

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

206. C.P. (IB)/843(MB)2023

IN THE MATTER OF

Delta Iron & Steel Company Private
Limited Acting through its Resolution
Professional Mr. Mangesh V. Kekre

VS

Turakhia Metal Forms Private Limited

Section 9 of the Insolvency & Bankruptcy Code, 2016

Order Delivered on 29.04.2024

CORAM:

MS. REETA KOHLI
MEMBER (J)

MS. MADHU SINHA
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Petitioner: Adv. Rajat Lohia (VC)
For the Respondent: Mr. Yakshay Chheda (VC)

ORDER

The Ld. Counsel for the Petitioner has addressed the arguments by stating that an amount of Rs. 1.11 Cr. is due and the date of default is stated to be 12.07.2019. The present petition is being filed through RP. During the pendency of the present petition, Operational Creditor has gone for liquidation. In fact, as on date it has been sold as a going concern. Thus, the amount claimed under the present petition will ultimately go to SRA. The ld. Counsel has drawn our attention to the ledger statement which is placed on record and it is on the strength of the ledger account, the amount due has been stated to be 1,11,09,581.58/-. The Ld. Counsel submits that the last payment was made on 12.06.2019.

On the other hand, the Ld. Counsel for the Respondent at the outset has objected to filing of the petition by the RP/Liquidator stating that Operational Creditor has already been sold as going concern, thus, Liquidator is not empowered any longer to file the present petition. Thus, the present petition is not maintainable. The Ld. Counsel further submits that it is only the ledger statement which has been placed on record by the counsel for the Petitioner to support his case. The said statement was never reconciled. On perusal, we find that no documents have been placed on record by Respondent so as to counter the averment of the Petitioner. In the absence of any of the documents to substantiate his contention, the Bench shall be constrained to accept the documents placed on record as correct. The Ld. Counsel for the Respondent on this prays for short adjournment so as to get his own ledger statement to substantiate his argument that no amount is due and payable to the Operational Creditor. In view of the submissions made and in the interest of justice, we deem it appropriate to grant one last opportunity to get the ledger account statement. Adjourned to **09.05.2024**.

Sd/-
MADHU SINHA
Member (Technical)
Shubham

Sd/-
REETA KOHLI
Member (Judicial)