



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT - 2

ITEM No.301
C.P. (IB)/154(AHM)2024

Order under Section 9 IBC

IN THE MATTER OF:

Jindal Nickel and Alloys Ltd
V/s
Surana Meta Cast (India) Pvt Ltd

.....Applicant

.....Respondent

Order delivered on: 05/08/2024

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-sd-

CHITRA HANKARE
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL

AHMEDABAD (COURT - II)

CP (IB) NO. 154 of 2024

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

IN THE MATTER OF:

Jindal Nickel and Alloys Limited

...Applicant

V/s

Surana Meta Cast (India) Pvt Limited

...Respondent

Order pronounced on 05.08.2024

Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**



MEMO OF PARTIES

Jindal Nickel and Alloys Ltd

Having address at:

25/8, Kanker Khara Road Shahbad
Daulatpur, North West, Delhi
Delhi - 110042

...Applicant/Operational Creditor

Versus

Surana Meta Cast (India) Private Limited

Having CIN: U27100GJ2010PTC059553

Having address at:

301-D, Sumell - 11, Opp. Namaste Circle,
Shahibaug, Ahmedabad - 380004

... Respondent/Corporate Debtor

Present:

For the Applicant : Mr Nipun Singhvi, Adv a.w. Ms Pragati
Tiwari, Adv

For the Respondent : Mr Mahadev Birla, Adv

JUDGEMENT

1. Under consideration, is an application filed by the Operational Creditor viz. Jindal Nickel and Alloys Ltd under Section 9 of Insolvency and Bankruptcy Code 2016 (hereinafter referred to as "IBC, 2016") against the Corporate Debtor viz. Surana Meta Cast (India) Pvt Ltd



seeking thereof to initiate Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor.

2. In Part II of the application, it is stated that the Operational Debtor was incorporated on 12.10.2010 with a Nominal share capital of Rs.5,75,00,000/- (Rupees Five Crores and Seventy-Five Lakhs only) and the paid-up capital of Rs.4,92,49,940/- (Rupees Four Crores Ninety Two Lakhs Forty-Nine Thousands Nine Hundred and Forty only). In Part III of the Application, the Financial Creditor has proposed the name of one Mr. Bhupendra Singh Narayan Singh Rajput as the Interim Resolution Professional, who has also filed his written consent in Form 2. In Part IV of the application, the default amount is stated to be Rs.2,47,21,760/- and the date of default is mentioned as 14.08.2022.
3. The applicant submitted that it is engaged in the business of manufacturing iron and steel, supplied nickel cathodes to the respondent and raised necessary invoices on dates 15.07.2022, 19.07.2022 and 03.08.2022 along with e-way bills and necessary documents. It is stated that an amount of Rs.2,47,21,760 was due and payable



comprising of principal amount of Rs.2,09,86,439 and interest of Rs.37,35,321 (@12% p.a.) from the date of 14.8.2022 (date of default) till date. Even after necessary notices were issued, they were not paid. All necessary documents were annexed to the application.

4. A demand notice was issued date 09.01.2024 in Form 5 under the provisions of IBC 2016 to the respondent demanding payment along with interest at the registered address of the company. The respondent replied to the demand notice vide letter dated 13.03.2024 but till date payment has not been made. Form D is also submitted.
5. The respondent filed an affidavit reply dated 06.06.2024 that due to continuous losses in the company and financial difficulties, it has not paid the debt and the applicant did not grant any further time even when requested. Further, they had made an oral complaint that the goods were of inferior quality and also that their account was an NPA on loans given by SBI due to which a case is proceeding before Hon'ble DRT Ahmedabad.
6. Heard the submissions and replies. This is a clear case of default admitted and financial difficulties or losses



cannot be the reason for non-payment of debt. The respondent is already before the DRT as stated in the reply.

7. In our view, the application is complete in terms of Section 9 of the Code. As the Applicant/Operational Creditor has proved that there is debt and despite service of notice under Section 8, the same was not paid by the Respondent/Corporate Debtor. We have also seen that the amount defaulted is more than Rs. 1.00 Cr. which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present application. Accordingly, the Application filed under section 9 of the Insolvency and Bankruptcy Code for the initiation of the CIRP against the Respondent/Corporate Debtor deserves to be admitted.

8. In view of the above, we pass the following order:

ORDER

- I. The CP(IB) 154 of 2024 is allowed.
- II. The Respondent/Corporate Debtor Surana Meta Cast (India) Pvt Limited is admitted in the CIRP under section 9(5) of the Code.



- III. The order of moratorium under section 14 of the Code shall come to 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 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.
- IV. However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
- V. Even though the applicant has suggested an IRP, the procedure as per IBC is the adjudicating authority to appoint an IRP in the matter. Hence, we hereby appoint, Mr. Arpan Maheshkumar Shah Registered Insolvency Professional having registration number as IBBI/IPA-001/IP-P-01847/2019-2020/12862 under section 13(1)(c) of the Code to act as Interim Resolution Professional (IRP). He shall conduct the Corporate Insolvency Process as per the Insolvency



and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

- VI. The IRP so appointed shall make a public announcement of the initiation of the CIRP and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
- VII. The IRP shall perform all his functions as contemplated, inter-alia, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- VIII. The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay



whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.

- IX. The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by section 20 of the Code.
- X. The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- XI. We direct the Operational Creditor to pay IRP a sum of Rs.2,00,000/- (Rupees Two Lakh Only) in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims till the CoC decides about his fees/expenses.
- XII. The Registry is directed to communicate this order to the Operational Creditor, corporate debtor, and to the



Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.

- XIII. The commencement of the CIRP shall be effective from the date of this order.

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DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

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CHITRA HANKARE
MEMBER (JUDICIAL)

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