

NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.1
CP(IB)/26(MP)2023

Proceedings under Section 10 IBC

IN THE MATTER OF:

Mungad Strips & Alloys Pvt Ltd

.....Applicant

Order delivered on 08/01/2025

Coram:

Chitra Ram Hankare, Hon'ble Member(J)
Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

This case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

A. Bhadauria

Sd/-

CHITRA RAM HANKARE
MEMBER (JUDICIAL)

**THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH**

CP(IB)/26/MP/2023

(An application under section 10 of the Insolvency and Bankruptcy Code, 2016)

In the matter of:

Mungad Strips and Alloys Private Limited

CIN No.: U27205MP2009PTC021597

Having its registered address at:

7, Nagarchi Bakhal, Behind Bartan Bazar,
Indore, Madhya Pradesh- 452001

.....Corporate Applicant/Petitioner

Order Pronounced on: 08.01.2025

Coram: Chitra Ram Hankare, Member (J)

Kaushalendra Kumar Singh, Member (T)

Appearance:

For the Applicant: Ld. PCS Mr. Pratik Tripathi

JUDGMENT

1. This present application was filed on 23.02.2023, by Mr. Gourav Mungad and Mr. Vaibhav Mungad, Directors of M/s Mungad Strips and Alloys Private Limited (Applicant) under section 10 of the Insolvency and Bankruptcy Code, 2016 (the Code) read with IBBI (Application to Adjudicating Authority) Rules, 2016, for initiating Corporate Insolvency Resolution Process (CIRP) against the corporate person i.e. the applicant herein.

2. Averments made by the applicant and as presented/argued by the learned PCS appearing for the applicant are summarized here as under:

- (i) Corporate person is engaged in the business of manufacturing of aluminum products, and production of aluminum windows, doors, partitions, glazing, cartons, flat bars, heat sinks, rods, bars, channels, angles, and pipes.

(ii) The corporate person was incorporated on 06.02.2009 and has been continuously working till 2012, however, due to some financial crisis the corporate person has failed to continue its business thereafter.

(iii) The corporate person has availed loan facility from bank which was paid in full till the year 2019 and thereafter no loan has been taken by the corporate person from banks, hence, there are no secured creditors remaining in the company to whom payment had to be done.

(iv) The details of charges satisfied by the corporate person are as follows:

S. No.	Charge ID	Date of Creation	Date of Satisfaction	Amount	Charge Holder name
1.	10291182	25.04.2011	19.02.2019	22,50,00,000.0/-	Bank of Baroda
2.	10254113	25.10.2010	16.03.2012	14,62,09,000/-	Punjab National Bank

(v) The financial debt of Rs. 1,00,000/- is outstanding on the part of the corporate person.

(vi) The corporate person has purchased the material from various creditors and failed to make their payment in timely manner, hence, the operational debt of Rs. 31,89,03,308/- is outstanding on the part of the corporate person against all the operational creditors and such debt is outstanding for the last 10 years.

(vii) Name and address of the financial creditor and operational creditors of the corporate person along with amount due to them as on the date of filing of this application are as under:

S. No.	Name	Address	Category	Amount due in Rs
1	Akbar Ali Sabir	M-6-B, New Rani Bagh Khandwa Road, Indore	Unsecured Financial Creditor	1,00,000/-

