

IN THE NATIONAL COMPANY LAW TRIBUNAL

COURT NO. V, MUMBAI BENCH

CP No. 1352/(IB)-MB-V/2020

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

Union Bank of India

Having Head Office at:

239, Union Bank Bhavan, Vidhan Bhavan Marg, Nariman Point, Mumbai.

Branch Office at:

Asset Recovery Management Branch, Mumbai (South), Union Bank of India Building. 5th Floor, 66/80, Mumbai Samachar Marg, Mumbai-400023.

.... Petitioner

Vs.

Dolphin marine Foods and Processors
(India) Private Limited

Plot No. M-13 Midc Taloja, Taluka,
Panvel, Distt: Raigad Taloja Mh
410208, IN

...Corporate Debtor/Respondent

Order Pronounced On: 03.08.2021

Coram:

Hon'ble Suchitra Kanuparthi, Member (Judicial)

Hon'ble Chandra Bhan Singh, Member (Technical)

Appearances (Via Video Conference):

For the Petitioner : Adv. Amey Hadwale, Adv. Geeta
Lundwani, Adv. Vidhi Sharda

For the Respondent : Adv. S. V. Sonawane

Per: Suchitra Kanuparthi, Member (Judicial)

ORDER

1. The Petitioners/Applicant viz. 'Union Bank of India' (hereinafter as Petitioner) seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against 'Dolphin Marine Foods and Processors (India) Private Limited' (hereinafter as 'Corporate Debtor') alleging that the Corporate Debtor committed default in making payment to the extent of Rs. 12,38,92,192/-, by invoking the provisions of Section 7 of the Insolvency & Bankruptcy Code (hereinafter called "Code") read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

FACTS OF THE CASE:

2. The Petitioner is a bank is incorporated under the provision of The Banking companies (Acquisition and Transfer of Undertakings) Act, 1980, and the Corporate Debtor is a company incorporated under the provisions of Companies Act, 1956.

3. The Corporate Debtor approached the Petitioner for availing the various financial facilities. The Petitioner bank sanctioned various financial facilities on 14.07.2017, the details of the facilities as follows:

(In Lacs)

Nature of Limit	Amount	
	Existing	Proposed
Cash Credit	200.00	Nil
FDBP/ FUDBP (DP/DA 45 days)	Nil	600.00
w/w Packing Credit	Nil	(400.00)
Term Loan for setting up cold storage & Marine Processing Unit	Nil	890.00
Total		1490.00

4. During the period and thereafter, the sanction limits of the aforesaid financial facilities were revised from time to time. As on the date of the accounts of the Corporate Debtor were declared NPA, the revised sanction limits of the aforesaid facilities stood to be as follows:

Nature of Limit	Amount	
	Existing	Proposed
FDBP/FUDBP (DP/DA) 45 days	9.00	9.00
w/w Packing Credit	(9.00)	(9.00)
Cash Credit	2.00	2.00
Sub – Total (B)	11.00	11.00

(c) Term Loan		
Term Loan	2.30	0.00
Sub Total (c)	2.30	0.00
Grand Total (A+B+C)	13.30	11.00

(In crores)

Nature of Limit	Amount	Sanction letter
Adhoc Export Packing Credit	2.00	14.07.2017

5. In relation to the aforesaid debt the Corporate Debtor has also executed following security documents in favour of the Financial Creditor:

- i. Letter of Guarantee dated 29th August, 2008, Letter of guarantee dated 31st March 2017 and Letter of guarantee dated 14th July 2017 by Mr. D'souza; Mrs. Rosario D'souza
- ii. Hypothecation agreement of Goods and debts dated 29th August 2008 & Supplemental agreement to Hypothecation agreement dated 13th September 2013, letter of hypothecation bills 13th September 2013 and letter of hypothecation bills 31st March 2017 and composite hypothecated deed dated 31st March 2017
- iii. Demand Promissory Notes.
- iv. Mortgage deeds for Flat No. 301, 3rd Floor, Sea Breeze Chs Ltd, Tower No.6, Plot No.16, Sector 16, Nerul (West), Navi Mumbai 400706 and Factory Land and Building at leased Plot M – 13, Taloja Ind. Area MIDC, Panvel.

6. The Corporate Debtor had been making withdrawals and utilizing its credit limits since the year 2008. Thereafter the account of the Corporate debtor turned irregular and was unable to pay its debt on timely basis. Consequently, in terms of the guidelines of Reserve Bank of India the account of the Corporate Debtor was classified Non-Performing Asset Account on 30.04.2018 and a notice under Section 13(2) of SARFAESI Act was issued upon the Corporate Debtor on 19.07.2018 recalling the entire amount of debt which was due and payable.

