



IN THE NATIONAL COMPANY LAW TRIBUNAL,
NEW DELHI COURT III

Item No.02
IB-908(ND)/2022

IN THE MATTER OF:

M/s. Joneja Bright Steels Pvt Ltd

.....APPLICANT/PETITIONER

Vs.

M/s. Nipman Fastners Industries Pvt Ltd.

.....RESPONDENT

SECTION

U/s 9 of IBC, 2016

Order Pronounced on 21.04.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. Rishi Sood Advocate

For the Respondent : Ms. Adrita, Advocate.

ORDER

Order pronounced in open court vide separate sheets. IB-908(ND)/2022
is **admitted**.

Sd/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)

Shammy
21.04.2023



**THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI COURT III**

Company Petition No. IB-908(ND)/2022

Under Section 9 of the Insolvency and Bankruptcy Code, 2016

In the matter of:

M/s. Joneja Bright Steels Pvt Ltd

...Applicant/Petitioner

Versus

M/s. Nipman Fastners Industries Pvt Ltd.

...Corporate Debtor

Order delivered on: 21.04.2023

Coram:

**SHRI BACHU VENKAT BALARAM DAS
Hon'ble MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI
HON'BLE MEMBER (TECHNICAL)**

For the Applicant : Mr. Rishi Sood Advocate

For the Respondent : Ms. Adrita, *Advocate.*

ORDER

Per: BACHU VENKAT BALARAM DAS, MEMBER (J)

1. The present petition has been filed under Section 9 of the IBC, 2016 with the prayer to initiate CIR Proceedings against the Corporate Debtor viz, *M/s. Nipman Fastners Industries Private Limited.*, declare Moratorium and appoint Interim Resolution Professional.



2. It is submitted by the Applicant that the total outstanding amount of Rs. 6,28,91,648/- including interest @ 18% per annum till 30.09.2022, is due and payable by the Corporate Debtor.

3. The Learned Counsel appearing for the Applicant submitted that the Corporate Debtor approached the Applicant for supply of steel wires against the purchase orders. The Applicant supplied the material to the Corporate Debtor from time to time in accordance with the purchase orders issued by the Corporate Debtor and raised several invoices. The Applicant supplied the steel wires to the tune of Rs. 3,49,33,765/- to the Corporate Debtor at its plants in Bawal, Ghaziabad, Haridwar. The invoices sent to the Corporate Debtor in hard copies as well as through email, were duly acknowledged by the Corporate Debtor.

4. It is submitted that, the terms of invoices stipulated that in case of any rejection of the supply of goods, the said goods must be sent back to the Applicant within 7 days from the date of delivery of material and interest @ 18% per annum shall be charged. The Applicant has maintained a specific ledger in relation to the Corporate Debtor wherein all bills raised upon the Corporate Debtor are being maintained. The payments made by the Corporate Debtor to the Applicant were always on bill to bill basis. The Applicant used to maintain the running account qua the Corporate Debtor. Thus the total amount due is Rs. 3,49,33,765/-.

5. The Applicant sent several reminders to the Corporate Debtor in the year 2020 and 2021. The Corporate Debtor assured that the payment shall be made in due discharge of its liability towards Applicant post the lockdown period. The Applicant again sent a reminder on 20.06.2021 to the Corporate Debtor to release the payment. The Corporate Debtor has acknowledged its debt and sought



some time to pay the outstanding amount. However, the said amount due was not paid to the Applicant.

6. The Applicant sent a demand notice under Section 8 of IBC, 2016 to the Corporate Debtor on 04.01.2022 seeking payment of outstanding dues of Rs. 6,34,42,554/- The Corporate Debtor had acknowledged its dues and in the meeting held on 11.01.2022 between the authorized representatives of the respective Companies, the Corporate Debtor acknowledged its liability to repay the amount outstanding, wherein the Corporate Debtor was to pay the Applicant a sum of Rs. 10,00,000/- per month towards its past overdue to the Applicant. The Corporate Debtor made some payments, the details are given below: -

