

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

**C.P. (IB) 1295/MB/2022**

Under Section 9 of the Insolvency and  
Bankruptcy Code, 2016

*In the matter of*

**Maheep Marketing Private Limited**

Having its address at 53/ B, Sastitala Road,  
Narkeldanga, Kolkata,  
West Bengal 700011, India

Also at:- 15/16, 2<sup>nd</sup> Floor, Giri Niwas, Adi  
Marzaban Path, Ballard Estate, Fort Mumbai  
400001,

**..... Petitioner/ Operational Creditor**

**Versus**

**Deep Star Alloys and Steels Private  
Limited**

Having its address 229, ST Road Opp Sant  
Tukaram Mandir Carnac Bunder,  
Mumbai City Maharashtra 400009, India.

**..... Respondent/Corporate Debtor**

**Order Delivered on :- 28/02/2024**

*Coram:*

**Mr. Anil Raj Chellan**  
**Member (Technical)**

**Mr. Kuldip Kumar Kareer**  
**Member (Judicial)**

*Appearances:*

For the Operational Creditor : Adv. Sneha C.

For the Corporate Debtor : None

**ORDER**

*Per: - Kuldip Kumar Kareer, Member (Judicial)*

1. The present petition has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC") by **Maheep Marketing Private Limited** (hereinafter called Operational Creditor) praying inter-alia for initiation of Corporate Insolvency Resolution Process (CIRP) against **M/s Deep Star Alloys and Steels Private Limited** (hereinafter called Corporate Debtor) by invoking the provisions of Section 9 of the Insolvency and Bankruptcy Code (hereinafter called " the Code") for resolution of an unresolved Operational Debt of Rs. 54,81,67,055/- (Rupees Fifty Four Crore Eighty One Lakhs Sixty Seven Thousand Fifty Five Rupees Only)

**The submissions of the Operational Creditor are as follows:**

2. The Operational Creditor i.e. Maheep Marketing Private Limited is a Private Limited company, incorporated under the provisions of the Companies Act, 1956 having its registered address at 53/ B, Sastitalan Road, Narkeldanga, Kolkata West Bengal 700011 India.

3. The Operational Creditor is one of the renowned distributors of Hot Rolled Steel Coils and has exceeded the expectations of its customers in terms of product quality, product performance, satisfaction and product valuation.
4. It is submitted that the Respondent / Corporate Debtor is a private company incorporated under the Companies Act, 1956 having its registered office . address at 229, ST Road Opp Sant Tukaram Mandir Carnac Bunder Mumbai City Maharashtra 400009, India.
5. It is submitted that in view of non-payment of invoices amounting to Rs.54,81,67,055/- the Operational creditor intends to initiate Corporate Insolvency Resolution Process in respect of the Corporate Debtor. The Operational Creditor has proposed the name of Mr. Vishnu Kant Kabra to act as an Interim Resolution Professional of the Corporate Debtor.
6. It is further submitted that as per the requirement of the Corporate Debtor, the Operational Creditor have supplied H. R. Coils. It is submitted that after supplying the said goods to the satisfaction of the corporate debtor, the Operational Creditor raised necessary invoices thereof.
7. It is further submitted that despite providing quality goods in a timely manner, the Corporate Debtor has failed to perform its obligation of honouring the amounts raised under the said invoices. The Operational Creditor has maintained a Running Accounting Ledger of the Corporate Debtor which shows that an Amount of Rs. 54,81,67,055/- is still due and outstanding.

8. It is submitted that the Operational creditor on 30<sup>th</sup> September 2021 have written to the Corporate Debtor to repay the entire outstanding otherwise appropriate legal action would be taken against the Corporate Debtor.
9. It is further submitted that on 16<sup>th</sup> October 2021 the Corporate Debtor assured that the Corporate Debtor would clear the outstanding dues in the shortest possible time. Since then the Operational creditor has been patiently approaching the Corporate Debtor vide various telephonic reminders to release the outstanding payment. The Corporate Debtor never denied or raised any objection as to the quality of the goods supplied and assured the payment of the dues and sought further time on one pretext or the other.
10. It is submitted that despite providing ample opportunities, the Corporate Debtor has not been able to discharge its liability. Hence the Corporate Debtor is deemed to have become commercially insolvent to discharge its liabilities, which constrained the operational creditor to issue Demand notice dated 21.08.2022 under the provisions of Insolvency and Bankruptcy Code, 2016 calling upon the Corporate Debtor to make the payment of the outstanding dues. The Corporate Debtor was further informed that in the event of non-payment of debt within 10 days of the receipt of the legal notice, the Operational Creditor might file an Application before the Adjudicating Authority for initiating a corporate insolvency resolution process under Section 9 of the Insolvency and Bankruptcy Code, 2016. The Operational Creditor has further submitted that an email dated 10<sup>th</sup> October 2022 was received from the Corporate Debtor to hold on the insolvency proceedings and sought for amicable settlement