TOTAL (A)				1,00,000/-
2	Adinath Traders	76, Pardeshipura, Indore	Operational Creditor	5,19,29,069.00/-
3	M/s Dolphin Impex	1/7, Near Pardeshipura Thana, Malwa Mill, Indore	Operational Creditor	41,18,000/-
4	M/s Krishna Profiles Pvt. Ltd.	316, Sejwaya Dighthan Road Ghatabilod	Operational Creditor	4,30,009.00/-
5	M/s Maliwal Impex Pvt. Ltd.	Bholeshiv Compound, Singarva Tal, Daskroi, Ahmedabad	Operational Creditor	46,23,174.00/-
6	M/s Mungad Aluminium Pvt Ltd	Plot No. 2/B and 3 Sector-A Sanwer Road Indore, MP 453551 IN	Operational Creditor	14,00,000.00/-
7	M/s Ocean Impex	C/O Ladhha Brothers, 161/58, Gurjar Mohalla, Bhilwara	Operational Creditor	10,48,79,990.98/-
8	M/s Overseas Metal Trading Com Import	Industrial Area, Al Nahdha, Sharjah, UAE	Operational Creditor	61,01,010.45/-
9	M/s Radhey Aluminium Pvt. Ltd	1, Sai Gangotri Vihar Indore, MP 452001 IN	Operational Creditor	2,88,24,282.72/-
10	M/s SS Enterprises	76, Pardeshipura, Indore	Operational Creditor	8,14,26,867.17/-
11	M/s Star Novetion Pvt. Ltd.	318, 2 nd Floor, Old Building Software Technology Park, Electronic Complex, Indore	Operational Creditor	3,43,67,506.15/-
12	M/s Exime Trading Company	PO Box: 25371 Safat, 13113, Kuwait City, Kuwait	Operational Creditor	2,96,220.00/-
13	Mr. Om Prakash Maheshwari	7, Nagarchi Bakhal, Bartan Bazar	Operational Creditor	1,00,000.00/-
14	Mrs. Rajni Agrawal	1/7, Near Pardeshipura Thana, Indore	Operational Creditor	1,48,438.00/-

15	Mr. Vaibhav Mungad	7, Nagarchi Bakhhal Indore	Operational Creditor	5,86,391.00/-
16	TDS Payable	Department of Income Tax, Red Church Colony, 1, Godhra Highway, White Church Colony, Indore-452001	Operational Creditor	64,850.00/-
17	Professional Tax	Commercial Tax Department, Chetak Chambers, Chhawani Road, Indore (M.P.)- 452001	Operational Creditor	7,500.00/-
TOTAL (B)				Rs. 31,89,03,308/-
TOTAL (A+B)				Rs. 31,90,03,308/-

(viii) Till the time, the corporate person had not made any repayment of its financial debt and operational debts and the corporate person has not been running its business since 2012, hence, there are no means for the corporate person to repay its debts.

(ix) Board resolution dated 02.01.2023 was passed to consider and approve the proposal for initiation of CIRP for the corporate person.

(x) A Special Resolution dated 24.01.2023 was also passed by the members of the corporate person under section 10(3)(c) of the Code for the purpose of initiation of CIRP of the corporate person.

3. This Adjudicating Authority vide order dated 03.03.2023 directed the applicant to serve the notices of hearing to all the creditors of the corporate person and also to advertise notice of hearing of the application in newspapers. In compliance of the said order dated 03.03.2023, the applicant has served the notices to the creditors of the company and has also published the notice in two newspapers namely “Free Press” English Daily and “Choutha Sansar” in Hindi Daily on 25.03.2023, informing the creditors and concerned persons about the filing of the present application for initiation of CIRP against the corporate person. An affidavit of service of notice and publication is also placed on record.

4. This Adjudicating Authority vide order dated 21.09.2023, directed the applicant to furnish a list of books of accounts available with them. In compliance to that the applicant furnished the required list through an affidavit and undertook to provide the same in case the application is admitted under section 10 of the Code. Further, the applicant in compliance of the said order filed an additional affidavit bringing on record invoices available with them and submitted that the corporate applicant had stopped its business in the year 2012 and creditors are related to period prior to the year 2012, more than 11 years old and not traceable, therefore it is difficult for them to find out the invoices of the creditors.