Sr. No.	Date	Payments made
1.	11.02.2022	10,00,000/-
2.	25.03.2022	10,00,000/-
3.	04.04.2022	10,00,000/-
4.	19.04.2022	10,00,000/-

7. The Applicant again sent a demand notice under Section 8 of IBC, 2016 on 01.11.2022 to the Corporate Debtor seeking the payment of outstanding amount of Rs. 6,34,42,554/-. The said notice sent to the Corporate Debtor through Speed Post and the tracking report are on record. The Applicant has filed a Bank certificate issued by the Banker namely HSBC for the period commencing from 20.04.2022 to 16.11.2022 which duly confirmed that no payment has been received during the said period.

8. On 28.02.2023, Ms. Adrita, Learned Counsel appearing for the Corporate Debtor submitted that she does not want to file any reply to the present petition. She further submitted that the Corporate Debtor



is in default and necessary orders admitting the petition be passed and IRP be appointed.

The said order dated 28.02.2023 is reproduced hereunder: -

“Mr. Rishi Sood, Learned Counsel appears for the Applicant. Ms. Adrita, Learned Counsel appearing for the Corporate Debtor submits that she does not wish to file any reply to the present petition. She further submitted that the Corporate Debtor is in default and necessary orders admitting the petition be passed and IRP be appointed.

The Applicant is directed to file two page written submissions within two days.

Order reserved.”

9. We have heard the submissions made by Mr. Rishi Sood, Learned Counsel appearing for the Applicant as well as Ms. Adrita, Learned Counsel appearing for the Corporate Debtor and perused the records.

10. On perusal of the records, we find that the Applicant has maintained a ledger with respect to the Corporate Debtor, wherein all bills raised upon the Corporate Debtor are being maintained and the payments made by the Corporate Debtor are on bill to bill basis, which shows that the total amount outstanding is Rs. 3,49,33,765/-. We have also perused the email sent by the Applicant to the Corporate Debtor in the year 2020-2021 giving reminders to the Corporate Debtor to which the Corporate Debtor has assured that the payment shall be made in due discharge of its liability. Further, the Corporate Debtor had approached the Applicant, after receipt of the demand notice and acknowledged its dues and in the meeting held on 11.01.2022 between the authorized representative of the Applicant and the Corporate Debtor, the Corporate Debtor had acknowledged its liability and minutes were recorded to that effect. We may further add that the Learned Counsel appearing for the Corporate Debtor admitted that the Corporate Debtor is in default which has been recorded in the order dated 28.02.2023.



11. We, therefore, admit the present petition i.e., IB-908/ND/2022 and initiate the CIRP proceedings against the Corporate Debtor.

12. The Applicant has not proposed the name of the Resolution Professional for appointment as Interim Resolution Professional (IRP), therefore, **Mr. Naresh Kumar Munjal, having Registration No. IBBI/IPA-001/IP-P00362/2017-2018/10620, Office Address at 125 Second Floor, Kailash Hills, New Delhi, National Capital Territory of Delhi, 110065 email id nkmunjalcacs@yahoo.co.in**, is hereby appointed as IRP from the IBBI list. The IRP is directed to take charge of the Corporate Debtor's management immediately including Bank accounts. The IRP is directed to make public announcement as prescribed under Section 15 of IBC, 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.

13. The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is ordered 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 Securitization 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.
- (e) The explanation below section - 14 (1) also stipulates “that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period”.

14. The supply of essential goods or services of the Corporate Debtor shall not be terminated, 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.

15. We hereby direct the Applicant to pay a sum of Rs. 2, 00,000/- to the IRP, as required under the provisions of the Code to meet out the initial expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

16. 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 are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the IBC, 2016.

17. The Learned Counsel for the Applicant and the Registry are directed to send the copy of this Order to the IRP with immediate effect, so that he could take charge of the CD's assets etc., and make compliance with this Order as per the provisions of IBC, 2016. On receiving the order, the IRP is directed to communicate this Order to the Applicant, the Corporate Debtor, and the concerned RoC.

18. The CP/IB-908(ND)/2022 is **admitted**.

Sd/-

(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-

(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)