalpataru Plaza,

Bhawani Peth, Pune - 411012

**... Corporate Applicant**

*Order Delivered On : 08.12.2023*

*Coram:*

**Hon'ble Member (Judicial) : SH. JUSTICE V. G. BISHT (RETD.)**

**Hon'ble Member (Technical): SH. PRABHAT KUMAR**

*Appearances:*

For the Corporate Applicant : Mr. Nitish Bangera, Advocate

**ORDER**

*Per: Coram*

1. This Company Petition is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rules, 2016 by the Corporate Applicant,

seeking to initiate its own Corporate Insolvency Resolution Process (“**CIRP**”). The said application is being preferred by the Corporate Applicant owing to financial stress faced by it, consequent to which it is not in a position to repay the debts due to its creditors.

**Brief Facts**

2. The Corporate Applicant was incorporated on 28.06.2012 under the Companies Act, 1956. Its Corporate Identity Number (“**CIN**”) is U51909PN2012PTC143857. Its registered office is at B-314, Kalpataru Plaza, Bhuleshwar Peth, Pune - 411012. Therefore, this Bench has jurisdiction to entertain and decide the Petition. The Authorised share capital of the Corporate debtor is Rs. 50,00,000/- and paid-up capital is Rs. 5,00,000/-.
3. The company is engaged in trading of steel scrap, billets & ingots, rolled products and other such items related to the steel industry.
4. The Corporate Applicant submits that the Company has not been performing satisfactorily as is clear from the last one year Balance Sheet, Audit Report and working of the company. The Corporate Applicant was suffering consistent losses and difficulty in continuing its business operation. There are no Secured and Unsecured Financial Creditors in the Corporate Applicant. However, there are Operational Creditors to whom the Corporate Debtor owes total debt amounting to default is Rs. 14,42,00,000/- (Rupees Fourteen Crores and Forty Two Lakhs Only).
5. The debt fell due on various occasions and default occurred, however, for the purpose of this Code, the date of default is stated to be 28.06.2012, and the said debt is reflecting in the financial statements as on 31.3.2019 which constitutes acknowledgement of debt. This application was filed on 20.08.2019 and as submitted by the Corporate Applicant, the date of default is 28.06.2012. Hence, the application falls within the limitation period of three years.

6. The Corporate Person has produced Balance Sheet as on 31.03.2019. It is seen that revenue from operations of the Corporate Applicant is NIL as on 31.03.2019. It shows that the Corporate Applicant is unable to pay the debt.
7. The Corporate Applicant was absent for the hearing on multiple occasions, which led to the dismissal of the present petition. However, the same restored vide order dated 23.08.2023.
8. This Tribunal vide Order dated 12.10.2023 had directed the Applicant to place on record the declaration from the Management that they shall extend full co-operation, including provision of books of accounts, statutory record and register, and arrange requisite funds to meet CIRP process costs. The same has been filed and placed on record.

**Statutory Compliances**

9. The Corporate Applicant has enclosed a copy of Special Resolution passed by the shareholder of the Company in their Extra-Ordinary General Meeting held on 25.06.2019 for initiating Corporate Insolvency Resolution Process u/s 10 of the Code.
10. The Board of Directors of the Corporate Applicant in their Extra-ordinary General meeting held on 25.06.2019 authorised Mr. Rohit Ashok Jindal, Director of the Company to file necessary application under the Code.
11. Further, the Corporate Applicant has also enclosed the Audited books of Account for year ending 31.03.2018 and 31.03.2019. The Corporate Applicant has enclosed provisional financial statements from 01.04.2019 to 20.08.2019.
12. The Corporate Applicant has suggested the name of Mr. Manoj Kumar Mishra having Registration No. IBBI/IPA-001/IP-P01152/2018-2019/11910 for appointment as the Interim Resolution Professional (“**IRP**”). The proposed IRP has also submitted his Consent in Form 2 confirming eligibility and that there are no disciplinary proceedings pending against him.

13. This application is filed as per Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016 in Form-6. Required information is also furnished therein.
14. After hearing the submissions and upon perusing the supporting documents annexed with the Petition, this Bench is of the view that the application made by the Corporate Applicant is complete in all respects as required by law. It clearly shows that the Corporate Applicant is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC, at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority **admits** this Petition and orders initiation of CIRP against the Corporate Applicant.

**Order**

15. The above CP(IB) No. 3302 of 2019 is hereby **allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Kedar International Exim Private Limited.
16. Mr. Manoj Kumar Mishra having Registration No. IBBI/IPA-001/IP-P01152/2018-19/11902, Email Id: manojkmishra95@gmail.com, is hereby appointed as the IRP of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.
17. 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.
18. 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. That 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;
19. 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.
20. 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.
21. 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.

22. The Corporate Applicant shall deposit a sum of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only) till the formation of Committee of Creditors plus out of pocket expenses with 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).
23. The Registry is directed to communicate this Order to the Corporate Applicant and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
24. A copy of this Order be sent to the Registrar of Companies, Mumbai, Maharashtra, 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.
25. Ordered accordingly.

**Sd/-**

**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

/SP/

**Sd/-**

**JUSTICE V. G. BISHT**  
**MEMBER (JUDICIAL)**