5. This Adjudicating Authority vide order dated 16.05.2024, directed the applicant to file a list of trade receivables. In compliance of the same, the applicant provided the list of trade receivables, the same is given as under:

S. No.	Name	Amount in Rs	Address	Contact No.	Email
1	Kanha Aluminium Pvt Ltd	24,02,695.09/-	89, Kalani Nagar, Indore, Madhya Pradesh, India, 452003	+919826041341	mundra1@yahoo.com.in
2	Overseas Metal Trading Co	21,43,10,317.40/-	Godown No. 23, Zone 10, Sharjah	+971504221045	overseasmetal033@gmail.com
3	Prerena Enterprises	1,30,91,282.17/-	304, Sukhsunder Apartment, 126/127 C, Vaishali Nagar, Indore	+919669616979	praveentamhankar@yahoo.co.Uk
4	Samyak International Ltd	2,96,09,471.40/-	203-B, 2 nd Floor, A wing, Millionaire Heritage, SV Road, Nr Station, Andheri (w)	+917869340165 +91930210678	samyakinternationaltld@gmail.com

			B/H Andheri Market, Mumbai City, Mumbai, Maharashtra, India, 400058		
	Total	25,94,13,766.06/-			

6. Further, vide order dated 07.06.2024 this Adjudicating Authority noted that approximately 25 crores of money are to be recovered from four parties and that around 31 crores amount is payable to the creditors out of which about 13 crores are related to the group concerns. For the same, this Adjudicating Authority directed the applicant to place on record as to whether those third party creditors have taken any steps to recover any amount from the applicant and also as to what steps the applicant have taken to recover the amount which is reflected in the trade receivables in the balance sheet.

7. In this context an affidavit has been placed on record whereby the applicant has submitted the following:

- (i) In the year 2012 corporate debtor faced financial crisis leading to discontinuity of business. As the company was not able to pay its outstanding debts, bank ceased and took control of the operation of company.
- (ii) Most of the balance are related to year 2010. There was a raid of excise department and bank had sealed the premises.
- (iii) In year 2012, fire broke through the factory premises of the corporate person which destroyed the raw material and finished goods including the data preserved in the factory. Most of the records and data were destroyed in the fire. Therefore, basic files having record of communication etc. was destroyed and not available with the corporate debtor. At that time the incident was reported with police, excise and other department.

(iv) After such incidence there is no communication with the parties in this regard as the business premises was destroyed and corporate person was not in a position to take recovery action against the parties.

(v) The books of accounts of the corporate person reflects the balances of the creditors acknowledging the debt. The balance sheets of the company prepared year after year also reflects the debt and as such there is no issue of limitation in filing of the applicant.

8. The applicant vide affidavit dated 01.03.2024 has undertook to pay the CIRP cost as well as liquidation cost, as the case may be.

9. We have heard the learned PCS appearing on behalf of the applicant on the issue of admission of application filed under section 10 of the Code and have perused the relevant records and documents. It is noted that the business operation of the corporate person ceased in year 2012 following a fire that affected the factory. The ledger accounts provided by the applicant shows that a total amount of Rs. 1,00,000/- is outstanding towards the financial creditors and an amount of Rs. 31,89,03,308/- is outstanding towards the operational creditors. The corporate person has also provided the balance sheet for the financial year 2020-21 and 2021-22, along with a provisional balance sheet for the financial year 2022-23 made up to 10.02.2023, which discloses that the corporate person has Long term borrowings of Rs. 1,00,000/-, Trade payables of Rs. 31,80,99,909/- and other current liabilities of Rs. 8,03,399/-. Further, the corporate person has Trade receivables of Rs. 25,94,13,766.06/- and Cash of Rs. 13,457.85/-. For ready reference provisional balance sheet as available on record is reproduced as under:

Provisional Balance Sheet as on 10.02.2023			
Particulars	Note No.	Figures as at the end of current reporting period Rs.	Figures as at the end of previous reporting period Rs.

