

**THE NATIONAL COMPANY LAW TRIBUNAL
“CHANDIGARH BENCH, CHANDIGARH”
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

CP (IB) No. 234/Chd/Pb/2019

**Under Section 7 of the Insolvency
and Bankruptcy Code, 2016.**

In the matter of:

State Bank of India

Having its Central Office at
Madam Cama Road, Nariman Point,
Mumbai.

Stressed Assets Management Branch(SAMB),
Zonal office Building, Fountain Chowk,
Civil Lines, Ludhiana.

....Applicant-Financial Creditor

Versus

M/s Vij Agro Exports Private Ltd.

having its registered office at
Village, Bahadur Wala, Mallanwala Road,
Distt. Ferozepur-152021.

...Respondent-Corporate Debtor

Judgment delivered on: 16.06.2021

**Coram: HON’BLE MR. AJAY KUMAR VATSAVAYI, MEMBER (JUDICIAL)
HON’BLE MR. RAGHU NAYYAR, MEMBER (TECHNICAL)**

For the Financial Creditor: Mr. Gaurav Goyal, Advocate

For the respondent : None.

Per: Ajay Kumar Vatsavayi, Member (Judicial)

JUDGMENT

The present petition is filed, under Section 7 of the Insolvency and Bankruptcy Code, (**for brevity 'IBC' / 'Code'**), 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by State Bank of India (**for brevity 'Financial Creditor' / 'Petitioner'**) through its Authorized Representative Mr. Parveen Kumar Sharma who is duly authorized vide Letter dated 05.03.2019 (Annexure A-1) with a prayer to initiate Corporate Insolvency Resolution Process (**'CIRP'**) against M/s Vij Agro Exports Private Ltd. (**for brevity 'Corporate Debtor'**). The affidavit of Shri Parveen Kumar Sharma verifying the contents of the application is at page nos.15 to 17 of the petition.

2. The Corporate Debtor namely, M/s Vij Agro Exports Private Limited is a Company incorporated on 24.03.1999 under the provisions of Companies Act, 1956 with CIN No. U15312PB1999PTC022384 having its registered office at Village, Bahadur Wala, Mallanwala Road, Distt. Ferozepur-152021 which falls within the State of Punjab. Hence, the jurisdiction lies with this Adjudicating Authority.

3. The Authorized Share Capital of the Respondent Company is ₹8,00,00,000 and Paid-Up Share Capital of the Company is ₹8,00,00,000 as per master data. The master data of corporate debtor is stated to be filed as Annexure A-17 of the petition.

4. It is submitted by the financial creditor that it had provided the following financial assistance to the corporate debtor:-

(a) Cash Credit Limit of ₹60.00 Cr.

(b) NHBC Limit of ₹15.00 Cr.

5. It is stated that the corporate debtor through its Director had executed Loan-cum-Hypothecation agreement dated 04.12.2015 (Annexure A-6), Letter of Arrangement (Annexure A-5), No Lien Letter and Demand Promissory Note (Annexure A-7) in order to avail the aforesaid credit facilities. Corporate debtor had deposited the sale deed No.528 dated 06.05.1999, sale deed No.529 dated 06.05.1999 and sale deed dated 7066 dated 27.03.2001 with financial creditor and same are attached as Annexure A-8 (colly) of the petition.

6. As regards to the amount involved in default and the Date of default, it is mentioned by the financial creditor in Part-IV of their application that the total outstanding amount is ₹89,47,35,330.17 as on 25.03.2019. It is added by the financial creditor that the account of the corporate debtor was classified as NPA on 21.12.2016. Computation of outstanding amount and interest thereon is attached as Annexure A-12 of the petition.

7. It is also submitted that Financial Creditor has given a demand notice dated 06.01.2017 under Section 13(2) of the SARFAESI Act, 2002 and Notice of Possession under Section 13(4) of SARFAESI Act was given on 22.03.2017 to the corporate debtor which is the part of the record as Annexures A-9 and A-10 respectively.

