

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP 3641 (IB)/MB/2018

Under Section 9 of the I&B Code, 2016

In the matter of

Amod Stampings Private Limited

...Operational Creditor/ Applicant

v/s

Trans-Fab Power India Private Limited

...Corporate Debtor

Order Dated 30th August 2019

Coram: Hon'ble Member (Judicial) : Mr V.P. Singh

Hon'ble Member (Technical) : Mr. Rajesh Sharma

For the Applicant: Mr Rohan A Shah

For the Respondent: Ms Taniha

Per V.P. Singh, Member (Judicial)

ORDER

1. This is an application being CP 3641/2018 filed on 25.09.2018 by **Amod Stampings Private Limited**, Operational Creditor/ Applicant, under section 9 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Trans-Fab Power India Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).
2. This application is filed by Mr Tanmay S Patil, Director of the Applicant Company, who is duly authorised to do the same vide authorisation dated 13.08.2018.
3. The Applicant supplied transformer Lamination, to the Corporate Debtor for which, the applicant claims a sum of ₹7,00,020/- (Rupees Seven Lakh and Twenty only) as outstanding on 14.10.2016.
4. The Applicant submits that the invoice dated 21.11.2015 for a sum of ₹14,20,466/- (Rupees Fourteen Lakh Twenty Thousand Four Hundred Sixty Six only) was raised against the Corporate Debtor for the materials supplied by the Applicant. A copy of the purchase order

dated 10.11.2015 and the invoice dated 21.11.2015 are annexed with the application.

5. The Applicant had issued Demand Notice dated 13.08.2018 and the same was duly served on 16.08.2018 on the Corporate Debtor. Copy of the Demand Notice and the track report of the consignment are annexed to the Application.
6. The Applicant has filed an affidavit in compliance of section 9(3)(b) dated 11.09.2018 of the I & B Code, 2016 stating that the Corporate Debtor has failed to raise any dispute in accordance with the provisions of the Code. Copy of the said affidavit is annexed to the Application.
7. The copies of the email conversation between the Applicant and the Corporate Debtor annexed to the Application establish the fact that repeated reminders were sent to the Corporate Debtor for realising the balance payments amounting to ₹7,00,020/-. The Corporate Debtor in reply to the e-mails of the Applicant demanding payment of ₹7,00,020/- sent an e-mail dated 24.02.2016 assuring that the outstanding sums will be cleared by the end of the month, thereby admitting to its liability to clear the balance amount of ₹7,00,020/-.
8. The Bank account statements of the Applicant Company for the period 01.10.2016 to 31.07.2018 is annexed to the Application, and the same reveals that the Corporate Debtor has not cleared the balance amount of ₹7,00,020/-.
9. As per the directions of this Bench, the Applicant duly served court notice to the Respondent on 22.12.2018, and the same was received by the Corporate Debtor on 24.12.2018. The affidavit of service of the petition is filed on 04.01.2019 with this Bench. But the Corporate Debtor chose not to make any representation before this Tribunal. No objection has been raised by the Corporate Debtor to date, despite service of Court Notice and after providing ample opportunities.
10. On perusal of the documents submitted by the Applicant, it is clear that debt amounting to ₹7,00,020/- (Rupees Seven Lakh Twenty only) is due and payable by the Corporate Debtor to the Applicant against the invoice dated 21.11.2015 for goods supplied. The outstanding debt is acknowledged by the Corporate Debtor vide its email dated

24.02.2016 by assuring to clear the due amount by the end of the month. Further, the Corporate Debtor has marked its appearance through its counsel but did not file an objection against admission of this application. The outstanding amount that is admittedly in default is more than ₹1,00,000/-.

11. The Applicant has not proposed the name of registered Insolvency Resolution Professional to act as **Interim Resolution Professional**, to carry out the functions as mentioned under I&B Code.
12. The Application under section Section 9 of I&B Code, 2016 filed by the Operational creditor for initiation of CIRP in prescribed Form No.5, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 is complete. The existing operational debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the petition filed under section 9 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This Application filed under Section 9 of I&B Code, 2016, filed by **Amod Stampings Private Limited**, against **Trans Fab Power India Private Limited**, for initiating corporate insolvency resolution process is at this moment **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
 - 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 activity under the Securitization and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

- II. That 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.
 - III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
 - IV. That the order of moratorium shall have effect from the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.
 - VI. That this Bench at this moment appoints Mr Laxman Digambar Pawar, a registered insolvency professional having Registration Number [IBBI/IPA-003/IP-N00015/2017-18/10104] as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
13. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V.P. SINGH
Member (Judicial)

30th August 2019