

302

**In the National Company Law Tribunal  
Kolkata Bench  
Kolkata**

**CORAM: Shri Madan B. Gosavi, Member (Judicial)  
Shri Virendra Kumar Gupta, Member(Technical)**

**CP(IB)No.518/KB/2018**

**In the matter of:**

An application for initiation of Corporate Insolvency Resolution Process 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:**

Bank of India, having its registered Office at "Star House", G-Block, Plot NO. C-5, Bandra Kurla Complex, Bandra (East), Mumbai-400051.

.....Financial Creditor

**In the Matter of:**

Sri Balaji Forest Products Private Limited, a company having its registered office at 67/22 Strand Road, Kolkata-700006, West Bengal.

..... Corporate Debtor

**Counsels appeared:**

**For Financial Creditor**

1. Mr. Anuj Singh, Advocate
2. Ms. Urmila Chakraborty, Advocate
3. Mr. Abir Debrath, Advocate

For Corporate Debtor

1. Mr. Shaunak Mitra, Advocate
2. Mr. Shayantak Das, Advocate

Date of pronouncement of order: 18<sup>th</sup> October, 2019.

**ORDER**

Per Shri M.B. Gosavi, Member (J):

1. **Bank of India** (Financial Creditor) filed this application under Section 7 of Insolvency and Bankruptcy Code, 2016 against **M/s Sri Balaji Forest Product Pvt. Ltd.** (Corporate Debtor) to start Corporate Insolvency Resolution Process (in short "CIRP") of the Corporate Debtor as the Corporate Debtor committed default in paying financial debt of Rs. 118,52,14,908/- (Rupees One Hundred Eighteen Crore Fifty-Two Lakh Fourteen Thousand Nine Hundred and Eight Only).
2. The following facts are not in dispute.
  - 2.1. Initially in the year 2014, the Financial Creditor granted and disbursed in favour of the Corporate Debtor various term loan and CC facilities. Loan amount were increased from time to time by extending terms of repayment schedule. Lastly, on 30.03.2013, term loan of Rs. 255 Lakh and CC facilities extended to Rs. 3,200 Lakhs granted and disbursed in favour of the Corporate Debtor.
  - 2.2. It is stated that the Corporate Debtor committed default in paying the loan as agreed. On 18.12.2015, the corporate debtor admitted and acknowledged the debt but failed to repay the same. Since, the corporate debtor committed default in paying the loan, this

31

31

proceeding is filed to start Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor.

2.3. Financial Creditor suggested name of on Mr. Aditya Kumar Tibrewal, having registration no. IBBI/IPA-002/IP-P00743/2017-2018/11249 for appointment as the Interim Resolution Professional.

3. The Corporate Debtor is served with the notice of this application. One of the directors of the Corporate Debtor, Mr. Om Prakash Pandey appeared on behalf of the Corporate Debtor and filed affidavit-in-reply. It is seen from the perusal of the affidavit-in-reply, that the contention of the Corporate Debtor is that this proceeding is filed beyond period of limitation. The proceeding is also not maintainable because on 08.03.2018, the corporate debtor gave proposal of One Time Settlement to the Bank. They deposited sum of Rs. 50 Lakhs as upfront payment. That proposal is still under consideration of the Bank. In such situation this application is not maintainable.

4. We heard Ld. Counsel for the Financial Creditor as well as Ld. Counsel for the Corporate Debtor. We perused the record.

5. It is not in dispute that on 18.12.2015, the Corporate Debtor admitted and acknowledged the debt by issuing letter in favour of the Bank (page no. 549 of the paper book). This proceeding is filed on 04.04.2018. It is filed well within period of three years from the date of which right to sue the Corporate Debtor was accrued to the Bank.

6. The Corporate Debtor contends that it has submitted OTS proposal. It is pending for consideration of the Bank. Hence, this proceeding is not maintainable. We are not inclined to accept this defense. It appears to us that as the Bank did not approve the OTS proposal of the Corporate Debtor. This proceeding is filed to start CIRP of the Corporate Debtor. The fact that the Corporate Debtor submitted

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OTS proposal, itself it is evidence of existence of debt against them and the fact that they committed default in paying the same as per terms of agreement. For above reason, we admit the Corporate Debtor in CIRP by the following order.

7. The Financial Creditor suggested name of one Mr. Aditya Kumar Tibrewal, having registration no. IBBI/IPA-002/IP-P00743/2017-2018/11249 for appointment as the Interim Resolution Professional against whom no disciplinary proceeding is pending. This application is defect free. Hence, we admit the Corporate Debtor in CIRP by passing following orders.

### ORDER

- i) The application filed by the Financial Creditor under section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, **M/s Sri Balaji Forest Product Pvt. Ltd.** is hereby admitted.
- ii) I declare a moratorium and public announcement in accordance with Sections 13 and 15 of the IBC, 2016.
- iii) Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:




- a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
  - b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
  - c) Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
  - d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- v) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.
- vi) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii) Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

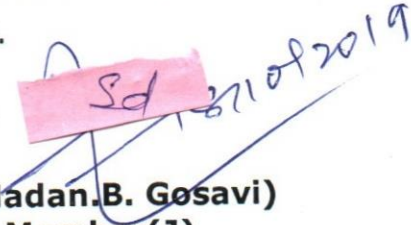


- ix) Necessary public announcement as per Section 15 of the IBC, 2016 may be made.
- x) Mr. Aditya Kumar Tibrewal, having registration no. IBBI/IPA-002/IP-P00743/2017-2018/11249, residing at 7C, Kiran Shankar Roy Road, Hasting Chambers, Basement, Kolkata, West Bengal-700001, **email-id. adityatibre@gmail.com** is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.
- xi) The Financial Creditor to pay sum of Rs. 50,000/- (Rupees Fifty Thousand Only) to IRP as advance fees as per Regulation 33(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 which shall be adjusted from final bill.
- xii) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- xiii) Registry is hereby directed under section 7(7) of the I.B. Code, 2016 to communicate the order to the Financial Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.

List the matter on **03.12.2019** for the filing of the progress report.

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

  
(Virendra Kumar Gupta)  
Member(T)

  
(Madan.B. Gosavi)  
Member(J)

Signed on this, the 18<sup>th</sup> day of October, 2019.