IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (COURT- II)
KOLKATA

C.P (IB) No. 1676/KB/2018

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.

In the matter of:

IDBI Bank Limited

...Financial Creditor

Versus

Abhijeet Integrated Steel Limited (CIN: U72900WB2004PLC097712), a Company incorporated under the Companies Act, 1956 having its registered office at Plot No. 06 SI ARRA Degaul Avenue, Durgapur, Bardhaman-713212, West Bengal.

...Corporate Debtor

Date of last Hearing: 24 March 2023
Date of pronouncing the order : 31 March 2023

Coram:

Smt. Bidisha Banerjee	**:**	***Member (Judicial)***
Shri Balraj Joshi	**:**	***Member (Technical)***

Appearances (through hybrid mode)

<u>For the Financial Creditor</u>
Mr. Rishav Banerjee, Advocate
Mr. Sauvik Dere, Advocate

ORDER

Per Balraj Joshi, Member (Technical)

1. The Court convened *via* hybrid mode.

2. This is a Company Petition filed under section 7 of the Insolvency and Bankruptcy Code, 2016 ***('the Code')*** read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by IDBI Bank Limited ***('Financial Creditor')***, represented by Mr. Nihar Ranjan Samal, General Manager duly authorized *vide* Board Resolution dated 14 August 2017 for initiation of Corporate Insolvency Resolution Process ('***CIRP***') against Abhijeet Integrated Steel Limited ***('Corporate Debtor').***

3. The present Petition was filed on 11 December 2018 before this Adjudicating Authority on the ground that the Corporate Debtor has defaulted in payment of the principal amount including interest i.e., Rs.130,18,96,014/- (Rupees One Hundred and thirty Crore Eighteen Lakh Ninety Six Thousand and Fourteen only) as on 28.11.2018, to the Financial Creditor. The account of the Corporate Debtor was classified as NPA on 30 December 2014.

4. It is submitted in the Petition, Part – II that the Nominal Capital of the Corporate Debtor is Rs.33,25,00,000/- (Rupees Thirty Three Crore Twenty Five Lakh only) with Paid-up Capital as Rs.27,48,43,750/- (Rupees Twenty Seven Crore Forty Eight Lakh Forty Three Thousand Seven Hundred and Fifty only).

5. *Vide* order dated 29 June 2022, this Adjudicating Authority had rejected the Company Petition on the ground of contributory negligence on the part of the Financial Creditor.

6. The order of 29 June 2022 was appealed by the Financial Creditor before the Hon'ble NCLAT who was pleased to set aside the order dated 29 June 2022 by this Adjudicating Authority *vide* its detailed judgment dated 03 February 2023. The Hon'ble NCLAT in it's judgment at paragraph 32 directed this Adjudicating Authority to pass an order of admission and all consequential orders within a period of one month from the date of copy of the order is produced.

7. The operative portion of paragraphs 31 and 32 of the judgment of the Hon'ble NCLAT is reproduced hereunder:

> "***31. We, thus, are of the view that both the orders of Adjudicating Authority dated 28.06.2022 and 29.06.2022 are unsustainable and are set aside. The Appellant(s) have made out a case for admission of their Section 7 Application and Adjudicating Authority committed error in rejecting Section 7 Application.***
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> ***32. In result, we allow the Appeal(s), set aside the impugned order dated 28.06.2022 and 29.06.2022 and direct the Adjudicating Authority to pass an order of admission and other consequential orders within a period of 30 days from the date of copy of this order placed before the Adjudicating Authority."***

8. In view of the above direction of the Hon'ble NCLAT, **C.P (IB) No. 1676/KB/2018** is hereby admitted.

9. In the light of the above facts and circumstances, it is, hereby ordered as follows:-

a. The application bearing ***CP (IB) No. 1676/KB/2018*** filed IDBI Bank Limited, the Financial Creditor, under section 7 of the Code read with rule 4(1) of the Insolvency & Bankruptcy (Application to

Adjudicating Authority) Rules, 2016 for initiating CIRP against ***Abhijeet Integrated Steel Limited***, the Corporate Debtor, is ***admitted***.

b. There shall be a moratorium under section 14 of the IBC.

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 Corporate Debtor 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 Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

e. **Mr. Kamalesh Kumar Singhania,** registration number IBBI/IPA-002/IP-N00023/2016-2017/10050, email id. info@avipgroup.co.in is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & 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 Code.

f. During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow. There shall be no future opportunities in this regard.

g. The Interim Resolution Professional is expected to take full charge of the Corporate Debtor, its assets and its documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the concerned Police Authorities to render all assistance as may be required by the Interim Resolution Professional in this regard.

h. The IRP/RP shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.

i. The Financial Creditor shall deposit a sum of ***Rs 3,00,000/- (Rupees Three Lakh 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).

j. In terms of section 7(5)(a) of the Code, Court Officer of this Court is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order.

k. Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, 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 Court within seven days from the date of receipt of a copy of this order.

10. **CP (IB) No. 1676/KB/2018** to come up on **9th May 2023, f**or filing the periodical report.

11. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Balraj Joshi
Member (Technical)

Bidisha Banerjee
Member (Judicial)

The Order is signed on the 31st day of March 2023.

GGRB_LRA