11. It is submitted that despite of providing ample opportunities, the Corporate Debtor has not been able to discharge its liability. Hence the Petition.
12. Notice of the Petition was given to the Corporate Debtor, upon which, Adv. Vishesh appeared on behalf of the Corporate Debtor on 29.03.2023 and sought time to file reply. However, no reply was filed nor any body appeared on behalf of the Corporate Debtor. Eventually, right to file reply on behalf of the Corporate Debtor was closed vide order dated 29.03.2023.

**Analysis and Findings:**

13. We have heard the Counsel for the Petitioner and have also gone through the record.
14. It has been pointed out by the Counsel for the Petitioner that the Operational Creditor supplied goods to the Corporate Debtor between 27.06.2017 and 31.03.2018 which are annexed as Exhibit (d) with the Petition and a total sum of Rs. 54,81,67,055/- (Rupees Fifty Four Crore Eighty One Lakhs Sixty Seven Thousand Fifty Five Rupees Only) was outstanding against the Corporate Debtor on account of non-payment of the aforesaid invoices. The payment was not made by the Corporate Debtor despite the fact that a demand notice in terms of Section 8 was issued on 21.08.2022. In reply dated 10.10.2022, the Corporate Debtor simply requested to withhold the insolvency proceedings. Counsel for the Petitioner has further referred to the confirmation of accounts given by the Corporate Debtor on 01.04.2018, 21.01.2019, 01.04.2020, 01.04.2021 and 01.04.2022 which are also annexed with the Petition. According to the Counsel for the Petitioner, in the light of these balance confirmations, which are akin to acknowledgements of debt on

the part of the Corporate Debtor, the Petition must be treated to have been filed within the period of limitation.

15. We have thoughtfully considered the aforesaid contentions raised by the Counsel for the Operational Creditor and also gone through the record carefully.
16. It is evident from the invoices which are annexed as Exhibit (d) that goods were supplied to the Corporate Debtor between 27.06.2017 and 31.03.2018 and a total sum of Rs. 54,81,67,055/- (Rupees Fifty Four Crore Eighty One Lakhs Sixty Seven Thousand Fifty Five Rupees Only) was outstanding. The dues have not been paid by the Corporate Debtor for which eventually a demand notice dated 21.08.2022 was issued. In addition to this, the Corporate Debtor has been acknowledging its liability to pay the outstanding dues by way of execution of confirmation of accounts from 01.04.2018 onwards till 01.04.2022. In reply dated 10.10.2022 to the demand notice, the Corporate Debtor has not denied its liability and has simply requested the postponement of the insolvency proceedings.
17. Taking into consideration all the circumstances, it is evident that there is an operational debt in respect of which default has been committed by the Corporate Debtor and further that the Petition is well within the period of limitation. Even otherwise the averments made in the Petition have not at all been controverted as the Corporate Debtor did not file any reply. Therefore, we are of the considered view that the Operational Creditor has been able to prove the existence of Operational debt and its default and further that the Petition is filed within the period of limitation. It is also proved that there is no pre-existing dispute between the parties. Therefore, the Petition under

Section 9 of Insolvency and Bankruptcy Code deserves to be admitted and it is ordered accordingly in following terms:-

**ORDER**

- a. **The above Company Petition No. (IB) 1295/(MB)/2022 is hereby admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Deep Star Alloys and Steels Private Limited.**
- b. This Bench hereby **appoints Mr. Vishnu Kant Kabra, Registration No: IBBI/IPA-001/IP-P-02178/2021-2022/13747 as the Interim Resolution Professional having his address at 903, Mayfair Greens, S.V Road, Kandivali- West, Mumbai-400067;** to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Financial Creditor shall deposit an amount of **Rs. 3,00,000/-** (Rupees Three Lakhs Only) 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, Mumbai for updating the Master Data of the Corporate Debtor.
18. **Accordingly, this Petition is admitted.**
19. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-  
**ANIL RAJ CHELLAN**  
**(MEMBER TECHNICAL)**  
*Sushil*

Sd/-  
**KULDIP KUMAR KAREER**  
**(MEMBER JUDICIAL)**