

*Through Videoconference*

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT - II**

**CP (IB) 4289/MB/2018**

Under section 7 of the Insolvency and  
Bankruptcy Code, 2016 read with Rule  
4 of the Insolvency and Bankruptcy

(Application to Adjudicating  
Authority) Rules, 2016

*In the matter of*

**Edelweiss Asset Reconstruction  
Company Limited  
Registered office :- Edelweiss House,  
off CST Road, Kalina, Mumbai –  
400098.**

.....Petitioner

**Versus**

**M/s Siddharth World Trade Private  
Limited & Ors.**

**[CIN :- U15202GA2008PTC005652]**

.....Respondent

**Order Delivered on : 13.05.2021**

**Coram:**

**Mr. H.P. CHATURVEDI : HON'BLE MEMBER (J)**

**Mr. RAVIKUMAR DURAISAMY : HON'BLE MEMBER (T)**

***Appearances:***

For the Petitioner: Mr. Prakash Shinde, a/w Mr. Rohan  
Agrawal, Advocates, i/b MDP & Partners

For the Respondent: None Present

***Per: H.P. Chaturvedi , Member (Judicial)***

**ORDER**

1. This is a Company Petition filed on 06.11.2018, under section 7 of the Insolvency and Bankruptcy Code, 2016 (**IBC**) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against M/s Siddharth World Trade Private Limited, ("the Respondent") alleging default in payment of a Financial Debt.
2. The Respondent is a Private Company and incorporated on 08.03.2008 under the Companies Act, 1956.
3. The Authorized Share Capital of the Respondent/Corporate Debtor Company is Rs. 100,00,000/-, Paid Up Share Capital is Rs. 100,00,000/-.
4. The facts in brief of the Petitioner are as follows: -

- (a) The total amount outstanding to initiate the Corporate Insolvency Resolution Process (CIRP) against the Respondent is Rs. 92,01,03,572 Crores (Rupees Ninety Two Crores One Lakh Three Thousand Five Hundred and Seventy Two Only) as on 31.10.2018. The date of default is 30.03.2012 and the Account was classified as NPA on 30.06.2012.
- (b) The Bank of India being the Assignor of debt to the Petitioner herein vide Sanction Letter dated 03.11.2009 granted the following Credit Facilities to the Corporate Debtor :-

<b>Sr. No.</b>	<b>Types of Facilities</b>	<b>Amount (Rs.)</b>
1.	Term Loan	26,00,00,000/-
2.	Cash Credit	10,00,00,000/-
	<b>Total</b>	<b>36,00,00,000/-</b>

- (c) The Corporate Debtor entered into a Hypothecation Loan Agreement with Bank of India on 30.03.2011.

- (d) The Corporate Debtor entered into a Term Loan Consortium Agreement with the Bank of India and Canara Bank.
- (e) The Corporate Debtor entered into a Loan Agreement for Cash Credit Facilities with Bank of India on 30.03.2011.
- (f) In addition to the aforesaid, certain additional securities were also created by the Corporate Debtor to the Bank of India and Canara Bank.
- (g) On 22.12.2009, a Mortgage by deposit of title deeds over an Industrial Plot and Building situated in Kolhapur was executed.
- (h) A Joint Deed of Hypothecation of Plant and Machinery, Furniture and Fixtures and other Fixed Assets on 12.12.2009 was executed by the Corporate Debtor in favour of Bank of India.
- (i) A Hypothecation-cum-Loan Agreement dated 30.03.2011 hypothecating all tangible movable machineries, plant assets and stocks was executed by the Corporate Debtor in favour of Bank of India.
- (j) A Inter-se Agreement hypothecating Plant and Machinery, Furniture and Fixture and other fixed Assets dated 12.12.2009 was executed between Bank of Baroda and Canara Bank.

- (k) The Credit Facilities were also secured by the Personal Guarantees by Mr. D.G. Salunkhe and one Mr. Uday Bhosale dated 30.03.2011 guaranteeing the repayment of the additional loan of Rs. 10,00,00,000/- Crores for meeting working capital requirements. The estimated value of the aforementioned securities is approximately Rs. 20.19. Crores.
- (l) A Demand Promissory Note executed in favour of the Lenders dated 30.03.2011 was issued by the Respondent.
- (m) The Corporate Debtor has acknowledged its Debt on the Acknowledgement Letters dated 15.06.2012 which is signed by Mr. D.G. Salunkhe and one Mr. Uday Bhosale.
- (n) Bank of India issued a notice under section 13 (2) of the Securitisation Act, 2002 to the Corporate Debtor.
- (o) The Petitioner has also produced the CIBIL Report.
- (p) The Petitioner through its Advocate issued recall notices to the Corporate Debtor dated 04.03.2014 for claiming the Loan amount of the Respondent however, nothing fructified.
- (q) The above debt got assigned to the Financial Creditor vide Assignment Agreement dated 26.03.2014.
- (r) The Respondent vide its letter dated 27.05.2015 sent a proposal for settlement of dues with the Petitioner. In

response to the Settlement proposal, the Petitioner vide their letter dated 09.08.2018 cancelled the Settlement Scheme.

- (s) The Corporate Debtor had made part payment in terms of Cash Credit Loan Account on 18.03.2017 amounting to Rs. 2,56,921/-. The Corporate Debtor also made a part payment in terms of Term Loan Account on 18.03.2017 amounting to Rs. 7,43,079/-.

