NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)

PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 18.08.2022 AT 10.30 AM

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB) No. 74/7/AMR/2022		7 of IBC	Prudent ARC Limited Vs. Yona Smelters Limited

Counsel for Petitioner(s):
Ries

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):
Ries

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

CP(IB) No. 74/7/AMR/2022 is admitted, vide separate orders.

Sd/-

JUSTICE TE[illegible] RAJANI
MEMBER JUDICIAL

NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI

*** *** ***

CP (IB) No.74/7/AMR/2022

In the matter of a Petition 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

AND

In the matter of M/s. YONA SMELTERS LIMITED

Between:

Prudent ARC Limited,
611, 6th Floor, D Mall,
Plot No.A-1, Netaji Subhash Palace,
Pitampura, West Delhi,
New Delhi – 110034.

... Financial Creditor

AND

Yona Smelters Limited,
49-36-20, B1, Nikhils Residency,
Visakhapatnam, AP-530016.

... Corporate Debtor

Date of Order: 18.08.2022

CORAM:

Justice Telaprolu Rajani, Member Judicial.

Appearance:

For Financial Creditor	:	Ms. Manoranjani, Advocate.
For Corporate Debtor	:	Mr.MVR Krishna Prasad, Advocate.

Sd/-

ORDER

1. This petition is filed by Prudent ARC Limited i.e., the Financial Creditor (in short FC) for initiation of Corporate Insolvency Resolution Process (CIRP) against Yona Smelters Limited i.e., the Corporate Debtor (in short CD) for the default committed in discharging the due of Rs.56,22,88,179/-. The Financial Creditor is an Asset Reconstruction Company registered as a Securitization and Asset Reconstruction Company pursuant to Section 3 of SARFAESI Act.

2. The facts stated in the Petition are as briefly as follows:

   i). Andhra Bank (presently merged into Union Bank of India) sanctioned cash credit and the term loan facilities to the Corporate Debtor through different sanction letters and composite agreements against securities like personal guarantees, corporate guarantees, hypothecation of current assets, plant & machinery and other assets.

   ii). In the due course, the Corporate Debtor committed default in repayment of interest and instalments of the loan and failed to repay the loans sanctioned by the Banker. As a result, the Banker classified the loan account of the Corporate Debtor as a Non-Performing Assets (NPA) on 31.01.2013. The last payment of Rs.8,00,000/- was paid by the Corporate Debtor on 30.09.2020.

Sd/-

iii). On 29.01.2021, the Banker filed an OA No.127/2021 before Debt Recovery Tribunal (DRT), Visakhapatnam against the Corporate Debtor and its Guarantors for recovery of debts and the matter is still pending before DRT, Visakhapatnam.

iv). The Corporate Debtor on 01.04.2021 acknowledged its joint and several liability to the extent of Rs.46,95,05,292.26/-. The Corporate Debtor intentionally delayed and defaulted in payment of outstanding dues and ignored the requests of Financial Creditor with the intention to evade the payments to the Financial Creditor.

v). Subsequently, the Banker has assigned the debt of the Corporate Debtor in favour of the Prudent ARC Limited, FC herein vide assignment agreement dated 10.03.2002 bearing registration No.5245/2022. As per this Assignment Agreement, the Assignor (CD) has totally assigned the title, interest, securities and dues payable by the Corporate Debtor in favour of the Assignee (FC). Hence, this Petition.

3. The Corporate Debtor filed counter, admitting that the Andhra Bank has financed term loans and cash credit loans to the Corporate Debtor between the years 2009 -2012 and stating that due to sudden increase in the raw material prices, severe power breakdowns and lack of funds to purchase raw materials and power

Sd/-

at additional costs they could not make regular payments to the Bank and in the year 2013, the Bank declared the Corporate Debtor loan account as NPA. In the year 2018, when they wanted to sell the Corporate Debtor to the potential buyers, some parties came forward to invest in the company but unfortunately due to Covid Pandemic, the buyers could not arrange for the funds and the directors of the CD are having talks with buyers for making payment to the FC. With the above submissions the CD seeks to dismiss the petition and sought 6 to 8 months' time to make payments to the Financial Creditor.

4. Heard both the counsel. The Counsel for the Corporate Debtor does not offer any tenable argument on the basis of which the application can be dismissed. The counter filed by him itself is nothing but an admission that there is a debt which is due to the Operational Creditor and that he has failed to discharge the same. Granting time for discharging the debt is not within the powers of this Tribunal. When once the debt is admitted and the default is made out there can be no other option for the Tribunal, except to order for Corporate Insolvency Resolution Process (CIRP).

5. Hence I am of the considered view that it is a fit case to admit and order initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The Financial Creditor has suggested one name i.e., Mr.Jagadees Kumar Morri (IBBI/IPA-001/IP-

Sd/-

P00398/2017-2018/10716) as Insolvency Resolution Professional (IRP).

ORDER

The Company Petition is admitted. The Corporate Insolvency Resolution Process of the Corporate Debtor shall commence from this date and shall be completed within 180 days hence.

i. **Mr.Jagadees Kumar Morri (IBBI/IPA-001/IP-P00398/2017-2018/10716)**, having office at 10-5-7, Srisai Surya Complex, Sevasadan School, Ramnagar, Visakhapatnam, Andhra Pradesh- 530002; e-mail: **cajagadeesh@gmail.com**; Mobile:**9666829111**, is appointed as the Interim Resolution Professional. No disciplinary proceeding is pending against him as per the IBBI website.

ii. He is directed to take charge of the Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made thereunder.

iii. Moratorium in respect of the Corporate Debtor is hereby declared in terms of Section 14 of the Code.

iv. The Directors, Promoters or any other person(s) associated with the management of Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under

Sd/-

section 19 of the Code for effectively discharging his functions under the Code.

v. The Registry shall communicate the order to the Financial Creditor and the Corporate Debtor forthwith.

vi. The Financial Creditor and the Registry shall send the copy of this order to IRP for necessary compliance.

s d/-

JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL

Swamy Naidu