A. Equity and Liabilities			
1. Shareholders' Funds			
a. Share Capital	1	100,000.00	100,000.00
b. Reserve and Surplus	2	274,357.65	352,635.65
c. Money Received against share warrants		-	-
2. Share application money pending allotments		-	-
3. Non-current liabilities			
a. Long-term Borrowings	3A	100,000.00	-
b. Deferred tax liabilities (net)		-	-
c. Other long term liabilities		-	-
d. Long term provision			
4. Current Liabilities			
a. Short term borrowings			
b. Trade payables		-	-
A. Total outstanding dues of micro enterprises & small enterprises			
B. Total outstanding dues of creditors other than micro enterprises and small enterprises	4	318,099,909.00	318,099,909.00
c. Other Current Liabilities	3	803,399.00	1,255,121.00
d. Short-term provisions			
TOTAL		319,377,665.65	319,807,665.65
B. Assets			
1. Non-current assets			
a. (i) Property, plant and equipment			
(ii) Intangible Assets			
(iii) Capital Work in progress			
b. Non-current investments	5	49,998,000.00	49,998,000.00
c. Deferred Tax assets		-	-
d. Long term loans and advances		-	-
e. Other non-current assets		-	-
2. Current assets			
a. Currents investments			
b. Inventories			
c. Trade receivables	8	259,413,766.06	259,413,766.06
d. Cash and cash equivalents	6	13,457.85	443,457.85
e. Short term loans and advances			
f. Other current assets	7	9,952,441.74	9,952,441.74
TOTAL		319,377,665.65	319,807,665.65

10. In compliance of the order dated 21.09.2023, the applicant has not submitted any invoices. When inquiring about the efforts made by the applicant to recover the trade receivables amounting to Rs. 25,94,13,766.06/, as reflected in the balance sheet, and whether the creditors of the corporate person had taken steps to recover their dues, the applicant claimed that most dues date back to 2010. The applicant further stated that due to the fire in 2012, most of the goods and records got destroyed.

11. After considering these facts and circumstances, it is clear that the corporate debtor is unable to repay its debts and has defaulted in its repayment of the debt as admitted by the corporate person and reflected in the balance sheet for the year 2020-21, 2021-22 and the provisional balance sheet for the year 2022-23. Further, the present application is well within limitation as the corporate person has been admitting and acknowledging the debt in the balance sheet year after year till 2022-23.

12. We find no defects in the present application, hence, we pass the following order:

ORDER

- (i) The application CP(IB)/26/MP/2023 is allowed.
- (ii) The corporate person **M/s Mungad Strips and Alloys Private Limited** is admitted in the Corporate Insolvency Resolution Process under section 10 of the Code.
- (iii) The moratorium under section 14 of the Code is declared for prohibiting all of the following in terms of section 14(1) of the Code.
 - (a) *the institution of suits or continuation of pending suits or proceedings against the corporate person 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 person 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 person in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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 person.*

(iv) The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of corporate person under section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

(v) As proposed by the corporate person, we appoint **Ms. Megha Jain** having registration No. IBBI/IPA-001/IP-P02466/2021-2022/13857, having address at: 20 Palash Palace Colony, Bicholi Road, Near Bengali Square, Indore, MP- 452016, Email: ca.meghaj@gmail.com to act as an Interim Resolution Professional (IRP) under section 13(1)(c) of the Code. He shall conduct the Corporate Insolvency Resolution Process as per the provisions of the Code r.w. Regulations made thereunder.

(vi) The IRP so appointed shall make a public announcement of initiation of the Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under section 15 as required by section 13(1)(b) of the Code.

(vii) The supply of essential goods or services to the corporate person, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period. The corporate person to provide effective assistance to the IRP as and when he takes charge of the assets and management of the corporate person.

(viii) The IRP shall perform all his functions as contemplated, *inter-alia*, by section 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with corporate person, its promoter or any other person associated with management of the corporate person are under legal obligation under section 19 of the Code extending every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the corporate person, its promoter or any other

person required to assist or co-operate with IRP, do not assist or co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

(ix) The IRP shall be under duty to protect and preserve the value of the property of the corporate person and manage the operations of the corporate person as a going concern as a part of obligation imposed by section 20 of the Code.

(x) The Registry is directed to communicate a copy of this order to the applicant, IRP and the concerned Registrar of Companies, within seven working days and upload the same on website immediately after pronouncement of the order.

(xi) The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST, State Trade Tax, and Provident Fund etc. who are likely to have their claim against corporate person as well as the trade unions/employee's associations so that they are informed of the initiation of CIRP against the corporate person timely.

(xii) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

Sd/-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

Ritika

Sd/-

CHITRA RAM HANKARE
MEMBER (JUDICIAL)