**NO SUBMISSIONS/REPLY BY THE CORPORATE DEBTOR**

5. The present petition is filed under Section 7 of I & B Code filed in the year 2018. Although the matter was called for hearing on several occasions. None appeared for the Respondent/Corporate Debtor nor any Reply has been filed despite Petitioner made several attempts of services as well as substitute service by way of paper publication. This clearly indicates that the Corporate Debtor has nothing to say in matter. In view of such factual position, the matter was heard exparte on its merits.

**FINDINGS**

6. We duly considered the submissions made by the Learned Counsel for the Petitioner and have gone through the pleadings and documents available on record. It is evident that the Respondent availed Loan amount Rs. 92,01,03,572/-. The Bank of India being the Assignor of debt to the Petitioner granted Credit facilities of

Rs.36,00,00,000/- to the Respondent vide an assignment agreement dated 26.03.2014. The date of default occurred on 30.03.2012 and the account was classified as NPA on 30.06.2012.

7. The applicant has clearly demonstrated by placing a copy of the Assignment Agreement dated 26.03.2014 that there was an Agreement between the Petitioner and the Respondent for a total sum of Rs. 36,00,00,000/-.
8. A perusal of the submission filed before this Bench clearly brings out that the loan was disbursed in two tranches of Rs. 26,00,00,000/- as Term Loan and Rs. 10,00,00,000/- as Cash Credit facilities. Therefore, it is confirmed that the total amount of Rs. 36,00,00,000/- was disbursed to the Respondent.
9. The Petitioner submits that the amount disbursed to the Respondent is corroborated in the Bank of India, Ichalkaranji Branch by the Petitioner in accordance with the Bankers Books Evidence Act, 1891.
10. Consequent to the default occurring a loan recall notice dated 04.03.2014 was sent by the Petitioner to the Respondent. A letter to this effect has been placed on record by the Applicant in his Petition.

11. Ongoing through the submissions made by the Learned Counsel for the Petitioner, the Respondent has acknowledged the disbursement of loan and its liability to repay vide letter dated 15.06.2012. The Petitioner has also placed on record acceptance of the Settlement letter by the Respondent whereby they have accepted their liability to pay to the Petitioner.
12. Although the NPA was declared in respect of Corporate Debtor in 2012, but the Corporate Debtor kept on acknowledging its Debt in its correspondence letters with the Bank and also **the Respondent had made part payment of Rs. 10,00,000/- (Rupees Ten Lakh only) towards loan liability in the year 2017** while the present IB petition is filed in 2018. Hence it is found to be filed well within limitation.
13. Since the Respondent did not file its Reply/objection to the present IB petition, it goes uncontested. Hence the Debts which are more than **Rs. One Lakh** stands admitted and the default in making repayment of loan goes undisputed. Therefore the present IB petition is found to be filed in conformity with the provisions of the Code and rules, regulations made thereunder. Hence is found complete and CIRP can be triggered in respect of present Respondent. For the aforesaid reasons, **the present IB petition deserves for Admission.**



14. Further the Petitioner has proposed the name of **Mr. Sameer Kakar**, Registration No. IBBI/IPA-001/IP-P00218/2017-18/10418, as the Interim Resolution Professional of the Respondent. He has filed his written communication by accepting the proposed Assignment in prescribed format/s as per provision made under the IBC and rules, regulations made thereunder and also declare that there is no pending disciplinary proceedings against him before IBBI. The same is accepted and taken on record.
  
15. On perusal of the documents annexed with the IB petition it is found that the Respondent/Corporate Debtor has committed default in repayment of debt. The disbursement of loan amount is substantiated by the Statement of accounts of the Petitioner. The Liability of the Respondent Corporate Debtor is also reflected in ledger account of the Respondent in the books of the Petitioner. Therefore it is a fit case where the CIRP can be triggered in respect of the present Corporate Debtor.
  
16. Therefore the Present IB petition bearing **CP(IB)-4289/MB/2018** filed by **Edelweiss Asset Reconstruction Company Limited**, is Admitted and Corporate Insolvency Resolution Process (CIRP) is Ordered to be commenced forthwith in respect of **M/s Siddharth World Trade Private Limited [CIN: U15202GA2008PTC005652]** in respect of the

Corporate Debtor there shall be a moratorium under section 14 of the IBC, with following Directions :-

- (i) 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;
  - (ii) Transferring, encumbering, alienating or disposing of by the Respondent any of its assets or any legal right or beneficial interest therein;
  - (iii) Any action to foreclose, recover or enforce any security interest created by the Respondent in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Sarfaesi) Act, 2002;
  - (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Respondent.
- (b) Notwithstanding the above, during the period of moratorium:-
- (i) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;

- (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 of the IBC or passes an order for Liquidation of Respondent under section 33 of the IBC, as the case may be.
- (d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (e) This Adjudicating Authority hereby appoints **Mr. Sameer Kakar**, Registration No. IBBI/IPA-001/IP-P00218/2017-18/10418, Mobile no. :- 9870150251, email :- sameerkakar@gmail.com as Interim Resolution Professional (IRP) of the Respondent to carry out the functions as per the IBC. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions issued/as may be issued by the Insolvency and

Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC and shall submit periodical report regarding the progress of CIRP as stipulated in the Code, Rules, Regulations etc.

- (f) During the CIRP Period, the management of the Respondent shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Respondent shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (g) The Petitioner shall deposit a sum of Rs..3,00,000/- (Rupees three lakhs only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (h) The Registry is directed to communicate this Order to the Petitioner, the Respondent and the IRP by Speed Post and email immediately.

- (i) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Respondent.

**Sd/-**

**RAVIKUMAR DURAISAMY**  
**Member (Technical)**

**Sd/-**

**H.P. CHATURVEDI**  
**Member (Judicial)**