

IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, CHENNAI

TCP/77/(IB)/CB/2017

Under Section 9 of the Insolvency and Bankruptcy Code 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of

**M/s. Metal Gems**

**Vs.**

**M/s. Saranya Forgings & Engineers India Private Limited**

*Order delivered on 22<sup>nd</sup> of September, 2017*

CORAM :

**CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)**  
**S. VIJAYARAGHAVAN MEMBER (TECHNICAL)**

For the Petitioner(s) : Counsel, Mr. T. Pappaiah Dharmarajan

**ORDER**

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under Adjudication is CP No. 346/2016 that has been filed by the Operational Creditor under Sections 433 (e) & (f), 434 (i) (a) and 439(i) and (b) of the Companies Act, 1956 before Hon'ble High Court of

Madras on 28.09.2016, on the ground that the Corporate Debtor failed to make the payment of the outstanding debt. After constitution of the NCLT, the same has been transferred before this Bench and renumbered as TCP/77/(IB)/CB/2017. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

2. Heard the Counsel for the Operational Creditor and perused the record. As seen from the Order of this Bench dated 18.09.2017, the Corporate Debtor has been set *ex parte*.

3. In the Petition, the Operational Creditor submitted that the debt is amounting to Rs.47,45,230/- which was due and payable on 30.11.2013 along with interest @ 18% p.a., before filing of the Petition. The statutory notice was also sent

to the Corporate Debtor on 01.06.2015 demanding the payment of the said amount, copy of which is placed at page 116 of the typed set filed with the Petition. The Corporate Debtor has not given any reply to the notice sent by the Operational Creditor.

4. It is averred in the Petition that the Operational Creditor has supplied various products including Copper and Copper Alloys, Tubes, Rods, Strips and profiles to the Corporate Debtor against the invoices for due sum of Rs.1,11,88,103/-. The Corporate Debtor has made part payment, but the remaining amount was not paid in spite of the demand made and the statutory notice sent. The Operational Creditor has also complied with the requirements under Section 9 (3) (b) and (c) of the I&B Code, 2016 by filing an Affidavit stating therein that there is no notice given by the Corporate Debtor relating to the dispute of unpaid operational debt. The Bank certificate is also submitted which reflects that no payment has been made by the Corporate Debtor in relation to the

outstanding debt to the accounts of the Operational Creditor.

5. The Operational Creditor has fulfilled all the requirements of law and has also proposed the name of IRP after obtaining the written consent in Form-2. We are satisfied that Corporate Debtor committed default in making payment of the outstanding debt. Therefore, TCP/77/(IB)/CB/2017 is admitted and we order the commencement of the Corporate Insolvency Resolution Process which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

6. We appoint Ms. Kavitha Surana, as IRP, who has been proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP as evidenced from Form-2 and her name is reflected in IBBI website. The IRP is directed to take charge of the Corporate Debtor's management immediately. She 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 by the creditors in the manner as prescribed.

7. We declare the 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 Section 14 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 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.

8. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.


9. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor is expected to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging her functions under Section 20 of the I&B Code, 2016. Accordingly, the application is disposed of.

10. The Operational Creditor and the Registry are 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.

11. The Registry is directed to communicate this Order to the Operational Creditor and the Corporate Debtor.

The address details of the IRP are as follows: -

Ms. Kavita Surana  
Regn No: (IBBI/IPA-002/IP-N00166/2017-18/10435)  
S.U.S. Bhawan,  
No.2, Vimala Street,  
Ayyavoo Colony, Aminjikarai,  
Chennai – 600 029,  
Tamilnadu.  
Email: [kavitha@mksurana.com](mailto:kavitha@mksurana.com)  
Mobile No: 9940577777.

  
**S. VIJAYARAGHAVAN**  
MEMBER (Technical)  
PAM

  
**CH. MOHD SHARIEF TARIQ**  
MEMBER (Judicial)