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**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – I, CHENNAI**

**IBA/834/2020**

*(filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 r/w  
Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating  
Authority) Rules, 2016)*

*In the matter of **M/s. Southern Fuel Limited***

**K. Raja Mannar**

No.83, Sir Shanmugham Road,  
R.S. Puram,  
Coimbatore – 641 002.

*...Financial Creditor*

**-Vs-**

**M/s. Southern Fuel Limited**

SF No.108/2, Saravanampatti Road,  
Vellakinar, Coimbatore – 641 029

*...Corporate Debtor*

*Order Pronounced on 28<sup>th</sup> September 2021*

**CORAM :**

**SUCHARITHA R, MEMBER (JUDICIAL)  
ANIL KUMAR B, MEMBER (TECHNICAL)**

*For Financial Creditor : Pranav V Shankar, Counsel*

*For Corporate Debtor : None appeared*

**ORDER**

**Per: ANIL KUMAR B, MEMBER (TECHNICAL)**

Under adjudication, is an Application filed under Section 7 of  
Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as  
"IBC, 2016) by one Mr. K. Raja Mannar seeking initiation of

Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, viz. **M/s. Southern Fuel Limited.**

2. From Part-I of the Application it is seen that the Financial Creditor is an individual. Part – II of the Application discloses the details in relation to the Corporate Debtor, from which, it is evident that the Corporate Debtor is a company incorporated on 23.04.1993 with CIN: L02310TZ1993PLC012154 and the Registered office address of the Corporate Debtor as per the Application is stated to be situated at SF No.108/2, Saravanampatti Road, Vellakinar, Coimbatore – 641 029. Part – III of the Application discloses the fact that the Applicant has proposed the name of one Mr. T.R. Ravichandran, as the Insolvency Resolution Professional (IRP).

3. Part – IV of the Application discloses the details of the 'Financial debt' and that it is seen that in the form of a loan, the Financial Creditor by way of RTGS has transferred a sum of Rs.5,00,000/- on 12.10.2018 to the account of the Corporate Debtor and in order to secure the same, the Corporate Debtor has executed a Promissory Note dated 12.10.2018 for a sum of Rs.5,00,000/- wherein interest was arrived at 15% per annum. It is seen from the terms of the Promissory Note that the said sum of



Rs. 5,00,000/- with interest is required to be paid in full on or before 12.11.2018.

4. The Learned Counsel for the Financial Creditor submitted that the Financial Creditor has claimed a sum of Rs.5,62,500/- (Rupees five lakh sixty two thousand and five hundred only), including interest which is due and payable by the Corporate Debtor. It was submitted by the Learned Counsel for the Financial Creditor that, vide letters dated 24.12.2018 and 09.02.2019, the Financial Creditor has demanded the repayment of the said amount of Rs.5,00,000/- with interest of 15% per annum from the date, however, it was submitted that the Corporate Debtor vide its reply dated 15.02.2019, while admitting to the liability of the said sum, has pleaded its inability to make the repayment due to the temporary liquidity crunch and requested for an additional time to pay the dues.

5. The Learned Counsel for the Financial Creditor submitted that in spite of time having been granted, the Corporate Debtor has failed to repay its outstanding dues and under the circumstances, the present Application has been filed by the Financial Creditor seeking initiation of the CIRP against the Corporate Debtor.



6. In relation to the Corporate Debtor, it is seen from the records that notice has been sent to the Corporate Debtor and in spite of the same, there was no representation on behalf of the Corporate Debtor. Hence, we are constrained to proceed in this matter in the absence of the Corporate Debtor.

7. From the submissions made by the Learned Counsel for the Financial Creditor, it is seen that the Financial Creditor has disbursed the loan amount of Rs.5,00,000/- to the Corporate Debtor, as it is evident from the account statement of the Financial Creditor and the same is also enclosed by way of an Additional Typed Set. It is seen from the records that the Financial Creditor has sent a letter to the Corporate Debtor on 24.12.2018 and also on 09.02.2019 demanding repayment of the Loan amount. However to the said letter, the Corporate Debtor vide its letter dated 15.02.2019, has expressly stated that they are not able to honour their commitment in repayment of the 'loan' amount and also expressed their inability to pay the amount on account of certain liquidity crunch, which goes on to show that the Corporate Debtor has committed a 'default' in repayment of such 'financial debt'. Further, it is also seen from the typed set filed along with the Application that a Promissory Note was executed by the Corporate Debtor in favour of the Financial Creditor which goes on



to show that there exists a 'financial debt'. Under the circumstances, this Tribunal is left with no other option than to initiate CIRP against the Corporate Debtor.

8. Further in relation to the pecuniary jurisdiction which was enhanced from Rs.1 lakh to Rs. 1 crore on and from 24.03.2020, it is seen the present Application was filed before this Tribunal on 13.03.2020 and as such this Tribunal has got pecuniary jurisdiction to entertain the present Application.

9. The Financial Creditor has proposed the name of **MR. TR. RAVICHANDRAN**, with Reg. No. *IBBI/IPA-002/IP-N00241/2017-18/10692* (email id:- *admin@trrandassociates.com*) as the Interim Resolution Professional (IRP) who has also filed his written consent in Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016. The proposed IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the



initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

10. As a consequence of the Application being admitted in terms of Section 7 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent 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 respondent.



*Explanation.*-For the purposes of this sub-section, it is hereby clarified 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 or a similar grant or right during moratorium period;

11. However during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

(2) 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.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such



supply during the moratorium period or in such circumstances as may be specified.

- (3) The provisions of sub-section (1) shall not apply to
- (a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
  - (b) a surety in a contract of guarantee to a corporate debtor.

12. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.





13. Based on the above terms, the Petition stands **admitted** in terms of Section 7 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Financial Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned

-sd-  
(ANIL KUMAR B)  
MEMBER (TECHNICAL)

-sd-  
(R. SUCHARITHA)  
MEMBER (JUDICIAL)

*Raymond*