In Crores

Nature of Limit	Cash Credit	Packing Credit	Total
Outstanding Amount (Running Ledger)	2.00	6.77	8.77
Interest from 01.05.2018 to 30.09.2020	0.81	2.81	3.61
Total Dues	2.81	9.58	12.38

7. With regard to the sanctioned facility, packing credit agreement were executed and revised from time to time. The Packing Credit Facility of aggregate amount of Rs. 9 crores dated 31st March 2017 was granted. The interest agreement dated 31st March 2017 and packing credit agreement to continue packing credit facility of aggregate of limit of Rs. 2 crores dated 14.07.2017 was executed. The Financial facility was maintained and availed by Corporate Debtor vide accounts AC No. 31790500000140 being the cash credit account, and AC No. 317907000000221 being packing credit account.

8. The Corporate Debtor vide its letter dated 31.03.2017 acknowledged the credit facility by way of letter of confirmation dated 31.03.2017.
9. The Corporate Debtor was unable to pay its debt on regular basis from the date of default as on 30.04.2018 and further Account was declared as NPA on 30.04.2018. The recall notice issued by Petitioner Bank dated 03.07.2019 clearly intimated that the fact that no new disbursement is made till the account is regularized and that Petitioner will pursue all the legal measure as the account become NPA since 2018. The recall notice is as follows:

“RECALL NOTICE

M/s. Dolphin Marine Foods & Processors (India) Pvt. Ltd.

Plot No. M-13, Talaja Industrial Area,

MIDC, Talaja District- Raigadh- 401208

Sub- Failure of Holding on Operations

Dear sir,

This has reference to our Holding on Operations Sanction Letter MSM: CRLD: 12:2019 dated 23.04.2019 on the above subject on certain Terms and Conditions. As the last date of Cut back is over on 30.06.2019. You are therefore requested to adjust all overdue interests/ bills and upgrade the account. No new disbursements will be made till the account is regularized/ upgraded. Bank will pursue all legal Measures to protect the interest of the Bank as you account is already NPA since 30.04.2018. Interest Payments for your PC account and CC account is overdue. Your Bills are also Overdue which payments are not yet received.”

10. The Petitioner had filed report of RCRA limited which certify the rating of the Corporate Debtor and the Corporate Debtor was directed to furnish a monthly non-default statement.
11. The Petitioner on 03.07.2019 called upon the Corporate Debtor to adjust all the overdue interests/bills and to upgrade the accounts as the last date of cut back dated 30.06.2019 was over and the account of the Corporate Debtor was already NPA since 30.04.2018.
12. The Petitioner issued notice dated 16.12.2019 to take possession of assets under Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 (SARFAESI Act) and took the symbolic possession of the assets of the Corporate Debtor on 06.01.2020.
13. Hence, due to nonpayment of debts the Petitioner file this Petition u/s 7 of the IBC as a Financial Creditor for initiating the Corporate insolvency Resolution process (CIRP).

REPLY BY THE CORPORATE DEBTOR:

14. The Corporate Debtor submits that the Corporate Debtor is a MSME company engaged in the fish processing, exporting to Europe and non-Europe Countries. The Govt of India has made policy to encourage the MSME companies and during the period of the pandemic, the Ministry of Finance, Reserve Bank of India had laid down the policies inter alia supporting the finance condition of the MSME. Under the Disaster Management Act 2005 the Govt of India has given moratorium to the MSME. This was a difficult

period for fisheries, fish processing units due to non-availability of the fish and scarcity of the raw material and imposing of restrictions on free movement of person. During the lockdown the fishing activities were restricted which further created scarcity of the fish. At the same time, the Respondent MSME Co had to support about 100 employees.

15. The Corporate Debtor submits that the Non-Performing Assets (NPA) of the MSME co effective 30.04.2018 is totally wrong and out of place. The MSME Co. has made the payments to the Bank subsequently after 30.04.2018 on number of occasions and also continued the process. Meeting was conducted between Executive Director, Senior Officials of the bank 29.01.2020 and MSME. During this meeting the Executive Director of the Bank indicated that the bank is willing to restructure the loan facility subject to MSME Co had submitted the Restructure of loan proposal to the Bank on 29.02.2020. The bank has also accepted the request from the MSME Co from time to time and approved extension for “Holding on Operations” thrice. In view of the same, calling the unit as NPA by the Bank is totally wrong, uncalled.

