

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-II

CP (IB) No.4167/MB.II/2019

*Under section 9 of the Insolvency and
Bankruptcy Code, 2016*

In the matter of

Purohit Steel India Private Limited

[CIN: U27109MH2013PTC250577]

...Operational Creditor

Versus

Anushka Moulds and Dies Private Limited

[CIN: U29253MH2010PTC201502]

... Corporate Debtor

Order pronounced on : 16.10.2020

Coram:

Mr. Rajasekhar V.K. : Member (Judicial)

Mr. Ravikumar Duraisamy : Member (Technical)

Appearances:

For the Operational Creditor : Mr Mehul Thakker i/b Mr Kirti
Rajpurohit, Advocates

For the Corporate Debtor : Mr Vilas Salvi, Director of the
Corporate Debtor (*in person*)

ORDER

Per: Ravikumar Duraisamy, Member (Technical)

1. This is a Company Petition filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC) by Purohit Steel India Private Limited [CIN: U27109MH2013PTC250577] (*Operational Creditor*), a company within the meaning of section 2(20) of the Companies Act, 2013 and

represented by its Director, Mr Ajit H. Purohit, on the basis of a Board Resolution dated 21.08.2019, seeking to initiate Corporate Insolvency Resolution Process (CIRP) against Anushka Moulds and Dies Private Limited (*Corporate Debtor*).

2. The Corporate Debtor is a private company limited by shares and incorporated on 31.03.2010 under the Companies Act, 1956, with the Registrar of Companies (RoC), Maharashtra, Mumbai. Its CIN is U29253MH2010PTC201502. Its registered office is at Gurukrupa Industrial Complex, Building No.1 (Ground Floor), Survey No.36, Opp. Jivdhani Industrial Estate No.2, Vasai (East), Palghar 401 208, in the State of Maharashtra. Therefore, this Bench has jurisdiction to deal with this petition.
3. The present petition was filed on 20.11.2019 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of ₹18,82,421.00 (Rupees eighteen lakh eighty-two thousand four hundred and twenty-one only) as principal as on 08.06.2019, which is stated to be the date of default. No interest has been claimed.
4. The case of the Operational Creditor is that it had supplied alloy steel bars and providing machining and grinding to the Corporate Debtor on the basis of purchase orders placed on the Operational Creditor by the Corporate Debtor. Copies of the Purchase Orders have been placed on record as Exhibit 'D' (Colly) at pp.14-22.
5. Invoices have been placed on record as Exhibit 'E' at pp.23-33. The invoices do not provide for interest in case of delayed payments. Bank statements are attached as Exhibit 'G' at pp.45-46. The total debt due and payable to the Operational Creditor is ₹18,82,421.00 (Rupees

eighteen lakh eighty-two thousand four hundred and twenty-one only), as mentioned at page 11 of the Petition.

6. The Operational Creditor had served a Demand Notice in Form 3 dated 22.08.2019 to the Corporate Debtor (Exhibit 'I', pp.52-54) in terms of section 8 of the IBC. The Demand Notice has been received back from the postal authorities with illegible remarks. Necessary affidavit of No Dispute in terms of section 9(3)(b) of the IBC has been annexed at pp. 66-68.
7. During the course of hearing held on 08.02.2020, Mr Vilas Maruti Salvi, Director of the Corporate Debtor appeared on behalf of the Corporate Debtor in person and submitted that the matter was likely to be settled. The matter was, therefore, adjourned to 03.03.2020, with directions that in case the matter is not settled, then reply may be filed before the next date of hearing.
8. At the hearing on 03.03.2020, Mr Vilas Maruti Salvi appeared and filed reply dated 03.03.2020 on behalf of the Corporate Debtor, in which it has been stated that due to financial crises and closure of operations, the Corporate Debtor is not in a position to pay the amount to the Operational Creditor.
9. We have heard the submissions of both sides and perused the records.
10. It is noted that the Corporate Debtor has admitted the liability in its affidavit in reply dated 03.03.2020.
11. The application made by the Operational Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount of one lakh rupees stipulated under section 4(1) of

the IBC at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.

12. The Operational Creditor has not proposed the name of any Interim Resolution Professional (IRP) in the matter.
13. It is, accordingly, hereby ordered as follows: -
 - (a) The petition bearing CP (IB) No.4167/MB.II/2019 filed by Purohit Steel India Private Limited, the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against Anushka Moulds and Dies Private Limited [CIN: U29253MH2010PTC201502], the Corporate Debtor, is admitted.
 - (b) There shall be a moratorium under section 14 of the IBC, in regard to the following:
 - (i) 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;
 - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - (iii) 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 (Sarfaesi) Act, 2002;

- (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (c) Notwithstanding the above, during the period of moratorium,-
 - (i) 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;
 - (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) Since the Operational Creditor has not proposed the name of any IRP in the matter, this Adjudicating Authority hereby appoints Ms Kanak Jani [IBBI Reg No.IBBI/IPA-001/IP-P01757/2019-2020/12685], having address at No.17, Sai Moreshwar Luxuria, Plot No. 74, Sector 18, Kharghar, Next to Sanjeevani

International School, Navi Mumbai, 410210 [email: kanakj@yahoo.com] as the IRP. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency and Bankruptcy Board of India (IBBI). The IRP shall carry out her functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.

- (g) During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (h) The IRP/RP shall submit to this Adjudicating Authority periodical reports with regard to the progress of the CIRP of the Corporate Debtor.
- (i) The Operational Creditor shall deposit a sum of ₹1,00,000/- (Rupees one lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (j) In terms of section 9(5)(i) of the IBC, the Court Officer of this Court is hereby directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order.

- (k) Additionally, the Operational Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Maharashtra, Mumbai by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

Sd/-
Ravikumar Duraisamy
Member (Technical)

16.10.2020

Sd/-
Rajasekhar V.K.
Member (Judicial)