

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. II  
KOLKATA**

**Company Petition (IB) No. 156/KB/2023**

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

**IN THE MATTER OF:**

**Shakambhari Enterprises and Ors.**, a partnership firm, having registered office at V-10, Civil Township, Rourkela, District – Sundargarh, Odisha – 769004.

**... Operational Creditor / Petitioner.**

***Versus***

**Globe Steel and Alloys Private Limited**, having registered office at Thana Chowk, Ramgarh Cantonment, Hazaribagh, Jharkhand – 829122.

**... Corporate Debtor/ Respondent.**

**Date of Pronouncement: July 15, 2024.**

**CORAM:**

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)  
SHRI. D. ARVIND, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCE:**

**For the Petitioner:**      **Mr. Sourojit Dasgupta, Adv.  
Mr. Ashis Kr. Mukherjee, Adv.  
Mr. S. Prasad, Adv.**

**For the Respondent:**    **Mr. Yash Dalmia, Adv.  
Mr. Arani Guha, Adv.  
Ms. Madhuri Pandey, PCS.**

**ORDER**

***Per: Bidisha Banerjee, Member (Judicial)***

1. The Court congregated through a hybrid mode.
2. We have heard the Learned Counsels for both the parties.
3. The present petition has been preferred by **Shakambhari Enterprises & Ors.**, hereinafter referred to as “Operational Creditor”/ “Petitioner” under Section 9 of the Insolvency and Bankruptcy Code, for

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brevity “I&B Code” against **Globe Steel and Alloys Private Limited**, hereinafter referred to as “Corporate Debtor”/ “Respondent” seeking to initiate the Corporate Insolvency Resolution Process, for brevity “CIR Process” in respect of the Corporate Debtor.

**4.** The Total amount claimed to be in default is Rs. 1,62,45,785/-, including 18% p.a. interest. The date of default is claimed on 10.03.2021.

**5.** The Operational Creditor has supplied sponge iron and sponge iron lumps to the Corporate Debtor from 19.12.2020 to 10.03.2021 and accordingly, has raised invoices. The Corporate Debtor has made several part payments on an ad-hoc basis. The Demand Notice under Section 8 of the I&B Code had been issued on 16.03.2023.

**6.** The Learned Counsel on behalf the Petitioner would submit that the Corporate Debtor received the goods supplied by the Operational Creditor and accepted the invoices sans any demur and the Corporate Debtor confirmed that an amount of Rs. 1,24,49,258/- was due and payable to the Operational Creditor on 25.02.2022, by issuing account confirmation statement.

**7.** *Per contra*, the Learned Counsel appearing on behalf of the Respondent would submit that an amount of Rs. 39.50 Lakh had been transferred by the Corporate Debtor to the Operational Creditor between June 203 and September 2023. Thus, deducting the said amount from the amount claimed to be in default, the amount would be less than the threshold limit as per Section 4 of the I&B Code.

**8.** During the Course of argument and also in the Rejoinder dated April 01, 2024, the Petitioner has acknowledged that a payment has been

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made of Rs. 39.50 Lakh with a mala fide intention of reducing the principal amount below threshold limit of Rs. One Crore.

**9.** We find that all the invoices have been raised by the Operational Creditor during the **Section 10A period**. As per the proviso of Section 10A of the I&B Code, no application under Sections 7, 9 and 10, for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after **25th March 2020 for a period of six months or such further period, not exceeding one year from such date**. Thus, this Company Petition is not maintainable.

**10.** Hence, the present petition bearing **C.P. (IB) No. 156/KB/2023** is **dismissed**.

**11.** A certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

**D. Arvind**  
**Member (Technical)**

**Bidisha Banerjee**  
**Member (Judicial)**

**This Order is signed on the 15<sup>th</sup> Day of July, 2024.**

Bose, R. K. [LRA]