16. The values in table comprise existing facilities and proposed facilities together. The bank has included term loan for setting up a freezing and cold storage unit in the year 2010. The said term loan was fully repaid with interest. The proposed financial facilities cannot be included as availed financial facility and calling the MSME Co as “NPA” on the basis of such facts and figures and as such are against the law especially IBC.

17. The Corporate Debtor submits that the Computer-generated statement of accounts for account No. 317905040000140 [(Cash Credit)-CC] and a/c No. 317907220000221 [(Packing Credit)-PC] of the present application. The overall analysis of this statement indicates that the MSME Co. had regularly

made payments and the balance amount has never exceeded their sanctioned credit limit. It appears that while carrying forward the balance on 30.04.2018 the Bank had committed an error and enhanced the balance by the amount of Rs. 7,46,803/-. On 29.08.2018 to 11.09.2018 there appears NPA recovery totaling to Rs. 39,25,000/- and the transactions of withdrawal and deposits of amount continued thereafter. The Bank has charged penal interest as well as normal interest retrospectively for the period 31.05.2018 to 31.12.2018 without taking into consideration the amount paid towards recovery. The bank had not taken into consideration that the amount was paid from 30.08.2018 to 29.09.2019 thereby the balance was well within the sanctioned limit. hence, no penal interest could be charged on such balance amount. The bank had also penal and normal interest from 30.01.2019 despite deposits of the amount.

18. The bank had committed error in charging interest and rate of interest and its percentage to the principal amount is arbitrary. In the packing credit a/c no 31797220000221 the interest from 01.05.2018 to 30.09.2020 is not correct and includes a lot of charges under the garb of normal interest charges. After scrutinizing the statement of this account, it is clear that the bank had charges exorbitant interest in arbitrary manner with multiple entries. The entries of "normal interest" range from 8 to 13 entries per month there by increasing the balance amount exorbitantly. This does not reflect the current balance and needs the scrutiny of this Hon'ble Tribunal. The bank was duty bound to give the debit interest charges to MSME Co. the rate of interest charged is not a documented rate of interest as given in sanction letter which is MCLR + 1.40%. The MCLR in September 2020 was 6.75% and month wise it was fluctuating. It was hovering from 8.05% in April 2018 to 6.75% in September 2020. Thus, each month the interest calculation is done on imaginary basis under the garb of normal interest.

19. With respect to Packing Credit the bank had given adhoc credit vide sanctioned letter dated 14.07.2017 for the sum of Rupees 2 crore. While incorporating the entry dated 17.12.2017 the bank had indicated withdrawal of Rs. 2,15,92,000/- as withdrawal without submitting any detail/advice. The bank had indicated NPA recovery dated 30.08.2018 and therefore calling the MSME Co as NPA as on 30.04.2018 is incorrect and misleading. Subsequent to 30.04.2018 the MSME Co. has deposited by the MSME Co. it is pertinent to note that the MSME Co. has deposited sum of Rs. 4 crore and 49 lakhs. The overall scrutiny of the statement of account indicated that the bank has also charged heavy interest continuously during the lockdown period. Thus, the amount indicated by the Bank as default is incorrect.

20. The existing facilities of Rs. 13.30 Crore are incorrect. The second table mentions that Adhoc Export Packing Credit of Rs. 2.00 Crore is sanctioned vide sanction letter 14.07.2017 but the first table of Para 5 does not give any indication whether the said facilities have been sanctioned or not as on reference about the sanction letter is given. The fact of payment and clearance of Adhoc Export packing credit is Rs 2.00 Crore is not mentioned and on plain reading gives impression that this facility is still outstanding.

21. The bank has sanctioned in three stages "Holding on Operations"

- i) The first sanction was on or about 31.10.2018 with cut back at the 15% during this period from 31.10.2018 to 28.02.2019 disbursement was of Rs. 5,66,03,000/- and deposit was of Rs. 6,73,26,993/-. The said deposits were by way of remittances of exports earnings in foreign exchange. Thus, the bank had recovered an amount of Rs. 1,07,23,993/- by cut back process.

