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BEFORE THE AJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD

C.P. (I.B) No. 68/10/NCLT/AHM/2017

Coram:

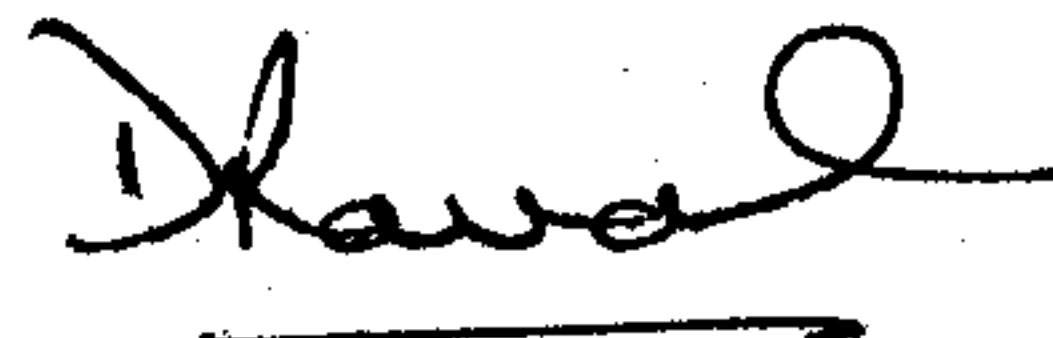

Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 17.08.2017

Name of the Company: Metal Holding India Pvt Ltd.
Through Rajmal M Jain
V/s.
Indian Overseas Bank

Section of the Companies Act: Section 10 of the Insolvency and Bankruptcy
Code


S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

- | | | | | |
|----|-------------------------|----------|------------|---|
| 1. | MS. Dharmistha N. Raval | Advocate | Applicant |  |
| 2. | Mr. Yuvraj Thakore | Advocate | Applicant. |  |

ORDER

Learned Advocate Ms. Dharmistha Raval with Learned Advocate Mr. Yuvraj Thakore present for Corporate Debtor/ Applicant. None present for Respondent.

order pronounced in open Court. Vide separate sheet.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

Dated this the 17th day of August, 2017.

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AHMEDABAD BENCH
AHMEDABAD**

C.P. No.(I.B) 68/10/NCLT/AHM/2017

In the matter of:

Rajmal Mangilal Jain,
Director of
M/s. Metal Holdings India Pvt. Limited
68/86, Harkorbai Building,
Room No.9, Mughbat Lane,
Thakurdwar Road,
Mumbai-400004

: Applicant
Corporate Debtor.

Versus

Indian Overseas Bank,
Nariman Point Branch,
Bhaktawar,
Nariman Point
Mumbai-400005

: Respondent.
Operational Creditor.

Order delivered on 17th August, 2017.

Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J).

Appearance:

Ms. Dharmistha Raval, learned Advocate, with Ms. K.K. Raval and
Mr. Yuvraj Thakore, learned Advocates for Corporate
Applicant/Debtor.

None present for Operational Creditor/Respondent.

ORDER



1. M/s. Metal Holdings India Private Limited, ["Company" for short] by a Resolution of the Board of Directors dated 26th April, 2017, authorised Mr. Rajmal Mangilal Jain, Director of the Company to file this Application for initiating 'Corporate Insolvency Resolution Process' under Section 10 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the Code"] in Form-6.
2. This Application is filed by the Company through its Director, Shri Rajmal Mangilal Jain.
3. The brief facts, that are germane for disposal of this Application are as follows;
 - 3.1. Indian Overseas Bank, through its Nariman Point Branch, Mumbai, from time to time granted various credit facilities by way of financial assistance against security to the Company. The total outstanding amount due from the Applicant/Corporate Debtor under various facilities as on 30.5.2014 was Rs. 64,89,12,014.00 with further interest at contractual rates.
 - 3.2. According to the Applicant, Indian Overseas Bank issued Notice under Section 13(2) of the Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 on 30.5.2014.
 - 3.3. Applicant stated that it has got one Secured Financial Creditor, namely Indian Overseas Bank and Unsecured Creditors to the extent of Rs. 349.98 lacs. Applicant executed several loan documents in favour of the Indian Overseas Bank and also created Equitable Mortgage by deposit of Title Deeds, Hypothecation Agreements and Guarantee Agreements. Applicant filed documents as mentioned in Annexure 5 such as Summary of Operational Creditors etc. Applicant also filed Ledger Account of Loans and Liabilities evidencing the liabilities. Applicant also filed copy of Audited Financial Statements of the Company for the last two

financial years, i.e., 2014-15 and 2015-16 and Provisional Financial Statements for the year 2016-17 as on 30th June, 2017. Applicant also gave details of Statement of Affairs, details of secured debts and details of guarantees.

