

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

CP (IB) No.51/CTB/2020

In the matter of:

An application under section 7 of Insolvency and Bankruptcy Code 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016.

And

In the matter of:

Encore Asset Reconstruction Company Private Limited, having registered office at 15th Floor, Eros Corporate Tower, Nehru Place, New Delhi DL 110019;

...Financial Creditor

Versus

Nayagarh Sugar Complex Limited, (CIN:UI5421OR2004PLC007710) a company incorporated under the provisions of Companies Act 1956, and a company within the meaning of the Companies Act,2013 having its Registered Office at Plot No.191, 4th Floor Kharvel Nagar, Unit – III, Bhubaneswar – 751001;

...Corporate Debtor

Coram:

Mr. Mohan Raj
Mr. Satya Ranjan Prasad

Member (Judicial)
Member (Technical)

Appearance through video conferencing.

For the Applicant

Mr. Pratik Ghose

Mr. Avishek Roy Chowdhury, Adv.

Order reserved on: 14.12.2021
Order Pronounced on: 22.12.2021

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ORDER

Per: P. Mohan Raj, Member (Judicial)

1. This application under section 7 of Insolvency and Bankruptcy Code 2016 with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, has been filed by the Encore Asset Reconstruction Company Private Limited through its Deputy General Manager and Authorised authority nominated by board of resolution dated 13.04.2017, thereby seeking initiation of Corporate Insolvency Resolution Process (CIRP) in respect of Nayagarh Sugar Complex Limited, (CIN:UI5421OR2004PLC007710) a company incorporated under the provisions of Companies Act 1956, and a company within the meaning of the Companies Act, 2013 having its Registered Office at Plot No.191, 4th Floor Kharvel Nagar, Unit – III, Bhubaneswar – 751001. (Herein and after referred as the corporate debtor).

2. It is submitted in the petition that the corporate debtor has been banking with the Assignor of Financial Creditor M/s Indian Bank. The Indian Bank had sanctioned various term loans to the corporate debtor being MTL-I, MTL-II, FITL-I, and FITL – II to the tune of Rs. 300 lakhs, Rs.248 lakhs, Rs.8,06,875 and Rs.20,04,815 respectively, subsequently the said account was transferred to financial creditor herein Encore Asset Reconstruction Company Private Ltd vide assignment deed dated 21.12.2017 bearing no.2303/2018. The corporate debtor committed default and notice dated 08/08/2015 was issued by Indian Bank stating that the account has been classified as NPA as on 30/06/2015 for an aggregate amount of Rs.1,36,84,346/- along with further interest till the date of realisation of dues. The Financial creditor issued notice dated 14.05.2019 by speed post with

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acknowledgement card to the address available in the registrar of Companies website but the post returned unserved with an endorsement addressee left. The corporate debtor intentionally not communicated its changed address to the financial creditor or to the Registrar of Companies. The corporate debtor acknowledges the debt due and payable in its balance sheet filed with the registrar of companies for the financial year ending with 31st March 2017-2018. The corporate debtor is liable to pay due of Rs.2,87,35,447/-.

3. In this petition notice sent to the corporate debtor was served, initially Mr. Rout Advocate entered appearance for the respondent/corporate debtor, subsequently he withdrew his appearance. Then notice was sent directly to the corporate debtor notice served but corporate debtor not appeared hence he was set *ex parte* on 20.09.2021.

4. Heard the counsel for petitioner/Financial Creditor and perused the documents placed on record. We are convinced that the loan amount was duly disbursed to the corporate debtor. The due amount also acknowledged by the corporate debtor in its balance sheet for financial year 2017-2018. The requisite of an application under section 7 of IBC are available on record and duly proved.

5. The financial creditor has taken consent from Mr. Devendra Umrao, registration No. IBBI/IPA-003/IP-N00233/2019-2020/12640 having contact address- Flat No.603, 6th Floor, Tower-D1, Cleo Country, Sector – 121, Noida, Uttar Pradesh, Pin.201301. Cell No.9810045874 an insolvency Professional to become interim Resolution Professional (IRP) of the Corporate Debtor in FormNo.2 and that no disciplinary proceedings are pending against him.

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6. We therefore consider it a fit case for admitting the petition, and for initiation of Corporate Insolvency Resolution Process in respect of the corporate debtor.

7. In view of the aforesaid observations, we hereby admit the petition and pass the following Orders.

(a) The petition bearing CP (IB) No.51/CTB/2020 Encore Asset Reconstruction Company Private Limited, the financial creditor, under section 7 of Insolvency and Bankruptcy Code 2016 read with rule 4 (1) of Insolvency and Bankruptcy (Petition to Adjudicating Authority) Rules 2016 for initiating CIRP against Nayagarh Sugar Complex Limited, (CIN:UI5421OR2004 PLC007710), the corporate debtor is admitted.

(b) There will be a moratorium under section 14 of the Code.

(c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of IBC or passes an order for liquidation of Corporate Debtor under section 33 of the Code, as the case may be.

(d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the code read with regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations 2016.

(e) Mr. Devendra Umrao, registration No. IBBI/IPA-003/IP-N00233/2019-2020/12640 having contact address- Flat No.603, 6th Floor, Tower-D1, Cleo Country, Sector – 121, Noida, Uttar Pradesh, Pin.201301. Cell No.9810045874 (email id: dev.umrao@gmail.com) is hereby appointed as an

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(j) Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Odisha, Cuttack by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Tribunal within seven days from the date of receipt a copy of this order.

15. CP (IB) No.51/CTB/2020 to come up on 25.01.2021 for progress report.

16. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.



Satya Ranjan Prasad
Member (Technical)



P. Mohan Raj
Member (Judicial)

Signed on this 22nd day of December, 2021.

Kaushal