- ii) The second “Holding on Operations” was sanctioned on 23.04.2019 with 25% cut back. The period was up to 30.06.2019. As the profit margins were not 25%, still the cut back was imposed at 25%. The disbursement was of Rs. 5,46,95,000/- and deposits was of Rs. 7,63,14,648/-. The said deposits were remittances of exports earnings in foreign exchange. Thus, the bank had recovered an amount of Rs. 2,16,19,648/- by cut back process.
- iii) The third “Holding on Operations” was sanctioned on 20.07.2019 with 30% cut back. The period was up to 30.09.2019. As the profit margins were so high, still the cut back was increased and fixed at 30%. The disbursement was of Rs. 2,11,77,470/- and deposit was of Rs. 2,72,96,922/-. The said deposits were remittances of exports earnings in foreign exchange. Thus, the bank had recovered an amount of Rs. 61,19,452/- by cut back process.
- iv) In addition to these recoveries MSME Co has paid Rs.10,00,000/- by way of deposit in packing credit account No. 317907220000221 on 30.08.2018 and Rs. 10,00,000/- on 29.08.2018 and Rs. 10,00,000/- on 29.08.2018 and Rs. 19,25,000/- on 11.09.2018 and Rs. 15,00,000/- on 03.12.2018 in cash credit account. Thus, in a period of 11 months total amount of Rs 4.49 Crore was recovered by the bank from MSME Co. which was not a small achievement.
- Thus, “Holding on Operations” was effective. The MSME Co. sought for extension of “Holding of Operations” for next three months. However, same was not accepted by the bank for the best reasons known to them.

22. The bank Arbitrarily chose to initiate recovery proceedings under SARFAESI Act and took symbolic possession on 06.01.2020. The MSME Co cooperated with the bank and did not protest or oppose the arbitrary act of

the bank. The further grant of “Holding of Operations” would have been in the interest of the Bank as well as the MSME Co. who has export of fish products to European and other countries.

23. The Advocate for MSME Co has issued a letter to the Advocate for the Bank and sought for the inspection of original documents.

24. The bank has admitted that the account was regular up to 30.04.2018. It has conveniently concealed the fact that the request of MSME Co was not considered for term loan for emergency situation when the plant was closed down by Maharashtra Pollution Control Board (MPCB) and restart order was issued on condition of installing new effluent treatment plant (ETP). The MSME Co was forced to incur capital expenses from their working capital funds. This has affected the rhythm of operations and liquidity of MSME Co and there was delay in payment of interest and profitable running plant of MSME Co was forcefully passed through the journey of sickness. However, even this was rectified when the “Holding on Operations” were granted on 31.10.2018 to 30.09.2019, in period of 11 months an amount of Rs. 4.49 crore is recovered by the bank.

25. The MSME Co is first generation entrepreneur and has set up this plant with lot of sacrifices and hard work, bringing the unit under IBC fold, it is harming one live and performance unit. MSME Co was asked to give restructuring proposal by highest authority of the bank and same is still under the kind consideration. The initiation of the proceedings under sec 7 of IB Code is thus premature.

26. The Corporate Debtor submits that that the personal guarantee of its directors to secure the finance facilities granted. The assets held by the MSME Co and the directors were hypothecated to the bank. The directors of the MSME Co had given the demand promissory note in good faith. There is collateral security given to the bank by way of equitable mortgage of residential flat as well as factory land and building. As on date the value of property mortgage is about Rs. 28 Crore which is much more than the credit facility availed by the MSME Co. under such circumstances the amount due if any secured substantially and no loss would be caused to the bank. On the other hand, if the export oriented fish processing business of the MSME co.

REJOINDER BY THE PETITIONER:

27. The Petitioner submits that the account was classified as NPA on 30.04.2018 and the same was in consonance with the guidelines prescribed by the Reserve Bank of India. It is more pertinent to mention that since 30.04.2018 the Corporate Debtor has not raised a single grievance regarding its NPA classification. It appears that the Corporate Debtor has only now belatedly seen the light of the day (after almost 3 years) and pretending to be aggrieved. In fact, the letter dated 29.02.2020 itself goes to suggest that the Corporate Debtor had accepted its NPA account status without any dispute and demure and made assurances to regularize the same.

28. The Petitioner is conscious of the fact that Corporate Debtor is an MSME entity. In view of the which, the Petitioner has been accommodating the Corporate Debtor since 30.04.2018, by allowing holding on operations on several occasions, the Petitioner has been trying to give Corporate Debtor a breathing spell to come back more efficiently. However, the Corporate

Debtor could not revive itself and regularize its accounts. This in fact is pertinently one of the reasons as to why resolution of the Corporate Debtor is imperative at this age. A timely revival of the Corporate Debtor is the only possible measure to safeguard interest of all the stakeholders concerned.

