

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH-II, CHENNAI**

IBA/451/2020 filed under Section 7 of the
Insolvency Bankruptcy Code, 2016 read
with Rule 4 of the Insolvency and
Bankruptcy (Application to
Adjudicating Authority) Rules, 2016.

In the matter of M/s. Infiniti Metal Products India Limited

M/s. Bharani Commodities Private Limited
Plot No. 48, 1st Floor, Nagarjuna Hills,
Punjagutta, Hyderabad
Telangana-500082

---Financial Creditor

V/s

M/s. Infiniti Metal Products India Limited
(CIN: U17110TN1998PLC095175)
No. 3, GNT Road, Opp. Sivanesan Company
Gummadipoondi, Thiruvallure-601201

---Corporate Debtor

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

For the Applicant : *Shri. Rohan Rajasekaran, Advocate*
For Shri. Ganesh V Aranala, Advocate
For the Respondent : *Shri. A.G. Sathyanarayana, Advocate.*

ORDER

Per: B. ANIL KUMAR, MEMBER (TECHNICAL)

Order Pronounced on: 27.04.2021



Under adjudication is an application filed pursuant to Section 7 of the Insolvency and Bankruptcy Code read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by M/s.Bharani Commodities Private Limited for initiation of Corporate Insolvency Resolution Process in respect of Corporate Debtor M/s.Infiniti Metal Products India Limited on the ground that it has defaulted in repaying financial debt of Rs.4,70,84,899/- (Rupees Four Crore Seventy Lakh Eighty Four Thousand Eight Hundred Ninety Nine only) together with interest at 12% per annum as on 10.07.2018.

2. The averments made in the Application are as follows:
 - (a) The Applicant/Financial Creditor supplied TMT steel bars and angles from time to time upon the request of Corporate Debtor. The applicant continuously demanded payment for the materials supplied but unable to recover it.
 - (b) On 20.06.2018, both the parties decided to convert the due amount of Rs.3,95,67,142 into unsecured loan with interest



at the rate of 9% per annum and executed a Loan Agreement. Corporate Debtor agreed to repay the amount in 12 Equal Instalments commencing from 20.07.2018 and that the instalment shall be paid before 10th of every month including interest. In case of default in payment of the above instalments, interest at 12% per annum shall be payable on the defaulted amount.

- (c) After executing the loan agreement dated 20.06.2018, the Corporate Debtor defaulted in payment of the loan amount. In spite of reminders for repayment of the balance unsecured loan amount of Rs.4,70,84,899/- (Principal Rs.3,95,67,142/- plus interest Rs.75,17,757/- upto 10.02.2020), the Corporate Debtor failed and neglected to pay the outstanding financial debt. Hence, the Applicant, in its capacity as 'financial creditor' has filed this application for initiating CIRP in respect of Corporate Debtor.
- (d) To substantiate its claim, the Financial Creditor submitted

- (a) copy of Loan Agreement dated 20.06.2018;
- (b) copy of Ledger Statement of Corporate Debtor;
and
- (c) copy of bank statement of Financial Creditor from
10.07.2018 evidencing non-payment of debt by the
Corporate Debtor;

3. In the *reply* filed on 11.02.2021, the Corporate Debtor has not raised any dispute in relation to business transaction between the Applicant and Respondent. It is submitted that owing to COVID-19 pandemic, the Respondent suffered severe losses and unable to accede to the immediate demand of the applicant and seeks a period of 3 years to periodically repay the debt claimed in the application.

4. After hearing the submissions by both parties and perusal of documents placed before this Adjudicating Authority, the Financial Creditor has proved existence of 'debt' and 'default' and there being no denial from the Corporate Debtor with respect to outstanding due.

5. In view of the above, this Adjudicating Authority inclined to *admit* this application IBA/451/2020.

(I) Since the Financial Creditor filed consent letter dated 16.05.2020 (Page.45 of the application) of the proposed Interim Resolution Professional in Form-2, this Bench hereby appoints Mr. Pankaj Rai, (Regn. No.IBBI/IPA-001/IP-PO1746/2019-2020/12915) as Interim Resolution Professional and the IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

(II) This Bench declare moratorium which shall have effect from the date of this order till the completion of corporate insolvency resolution process for the purposes referred to in Section14 of the I&B Code, 2016. We order to prohibit all of the following, namely,

- (a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 a owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

(III) That supply of essential goods or services of the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) of Section 14 of IBC shall not

apply to such transactions as may be notified by the Central Government in consultation with any financial regulator.

(IV) That the order of moratorium shall have effect from the date of issue of 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 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

(V) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of IBC.

(VI) The Petitioner/Financial Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

(VII) That this Bench hereby appoints *Mr. Pankaj Rai having Regn. No.IBBI/IPA-001/IP-PO1746/2019-2020/12915 as Interim Resolution Professional, 12, Vayupuri, Road No.2, Post Sainikpuri, Secunderabad-500094, Telengana* as proposed by the Financial Creditor, to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/ Directions issued in this regard.

(VIII) The Registry is also directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP.

6. Accordingly, this **IBA/451/2020** is hereby **admitted**.

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(ANIL KUMAR B)
MEMBER (TECHNICAL)

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(R. SUCHARITHA)
MEMBER (JUDICIAL)