

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

Coram: 1. Shri Madan B. Gosavi, Hon'ble Member (Judicial)
2. Shri Virendra Kumar Gupta, Hon'ble Member (Technical)

C.P. (IB) No. 704/KB/2019

In the matter of:

An application to initiate Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016

-And-

In the matter of:

Neo Carbons Private Limited, having its registered office at 19, Chandni Chowk Street, Kolkata – 700 072, in the State of West Bengal

... **Operational Creditor**

-Versus-

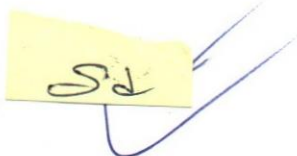
Shankar Ferro Alloys Private Limited, having its registered office at RJS Building, Diagnol Road, P.O. Bistupur, Jamshedpur - 831 001, in the State of Jharkhand.

... **Corporate Debtor**

Counsel appeared:

1. Mr. Kumaijit Banerjee, Advocate)
2. Ms. Sanchari Chakraborty, Advocate) ... For Operational Creditor
3. Ms. Siksha Agarwal, Advocate)

CP (IB) No. 704/KB/2019
Neo Carbons Pvt. Ltd.
-vs.-
Shankar Ferro Alloys Pvt. Ltd.





Date of hearing : 24 / 09 / 2019

Order pronounced on 30 / 09 / 2019

ORDER

Per Virendra Kumar Gupta, Member [Technical]

1. This petition has been filed by the Operational Creditor namely, Neo Carbons Private Limited, for initiation of Corporate Insolvency Resolution Process (in short, "CIRP") under Section 9 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "IBC, 2016"] against the Corporate Debtor namely, Shankar Ferro Alloys Private Limited, for the reason that the Corporate Debtor has defaulted in payment of outstanding sum of Rs. 2,45,760/- which is due and payable to the Operational Creditor.
2. No one appeared for the Corporate Debtor.
3. The Ld. Counsel appearing on behalf of the Operational Creditor narrated the facts and drew our attention to pages 26 to 33 wherein communications from Operational Creditor to the Corporate Debtor to release its payment had been made. Ld. Counsel further submitted that on getting no response to such communications, the Operational Creditor issued notice under Section 8 of the IBC, 2016 to the Corporate Debtor in March, 2019, copy of the same was duly served. Ld. Counsel also submitted that there was no dispute as regards the quality, quantity and/or the amount claimed in the petition, hence, the same was liable to be admitted.

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4. We have considered the submissions made by the Ld. Counsel for the Operational Creditor and also perused the material on record.

5. The Operational Creditor has supplied Carbon Electrode Paste during August, 2017 as a consequence of purchase order for supply of goods being placed by the Corporate Debtor. The Corporate Debtor has also released part payment, but thereafter no payment has been made to the Operational Creditor, in spite of several reminders from the Operational Creditor. The Operational Creditor has duly served notice under Section 8 of the IBC, 2016 on the Corporate Debtor. The amount due is more than Rupees One Lakh and there exists no dispute. The Operational Creditor has also filed Affidavit under Section 9(3) of the IBC, 2016. Hence, this petition is liable to be admitted.

6. Since the Interim Resolution Professional ("IRP") has not been proposed, we shall be appointing an IRP from the panel of Insolvency Professionals approved by IBBI.

7. We order accordingly.

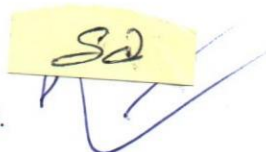
ORDER

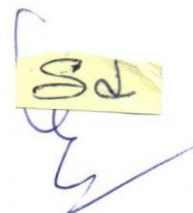
- i) The application filed by the Operational Creditor under section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, Shankar Ferro Alloys Private Limited, is hereby **admitted**.
- ii) We declare a moratorium and cause public announcement in accordance with Sections 13 and 15 of the I&B Code, 2016.

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- iii) The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The Interim Resolution Professional shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:
- 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 of 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 right 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.





- v) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.
- vi) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii) Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- ix) Necessary public announcement as per Section 15 of the IBC, 2016 may be made.
- x) **Mr. Nitesh Kumar More, IRP Registration No. IBBI/IPA-001/IP-P01087/2017-18/11785, E-mail: nmore2091@gmail.com, Mobile No. 8336087901, is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.**
- xi) The Operational Creditor to pay sum of Rs. 50,000/- (Rupees Fifty Thousand Only) to the IRP as advance fees, as per Regulation 33(3) of IBBI (Insolvency


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Resolution Process for Corporate Persons) Regulation 2016, which shall be adjusted from final bill.

- xii) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- Xiii) List the matter on 15/11/2019 for the filing of the progress report.
- xiii) Registry is hereby directed under section 7(7) of the I.B. Code, 2016 to communicate the order to the Operational Creditor, the Corporate Debtor and to the IRP by Speed Post as well as through e-mail.

Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.


(Madan B. Gosavi)
Member (Judicial)


(Virendra Kumar Gupta)
Member (Technical)

1st Oct.
Signed on this, the ~~30th~~ day of ~~September~~, 2019.

cb