29. It is matter of record that all the Payments made by the Corporate Debtor are credited and duly reflected in the bank accounts statements of the Corporate Debtor. Further the Financial Creditors denies that it has committed an error and enhanced the outstanding balance by an amount of Rs. 7,46,803/-. In respect thereof, the Petitioner states that as seen from the bank statements of running account 317905040000140 as on 30.04.2018 the debt outstanding amounted to 2,04,12,701/- (last entry) i.e., difference of Rs. 7,46,803/-. The rationale behind such reduction is, since the Corporate Debtor is declared as NPA on 30.04.2018, as per the RBI guidelines the Petitioner is required to reverse the interest amount of last 90 days/ three months (Feb, March & April) 2018 prior to the date of NPA (i.e., 30.04.2018) from the running ledger. Accordingly, the same reversed interest amount is debited in dummy ledger account of the company. Hence in the dummy ledger account the amount is restored to Rs. 2,13,99,112/-.

30. The Petitioner has charged interest and/or penal interest as per the terms agreed between the parties from time to time. It states that managing daily transactions/ operation of bank accounts (i.e., Deposits, withdrawals, charging of interest/penal interest) involves complex calculations. Such calculations are performed electronically by hybrid centralized computer systems with minimum human intervention. Such systems are immune from errors and has highest level of accuracy. Having said that it is absurd on the part of the Corporate Debtor to make vague and baseless contentions by challenging the computerized calculations done by the Petitioner. Even

otherwise, it is noteworthy to mention that Petitioner has annexed Information Technology Certificate under Section 65(B) of Indian Evidence Act, 1872 which is per se sufficient to substantiate the authenticity, veracity and correctness of the bank statements and other electronic records relied by the Petitioner.

FINDINGS: -

31. The petitioner Bank had disbursed the amount of Rs 12.38 crores to the Corporate Debtor. The table showing the outstanding dues as payable by the Corporate Debtor is set out below:

In Crores

Nature of Limit	Cash Credit	Packing Credit	Total
Outstanding Amount (Running Ledger)	2.00	6.77	8.77
Interest from 01.05.2018 to 30.09.2020	0.81	2.81	3.61
Total Dues	2.81	9.58	12.38

32. This Bench notes that the Corporate Debtor on 31.03.2017 had confirmed/ acknowledged various loans and paid facilities availed by it. The Petitioner subsequent to the issue of SARFAESI as on 19.07.2018 called upon the

Corporate Debtor to pay the entire outstanding amount of Rs. 13,26,33,585.12/- thereafter the Petitioner issued Possession notice to take over assets on 16.12.2019, the symbolic possession was taken. The Petitioner post sanction of credit facility on 14.07.2017 had approved for extension of permission for holding of operations with 25% cut back as on 23.04.2019 but however, the Petitioner vide its letter dated 03.07.2019 have issued a recall notice in view of the failure of holding of operations and categorically clarified that the last date of cut back is over on 30.06.2019, the Corporate Debtor was called upon to adjust all over due interest/ bill an upgrade the account it was further clarified that no new disbursement was made and that the bank will pursue the legal measure. The recall notice is as follows:

“RECALL NOTICE

M/s. Dolphin Marine Foods & Processors (India) Pvt. Ltd.

Plot No. M-13, Talaja Industrial Area,

MIDC, Talaja District- Raigadh- 401208

Sub- Failure of Holding on Operations

Dear sir,

This has reference to our Holding on Operations Sanction Letter MSM: CRLD: 12:2019 dated 23.04.2019 on the above subject on certain Terms and Conditions. As the last date of Cut back is over on 30.06.2019. You are therefore requested to adjust all overdue interests/ bills and upgrade the account. No new disbursements will be made till the account is regularized/ upgraded. Bank will pursue all legal Measures to protect the interest of the Bank as you account is already NPA since 30.04.2018. Interest Payments for your PC account and CC account is overdue. Your Bills are also Overdue which payments are not yet received.”

