

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

**C.P.(IB)-1615(MB)/2017**

Under section 10 of the IBC, 2016

In the matter of  
Norton Aluminium (India) Pvt. Ltd.  
4, Leela Park, Ground Flr.,  
Off. M.G. Road, Dhanukar Wadi  
Kandivli (W), Mumbai – 400 067.

.... Petitioner/Corporate Debtor

Order delivered on 22.06.2018

Coram: Hon'ble Mr. B.S.V. Prakash Kumar, Member (Judicial)  
Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

For the Petitioner : Mr. Rohit Gupta, Adv.  
i/b Mr. Yogesh K. Deshpande

For the Respondent : R.J. Singh, Adv. – for Financial Creditor

*Per: B.S.V. Prakash Kumar, Member (Judicial)*

**ORDER**

*Order pronounced on 22.06.2018*

It is a Company Petition filed u/s 10 of Insolvency and Bankruptcy Code 2016 ("the Code") by Norton Aluminium (India) Pvt. Ltd., for initiation of Corporate Insolvency Resolution process in respect of the Applicant Company.

2. The Corporate Debtor (Norton Aluminium (India) Pvt. Ltd.) states that its registered office is at 4, Leela Park, Ground Floor, Off. M.G. Road, Dhanukar Wadi, Kandivli (W), Mumbai – 400 067, incorporated on 11.04.2007 vide CIN U27310MH2007FTC169872 on the file of Registrar of Companies Maharashtra, having paid up share capital of ₹68,49,829.

3. The Board of Directors of the Corporate Debtor in their meeting held on 14.07.2017 authorised Mr. M.M. Pires, General Manager of

the Company, to file necessary application under the Code for initiation of CIRP.

4. The Corporate Debtor has disclosed that a sum of ₹13,07,64,889 (9.12 crores + 3.95 crores) is due and payable as on 31.03.2017 to one Financial (Secured Creditor - State Bank of India) and Operational Creditors which is in default.

5. The Corporate Debtor enclosed the sanction letter dated 07.02.2011 issued by State Bank of India, sanctioning the credit facilities to the Corporate Debtor, wherein cash credit limit for ₹5,00,00,000, Bill Discounting limit for ₹3,00,00,000 and Import/Inland LC limit for ₹3,00,00,000 were sanctioned.

6. The Corporate Debtor has enclosed SARFAESI notice dated 13.9.2014 issued by the State Bank of India claiming a sum of ₹10,02,88,446.88 as balance outstanding as on 13.09.2014 payable by the Corporate Debtor to the Bank. The notice further discloses that the account of the Corporate Debtor was classified as Non-Performing Asset as on 13.09.2014.

7. The Corporate Debtor has enclosed the audited financial statements for the years 2015-16 and 2016-17, the provisional financial statement for the period from 01.04.2017 to 10.11.2017, list of assets and liabilities of the Corporate Debtor as on 10.11.2017, list of financial creditors and operational creditors as on 10.11.2017 and extract of charges registered with the Registrar of Companies taken from MCA portal. The Corporate Debtor disclosed the names and addresses of the members of the Company with details of their shareholding. As per the documents attached to the petition, the Corporate Debtor has not given any guarantees in relation to the debts.

8. The Counsel appearing on behalf of the Corporate Debtor informed that the State Bank of India issued legal notices dated 24.11.2014 for taking possession of the secured assets and also



initiated legal proceedings against the Corporate Debtor and obtained an order u/s 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 from the District Magistrate Court, Raigad, Alibag, Maharashtra on 18.09.2015 to take possession of fixed assets of the Corporate Debtor.

9. On the Corporate Debtor filed this Company Petition u/s 10 of the IBC, the Financial Creditor namely; State Bank of India (SBI) has raised an objection stating that since SARFAESI proceedings have already been initiated against the asset of the Company, and even taken possession of the asset of the company, therefore the Petition shall be dismissed.

10. On perusal of the application filed by the Petitioner, it appears that this Financial Creditor conducted auction multiple times for selling the asset of this company but it has not been fructified till date. Since the proceeding under SARFAESI Act will not have any bearing over the proceedings initiated under IBC, we have not found any merit in the submission made by the Financial Creditor (SBI).

11. The Corporate Debtor proposed Mr. Dhiren S. Shah, B-102, Bhagirathi Niwas, Near Natraj Studio, Sir M.V. Road, Andheri East, Mumbai – 400 069, Registration No. IBBI/IPA-001/IP-P00220/2017-18/10419, as Interim Resolution Professional (IRP), who has given his consent with a declaration that no disciplinary proceedings are pending against him.

12. On hearing the Applicant and perusal of the petition and the supporting documents annexed with the petition, this Bench is of the view that the corporate debtor has raised debt as reflected in the company petition and committed default in making repayment, basing on which, the corporate debtor has furnished all the material papers as mentioned in the annexure to Form-6 under Rule 7 of I&B (application to Adjudicating Authority) Rules 2016 as required u/s 10

of the Code. Hence, this Bench hereby admits this petition, declaring moratorium with consequential directions as mentioned below:

- (i) 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 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 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.
- (ii) 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.
- (iii) 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.
- (iv) That the order of moratorium shall have effect from 22.06.2018 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.
- (v) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- (vi) That this Bench hereby appoints Mr. Dhiren S. Shah, B-102, Bhagirathi Niwas, Near Natraj Studio, Sir M.V. Road, Andheri

**NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**

**C.P.(IB)-1615(MB)/2017**

East, Mumbai – 400 069, Registration No. IBBI/IPA-001/IP-P00220/2017-18/10419, as Interim Resolution Professional (IRP) to carry the functions as mentioned under Insolvency & Bankruptcy Code.

13. Accordingly, this Petition is **admitted**.

14. The Registry is hereby directed to communicate this order through e-mail to the Petitioner as well as the Resolution Professional appointed in this case.

**RAVIKUMAR DURAISAMY  
MEMBER (TECHNICAL)**

**B.S.V. PRAKASH KUMAR  
MEMBER (JUDICIAL)**