4. As can be seen from the Application, the Applicant was unable to discharge the outstanding amount due to the Financial Creditors as well as the Operational Creditors. The Application filed by the Applicant is complete in all respects.

5. The applicant despatched the copy of the Application to Secured Creditors and filed proof of despatch.

6. This Adjudicating Authority directed the Applicant to issue Notice of date of hearing along with the copy of the order passed by this Authority on 03.8.2017 to the Creditors and file proof of service. Accordingly, Applicant issued Notice to all the Creditors and filed proof of service of Notice on the Creditors. In spite of despatch of copy of Application and in spite of service of notice of date of hearing, none appeared from the side of Creditors.

7. The initiation of proceedings under Section 13(2) of the Securitisation And Reconstruction Of Financial Assets And Enforcement Of Security Interest Act, 2002 is no bar to initiate 'Corporate Insolvency Resolution Process' under Section 10 of the Code by a Corporate Applicant.

8. In view of the above discussion, this Application is admitted under Section 10(4)(a) of the Code.

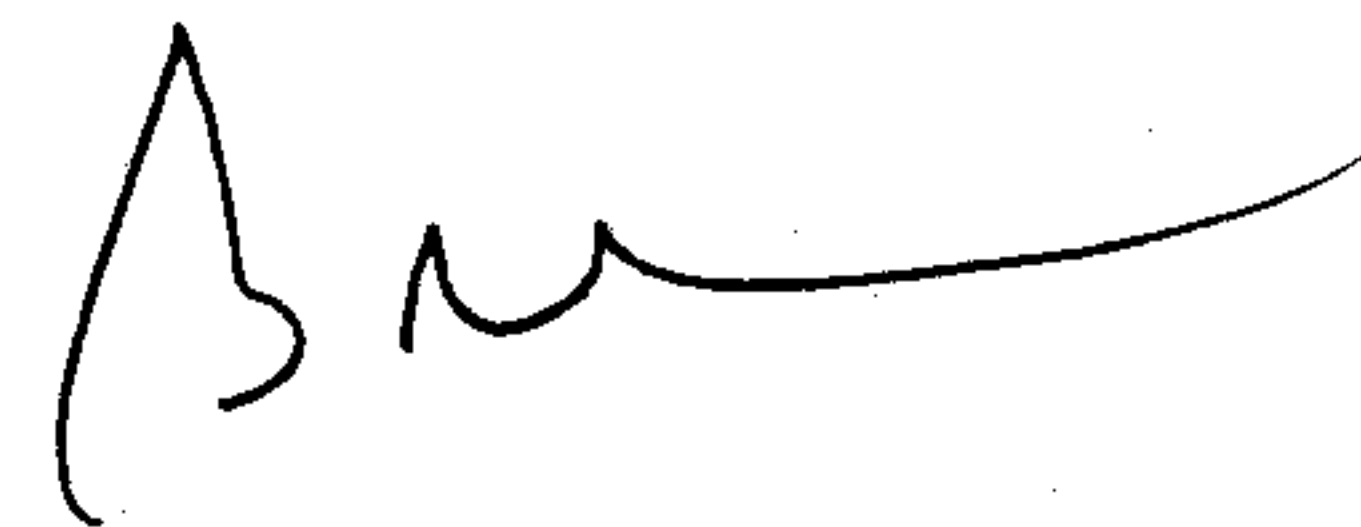
9. The Applicant proposed the name of Mr. Rakesh Chaturvedi, CA, as 'Insolvency Resolution Professional'. Hence, this Adjudicating Authority hereby appoint, Mr. Rakesh Chaturvedi, CA, having address at Paresh Rakesh & Associates, 103, Namrata CHS, Bldg.No.15, Shastri Nagar, Link Road, Goregaon West, Mumbai-

400104, with Registration No. IBBI/IPA-001/IP-P00242/2017-18/10471 as 'Interim Insolvency Resolution Professional' under Section 13(1)(c) of the Code.

