

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C.P. NO. 724/I & BP/NCLT/MAH/2017

Coram: B. S.V. Prakash Kumar, Member (Judicial) &
V. Nallasenapathy, Member (Technical)0.

In the matter of under Section 9 of the Insolvency and Bankruptcy Code, 2016 and Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules 2016.

1. Dilip M. Rathod
Proprietor of Bright Steel Processors
501, Shiv Parvati,
Cabin No.8, 14th Road,
Khar West, Mumbai – 400 052. ... Applicant/Operational Creditor

2. Loha Ispaat Ltd.
S.No.2/4/5 & OTH Village
Ransai Khopoli
Pen Road
Taluka Khalapur
District Raigad – 410 203 ... Corporate Debtor

Counsel for the Financial Creditor: Mr. Kunal Parekh
Counsel for the Corporate Debtor: Mr. Jayesh Gawde

ORDER

(Heard and pronounced on 28-04-2017)

Per V. Nallasenapathy, Member (Technical)

1. The Operational Creditor namely Mr. Dilip M. Rathod, Proprietor of Bright Steel Processors, has filed this Operational Creditor Petition stating that the Corporate Debtor Company, Lohaa Ispat Ltd. has defaulted in repaying a sum of ₹6,78,55,132 as on 31-03-2016 and also stated that he is entitled to realize the said amount along with interest @ 18% on the principal sum of ₹5,43,83,208 and hence filed this Petition under Section 9 of the I&BP Code r/w Rule 6 of Insolvency and Bankruptcy (Application to adjudicating authority) Rules, 2016 for initiation of Corporate Insolvency Resolution process.

2. The operational creditor has enclosed the copies of Purchase Orders, invoices and delivery notes in support of his claim. Further he has enclosed the confirmation of balance by the corporate debtor and as on 31st March 2017 a sum of Rs.6,78,55,132.21 is the balance confirmed/acknowledged by the corporate debtor. The operational creditor enclosed its accounts statement with Dombivali Nagar Sahakari Bank Limited, Dadar Branch for the period from 18-04-2015 to 13-04-2017, wherein it was disclosed that on 03-02-2016 a sum of Rs.17,50,000 was received from the corporate debtor. The operational creditor sent a demand notice on 04-01-2017 to the corporate debtor calling upon to pay within 15 days of receipt of the letter, a sum of Rs.6,78,55,132 due as on 31-03-2016 with interest @ 18% p.a. on the principal balance sum till the date of payment, failing which appropriate legal proceedings will be initiated. The corporate debtor has not responded to the said notice.
3. The counsel appearing on behalf of the corporate debtor states that his client concedes initiation of the Insolvency Resolution Process.
4. This Petition clearly reveals that there is a debt as defined in Section 3(11) of I&B Code 2016, also there is default in this case within the meaning of Section 3(12) of I&B Code, 2016 and the corporate debtor having named the Interim Resolution Professional with his consent, there being no disciplinary proceedings against, this Bench hereby admits this petition filed under Section 9 of I & B Code, 2016, declaring moratorium with consequential directions as mentioned below:
 - (a) 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 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.

- (b) 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.
- (c) 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.
- (d) That the order of moratorium shall have effect from 28-04-2017 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.
- (e) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (f) That this Bench hereby appoints Mr. Amit Gupta, Registration No. IBBI/IPA-001/IP-P00016/2016-17/10040, A/701, Gundecha Symphony, Veera Desai Road, Andheri West, Mumbai 400 053, email: caamith.gupta@gmail.com as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

5. Accordingly, this Petition is admitted.

6. The Registry is hereby directed to communicate this order to the Financial Creditor and the Corporate Debtor.

Sd/-

V. NALLASENAPATHY
Member(Technical)

Sd/-

B. S. V. PRAKASH KUMAR
Member (Judicial)