33. The facts narrated in the aforesaid para thus demonstrate that holding of operations with cut back as approved by the Petitioner was recalled as on 30.06.2019. Hence, the Petitioner has rightfully exercised his right to initiate CIRP proceedings and that the account of the Corporate Debtor was classified as NPA as on 30.04.2018, approval of holding of operations dated 23.04.2019 and recall of the same on 03.07.2019 does not contradict the declaration of account as NPA on 30.04.2018. The subsequent sanctions do not affect the rights of Petitioner to recover the outstanding dues payable by the Corporate Debtor. This debt is well construed to be a financial debt under section 5 (8) of code and default of nonpayment of money amounts to default under section 3(12) and hence this Bench is of the considered view that there is a debt which is declared as NPA as 30.04.2018 cannot be disputed by the fact that subsequent approval of holding of operations were granted in the year 2019 and the same was recalled in the 03.07.2019. The execution of fresh sanction letter subsequent to the declaration of NPA does not amounts to restructuring of existing loan, there is no novation of contract and no express declaration that the original sanction shall be subsumed in the subsequent sanction of holding on operation, the rights of the Petitioner under the original sanction letter are not altered/ taken away and the Petitioner is entitled to initiate a proceeding u/s 7 of the code. The defaulted amounts and outstanding amount still remain unpaid by the Corporate Debtor. This Adjudicating Authority relies on the principles laid down by Hon'ble Supreme Court in Innoventive Industries case and is of the opinion that there is unequivocal evidence which demonstrates debt and acknowledgement of liability by the Corporate Debtor and events of default which establishes the fact of non-payment of outstanding dues. The contention of the Corporate Debtor that it is not a willful defaulter and that the Petitioner has applied unreasonable interest is untenable and the Petitioner Banker has the right to apply the interest as per Banking norms, in view of the admission of the

corporate debtor in the reply that the Petitioner had sanctioned Holding on Operations at three stages. Hence, the Petition is admitted.

34. Ongoing through the submissions made by the Learned Counsel for the both the sides and on perusing the documents produced on record, it is understood that the Corporate Debtor has defaulted in repayment of debt. The Corporate Debtor has acknowledged the disbursement of various financial facilities and its liability to repay the same. However, the Corporate Debtor failed to pay. Hence, owing to the inability of the Corporate Debtor to pay its dues, this is a fit case to be moved u/s 7 of the I&B Code.
35. The above facts clearly reveal that the Corporate Debtor is liable to pay the Petitioner and defaulted in making the payment to the Petitioner.
36. Considering the above facts, we come to conclusion that the nature of Debt is a “Financial Debt” as defined under section 5 (8) of the Code. It has also been established that there is a “Default” as defined under section 3 (12) of the Code on the part of the Debtor. The two essential qualifications, i.e., existence of ‘debt’ and ‘default’, for admission of a petition under section 7 of the I&B Code, have been met in this case. Besides, the Company Petition is well within the period of limitation.
37. As a consequence, keeping the aforesaid facts in mind, it is found that the Petitioner has not received the outstanding Debt from the Respondent and that the formalities as prescribed under the Code have been completed by the Petitioner, we are of the conscientious view that this Petition deserves ‘**Admission**’.
38. Further that, we have also perused the Form – 2 i.e., written consent of the proposed Interim Resolution Professional submitted along with this

application/petition by the Financial Creditor and there is nothing on record which proves that any disciplinary action is pending against the said proposed Interim Resolution Professional.

39. The Financial Creditor has proposed the name of Insolvency Professional. The IRP proposed by the Financial Creditor, Mr. Mahesh Chand Gupta, having registration No. IBBI/IPA-001/IP-P01489/2018-19/12304, having address FE-202, Salt Lake City, Sector -III, 1st Floor, Kolkata, West Bengal ,700106 is hereby appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process.

40. Having admitted the Petition/Application, the provisions of Moratorium as prescribed under Section 14 of the Code shall be operative henceforth with effect from the date of order, and shall be applicable by prohibiting institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the “Corporate Debtor” shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under Section 31 of the Code.

41. That as prescribed under Section 13 of the Code on declaration of Moratorium the next step of Public Announcement of the Initiation of Corporate Insolvency Resolution Process shall be carried out by the IRP immediately on appointment, as per the provisions of the Code.

42. That the Interim Resolution Professional shall perform the duties as assigned under Section 15 and Section 18 of the Code and inform the progress of the Resolution Process and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.

43. In view of the above, the Bench “**Allows**” the Company Petition No. **1352(IB)-MB-V/2020** u/s.7 initiating CIRP against the Corporate Debtor Dolphin Marine Foods and Processors (India) Private Limited. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of the Order.

44. Ordered Accordingly.

Sd/-
Chandra Bhan Singh
Member (Technical)

Sd/-
Suchitra Kanuparthi
Member (Judicial)