

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

COURT – IV

27.

**IA-414(MB)2024 IN
C.P. (IB)/1294(MB)2022**

CORAM:

MS. ANU JAGMOHAN SINGH
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON **28.06.2024**

NAME OF THE PARTIES: Gujarat Copper Alloys Limited
Vs.
Creative Powertech Private Limited

SECTION: 9, 60(5) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016.

ORDER

IA-414(MB)2024

1. Mr. Manoj Mishra, Ld. Counsel for the Applicant/Liquidator present. Mr. Pratik Sarkar, Ld. Counsel for the Respondent present through VC, but appearance is not given in the chat box.
2. This is an application filed by the RP/Applicant on 05.01.2024 u/s.60(5) of the Insolvency and Bankruptcy Code, 2016 seeking following reliefs:
 - (a) *To pass an order directing the Respondents No.1 & 2 to reverse debit transactions from 12.04.2023 to 16.04.2023 totalling to Rs.55,68,623/- (Rupees Fifty-five Lakhs Sixty-Eight Thousand Six Hundred and Twenty-Three Only) as tabulated in Schedule-I of this Application to the Corporate Debtor, in view of the said debit transactions being in violation of the moratorium period operative u/s.14 of the Insolvency and Bankruptcy Code, 2016;*
 - (b) *To pass an order directing the Respondent No.1 & 2 to credit the amount of Rs.55,68,623/- (Rupees Fifty-five Lakhs Sixty-Eight Thousand Six Hundred and Twenty-Three Only) in A/c.No.3049098226 of the Corporate Debtor.*
3. Ld. Counsel for the Applicant submits that the Corporate Debtor was admitted into CIRP on 12.04.2023. After admitting the Corporate Debtor into CIRP, the moratorium kicks u/s.14 of the IBC and the Respondents

have been relegated to the status of Suspended directors. By virtue of the moratorium period, all the actions of transferring or disposing off the assets of the Corporate Debtor and any bank transactions stand prohibited.

4. The Applicant had verified the account of the Corporate Debtor vide A/c No. 3049098226 in the name of “Creaative Powertech Pvt Ltd” maintained with Central Bank of India, Nasik Madhusanchaya Tilak Road, Nasik, wherein it has come to the knowledge of the Applicant that during the operation of the moratorium period from 12.04.2023 to 16.04.2023 certain debit transactions were carried out by the suspended directors, which are in violation of the moratorium period. The Applicant filed a tabulated form with details of the transactions for total amount of Rs. Rs.55,68,623/- and annexed the bank statements to show that these entries.
5. The Ld. Counsel submits that the present application is filed on 05.01.2024 and pending IA, the liquidation order was passed on 16.05.2024. He submits that the present application is filed at the time of CIRP period and he has a right to pursue the present application.
6. The Counsel for the Respondent No.1 submits that though the admission order was passed on 12.04.2023, the admission of the CIRP was communicated to the Respondents on 17.04.2023 and thereafter no transactions took place in the said bank account. Given the settled position of law/binding precedents, the captioned IA be dismissed on the ground of that after communication of the admission order there is no such violation of the moratorium.
7. Heard Ld. Counsel for both the parties and perused the material available on record.
8. This Bench is of the considered view that the moratorium comes into effect the day the Corporate Debtor is admitted into CIRP and the erstwhile directors of the Corporate Debtor are prohibited to transfer or sell any assets or to operate any bank account after the date of admission i.e.12.04.2023. The statements of account filed by the RP categorically established that the

Respondents violated the moratorium and transferred the amount from the Corporate Debtor account to other related parties.

9. Hence, this Bench hereby directes the Respondents to re-pay the amount of Rs.55,68,623/- (Rupees Fifty-five Lakhs Sixty-Eight Thousand Six Hundred and Twenty-Three Only) in A/c.No.3049098226 of the Corporate Debtor within two weeks from the date of receipt of this order.
10. In the above directions, IA-414(MB)2024 is allowed and **disposed of**.

Sd/-
ANU JAGMOHAN SINGH
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)