10. The Interim Insolvency Resolution Professional is hereby directed to cause a public announcement of the initiation of 'Corporate Insolvency Resolution Process' and calls for submission of claims under Section 13(1)(b) read with Section 15 of the Code and Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

11. This Adjudicating Authority hereby order moratorium under Section 13(1)(a) of the IB Code prohibiting the following as referred to in Section 14 of the Code;

- (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 Securitisation 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.

(i) However, the order of moratorium shall not apply in respect of supply of essential goods or services to Corporate Debtor.

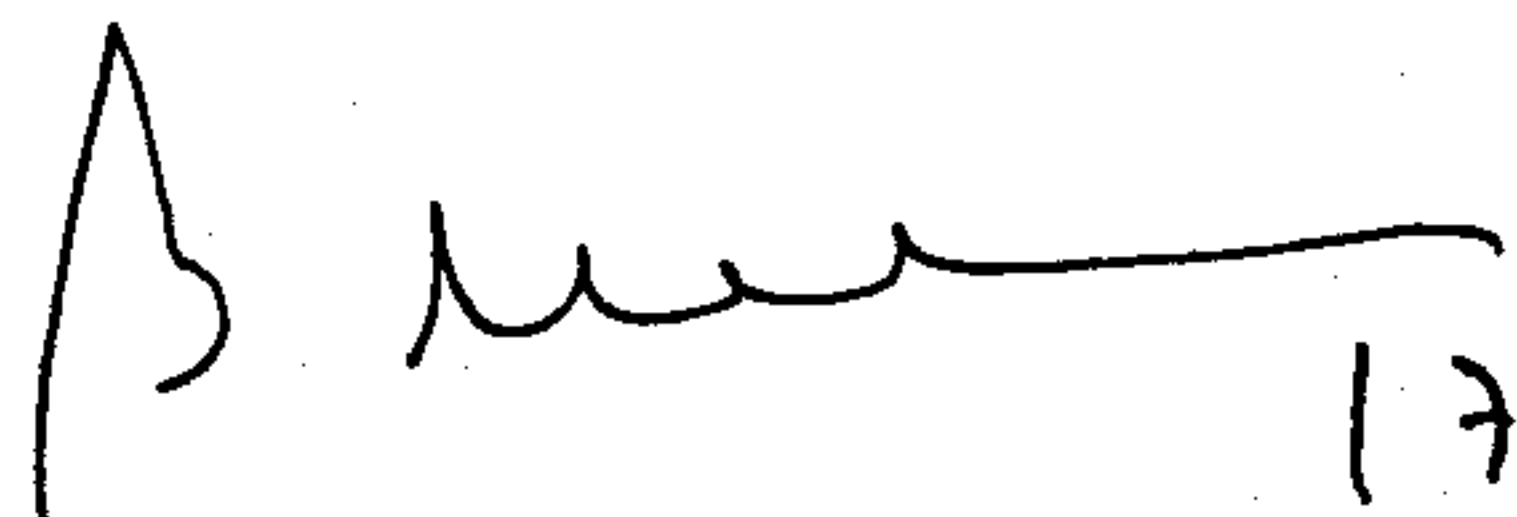
(ii) The order of moratorium is not applicable to the transactions that may be notified by the Central Government in consultation with any financial sector regulator.

(iii) The order of moratorium comes into force from the date of the order till the completion of Corporate Insolvency Resolution Process subject to the Proviso under sub-section (4) of Section 14.

12. This Application is disposed of accordingly. No order as to costs.

13. Communicate a copy of this order to the Applicant Corporate Debtor, and to the Respondent Operational Creditor, and to the Interim Insolvency Resolution Professional.

Signature:



17.8.17

**Sri Bikki Raveendra Babu, Member (J).
Adjudicating Authority.**