8. In Part-V of the application, the particulars of security held are given. It is stated that factory land and building situated at Village Bahadurwala, District Ferozpur, Punjab which are covered vide three sale deeds bearing No.528 and 529 both dated 06.05.1999 and 7066 dated 27.03.2001 (Annexure A-8) are mortgaged with financial creditor. The date of mortgage is mentioned as 04.09.1999 and 18.11.2005. As per valuation report

dated 13.08.2017 (Annexure A-15), prepared by Er. Daljit Raheja, the estimated value of land and building is stated to be ₹4,14,27,700/-. It is pertinent to mention here that financial creditor had filed the recovery suit before the Debt Recovery Tribunal, Chandigarh against the corporate debtor and the guarantors and vide order dated 16.02.2019 DRT, Chandigarh has issued recovery certificate for ₹73,20,42,255 plus future interest @10.45% p.a. from 04.12.2017 plus cost till realization of amount. Copy of order dated 16.02.2019 is attached as Annexure A-11 of the petition. Copy of Form No.CHG 1 wherein financial creditor had created charge/lien over the mortgaged properties and CIBIL Report of corporate debtor are at Annexures A-13 and A-19, respectively.

9. Notice of this petition was issued to the corporate debtor on 31.05.2019 to show cause as to why this petition be not admitted. The Financial Creditor has filed affidavit of service vide Diary No. 5595 dated 15.10.2019 wherein it has been stated that notices were sent vide speed post, Email and by hand to the corporate debtor. The postal receipt and tracking report are found as Annexure A (Colly) of the affidavit. Copy of Emails sent to corporate debtor and photographs showing pasting of summons on the outer wall of factory are attached as Annexures-C & D respectively. The Notice of hearing was also published in two newspapers (English) on 16.10.2019. Newspaper clipping of both newspapers are attached as Annexure-P1 of Diary No.6986 dated 10.12.2019. Accordingly, several opportunities were afforded to the corporate debtor to file its reply but there has been no representation from the respondent so far.

10. In the present case, the occurrence of default is evidenced by the details furnished by petitioner including Loan-cum-Hypothecation agreement, no lien letter along with Demand Promissory Note executed between both parties and same are placed at Annexures A-6 & A-7 respectively. Demand Notice dated 06.01.2017 under Section 13(2) of SARFEASI Act (Annexure A-9), possession notice dated 22.03.2017 (Annexure A-10) were issued by financial creditor and copy of order dated 16.02.2019 (Annexure A-11) passed by Debt Recovery Tribunal, Chandigarh wherein recovery certificate was issued shows that the corporate debtor had made default in payment of financial debt.

11. In the given facts and circumstances, the present petition being complete and having established the default in payment of the Financial Debt for the default amount being above ₹1,00,000/-, the petition is admitted in terms of Section 7(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the moratorium in terms of Section 14, the following prohibitions are imposed, which must be followed by all and sundry:

- “(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;
- (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) It is further directed that the supply of essential goods or services to the corporate debtor as may be specified, shall not be terminated or suspended or interrupted during moratorium period.
- (f) The provisions of Section 14(3) shall however, not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a corporate debtor.
- (g) The order of moratorium shall have effect from the date of this order till 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.”

12. In Part-III of Form 5, Financial Creditor has proposed Mr. Rajender Kumar Jain as Interim Resolution Professional. IRP has filed consent in Form 2 dated 29.12.2018 in which it has been stated that no disciplinary proceedings are pending against him and he is not serving as IRP or RP in any other proceedings. As proposed by the Financial Creditor, this Bench appoints Mr. Rajender Kumar Jain as Interim Resolution Professional having Registration No. IBBI/IPA-01/IP-P00543/2017-18/10968, E-mail: amicusthe@gmail.com, subject to the condition that no disciplinary proceedings are pending against the IRP so named and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this order. The IRP is directed to take the steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016.

13. The Interim Resolution Professional shall after collation of all the claims received against Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filling the report of Constitution of the Committee. The Interim Resolution Professional is further directed to send regular progress reports to this Tribunal every fortnight.

A copy of order shall be communicated to both the parties. The learned counsel for the petitioner shall deliver copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send copy

of this order to the Interim Resolution Professional at his e-mail address forthwith.

Sd/-

(Raghu Nayyar)
Member (Technical)

(Ajay Kumar Vatsavayi)
Member (Judicial)

June 16, 2021
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