

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT - II**

C.P. (IB)-1108(MB)/ 2019

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

In the matter of

Amit Steels,

Through Amit Ramswaroop Khemani,
Having its Registered Office at: 189/191,
505, Ravi Building, Dr. D.N. Road,
Mumbai- 400 001

.....Operational Creditor

Vs

Truly Creative Developers Pvt. Ltd.,

(CIN No.: U70100MH1996PTC096241)

Having its Registered Office at: 66, Rajendra
Nagar, Dattapada Road, Borivali (East),
Mumbai – 400 066

.....Corporate Debtor

Order delivered on:- 11.11.2022

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Mr. Shyam Babu Gautam

Appearances:

For the Operational Creditor : Mr. Niraj Shah, Advocate

For the Corporate Debtor : None

ORDER

Per :- Shyam Babu Gautam, Member Technical

1. This Company Petition is filed by *Amit Steels* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Truly Creative Developers Pvt. Ltd.* (hereinafter called “Corporate Debtor”) alleging that the Corporate Debtor committed default in making payment to the Operational Creditor. This Petition has been filed by invoking the provisions of Section 9 Insolvency and Bankruptcy Code, 2016 (hereinafter called “Code”) read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The present Petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of Principal amount of **Rs. 11,23,651/-** (Rupees Eleven Lakhs Twenty-Three Thousand Six Hundred and Fifty-One) together with interest **@24% per annum** amounting to Rs. 7,29,189/- (Rupees Seven Lakhs Twenty-Nine Thousand One Hundred and Eighty-Nine) until 30th November 2018 aggregating to a sum total of **Rs. 18,73,937/-** (Rupees Eighteen Lakhs Seventy-Three Thousand Nine Hundred and Thirty-Seven).
3. The Operational Creditor sold, supplied and delivered certain goods to the Corporate Debtor as per the Orders placed by them and raised Five (5) Tax invoices for the same accordingly. The Operational Creditor also raised a Debit Note towards the interest totaling to Rs. 7,50,286/- of which the Corporate Debtor

made a part payment of Rs. 87,201/- to the Operational Creditor. No payments were made towards the debt thereafter by the Corporate Debtor despite various reminders. Copies of the relevant invoices and records of running ledger account of the Corporate Debtor have been annexed to this Petition.

4. Subsequently, the Operational Creditor issued a **Demand Notice dated 9th April 2018** and another detailed **Notice dated 30th November 2018** was sent by the Operational Creditor demanding repayment of the entire amount due. As no payments were received, the Operational Creditor filed this Petition on 15th March 2019. No replies were filed by the Corporate Debtor to both the Notices and to this Petition.

FINDINGS

5. We have heard the submissions of the Counsel appearing for the Operational Creditor. It is seen from the records that the Corporate Debtor failed to appear before this Tribunal on every occasion despite due notice. In our opinion, the total amount of debt is evident from the invoices placed on record and it is evident from the Financial Statements produced before us that there has been a default in repayment of the same. It is noted that there is no pre-existing dispute and that the Petition is not barred by limitation. Moreover, the Corporate Debtor has neither filed any Reply to this Petition nor appeared before this Tribunal. This clearly indicates the reluctance of the Corporate Debtor to fulfil their obligations.

6. The Operational Creditor has successfully demonstrated and proved the debt and default in this case. It is noted that no pre-existing dispute exists with regard to the goods sold by the Operational Creditor. Therefore, this Bench is of the view that that this Petition satisfies all the necessary requirements for admission under Section 9 of the Code and has decided to proceed ex- parte against the Corporate Debtor.

7. For the foregoing reasons, the instant Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:
 - a. **The above Company Petition No. (IB) -1108 (MB)/2019 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Truly Creative Developers Pvt. Ltd.

 - b. This Bench hereby appoints **Mr. Rajan Garg**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P02397/2021-2022/13624 as the Interim Resolution Professional having email address fcarajangarg@gmail.com to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

 - c. The Operational Creditor shall deposit an amount of Rs.2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim

Resolution Professional appointed herein, immediately upon communication of this Order.

- d. 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 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.
- e. 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.
- f. 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.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order 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.

- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the Corporate Debtor will vest in the IRP/RP. The suspended directors and employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to the IRP immediately.

Sd/-

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

Sd/-

JUSTICE P. N. DESHMUKH
(MEMBER JUDICIAL)