

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

ITEM No.1
I.A No. 571/2022
CP (IB) No. 112/BB/2019

IN THE MATTER OF:

State Bank of India ... Petitioner
Vs
M/s. Bharath Infra Import &
Exports Limited ... Respondent

Order under Section 7 of the I & B Code, 2016

Order delivered on 19.12.2022

CORAM:

TMT.T. KRISHNAVALLI
HON'BLE MEMBER (JUDICIAL)

SH. MANOJ KUMAR DUBEY
HON'BLE MEMBER (TECHNICAL)

PRESENT:


For the Petitioner : Shri K.V Omprakash
For Respondent : None

ORDER

C.P (IB) No. 112/BB/2019 & I.A. NO. 571/2022

1. The company petition C.P(IB) No. 112/BB/2019 was filed by the Financial Creditor under Section 7 of the I & B Code, 2016 r/w Rule 4 of the I & B (AAA) Rules, 2016 seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor M/s. Bharath Infra Exports and Imports Limited on the ground that it has committed default for a total outstanding amount of Rs. 146,93,93,281.78/-.
2. On 22.12.2020 this Adjudicating Authority disposed of the company petition with the following directions:
 - a. *The Financial Creditor shall reconcile entry by entry the accounts maintained by it with the bills raised/transaction undertaken in respect of all working capital facilities provided to the Corporate Debtor.*
 - b. *It shall be verified whether all the payments made by the Corporate Debtor were given credit and offers made by the Corporate Debtor for settlement were given effect to in the accounts as requested, provided the same were accepted in principle by the bank.*
 - c. *In carrying out the above, the disputes other than the above verifications shall not be considered, unless they have the effect of varying the debt, if any.*

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Examination of the debt shall be strictly as per the meaning assigned to the term 'debt' in the Code 2016.

- d. *The above scrutiny should be completed jointly with the Corporate Debtor in a time bound manner and as expeditiously as possible.*
- e. *Liberty is granted to the Financial Creditor to file a fresh petition after completing the above reconciliation and scrutiny, if so required.*
- f. *The disposal of the petition shall not take away from the Financial Creditor/Petitioner the right to pursue recovery of the debt in other forums, where its cases are in different stages of adjudication.*

3. Aggrieved by the order dated 22.12.2020, the Financial Creditor/Applicant preferred an appeal Company Appeal (AT) (Ins) No. 80 of 2021 (TA No. 38 of 2021) before the Hon'ble National Company Law Appellate Tribunal (NCLAT) at Chennai. The Hon'ble NCLAT after hearing the matter passed an order on 28.11.2022 as under:

"In fine, the Adjudicating Authority (National Company Law Tribunal, Bengaluru Bench) is directed to 'restore' the CP(IB)No. 112/BB/2019 (filed by the Appellant/Bank), to 'Admit' the same by initiating 'Corporate Insolvency Resolution Process' under I & B Code, 2016 and the Regulations made thereunder, against the 'Respondent/Corporate Debtor', and to proceed further, in the manner known to 'Law' and in accordance with 'law', within 10 days from the date of this judgement."

4. Hence, the Financial Creditor/Applicant filed an application I.A No. 571/2022 under Rule 11 of the NCLT Rules. 2016 interalia seeking to restore and admit the company petition and order to initiate CIRP against the Corporate Debtor and appoint Mr. Ravindra Beleyur as an Interim Resolution Professional (IRP).

5. Heard Shri K.V Omprakash, Learned Counsel for the Financial Creditor/Applicant. None appeared for the Respondent.

6. In view of the order passed by the Hon'ble NCLAT in the company appeal with directions to restore the petition and admit the same by initiating CIRP, **I.A.No.571/2022 is allowed**, the C.P is restored to its original file and the petition is **admitted** in terms of Section 7 of the IBC, 2016. Accordingly, moratorium is declared in terms of Section 14 of the Code. As necessary consequences of the moratorium in terms of Section 14, the following prohibitions are imposed, which must be followed by all and sundry:

- (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
- (b) any court of law, tribunal, arbitration panel or other authority;

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- (c) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - (d) 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;
 - (e) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Corporate Debtor;
 - (f) It is further directed that the supply of essential goods or services to the Corporate Debtor as may be specified, shall not be terminated or suspended or interrupted during the moratorium period;
 - (g) The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a Corporate Debtor;
 - (h) The order of moratorium shall have effect from the date of this order till completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under sub-section (1) of Section 31 or passed an order for liquidation of Corporate Debtor under Section 33 as the case may be;
3. The Financial Creditor has proposed new Interim Resolution Professional (IRP) Mr. Ravindra Beleyur, Registration No. IBBI/PA-001/IP-100189/2017-18/10368 as an IRP. Written Consent given by the IRP in Form No.2 dated 02.12.2022 has been filed along with the I.A No. 571/2022.
4. The Law Research Associate of this Adjudicating Authority has checked the credentials of the IRP; there is nothing adverse against him. In view of the above, we appoint **Mr. Ravindra Beleyur**, bearing Registration No. IBBI/PA-001/IP-100189/2017-2018/10368 registered address at C/o. Beleyur & Associates, Chartered Accountants, Shreevathsa, 428, 19th B Cross, 3rd Block, Jayangar, email: ravi@beleyur.com as the Interim Resolution Professional of the Corporate Debtor. The IRP is directed to take the steps as mandated under Sections 15, 17, 18, 20 and 21 of IBC, 2016.
5. The Financial Creditor shall deposits a sum of Rs.2,00,000/- (Rupees Two Lakhs 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.

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6. The Interim Resolution Professional shall after collation of all the claims received against Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Adjudicating Authority on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days for filing the report of Constitution of the Committee. The Interim Resolution Professional is further directed to send regular progress reports to this Adjudicating Authority every fortnight.
7. A copy of the order shall be communicated to both the parties. The learned Counsel for the Petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send a copy of this order to the Interim Resolution Professional at his e-mail address forthwith.

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MANOJ KUMAR DUBEY
MEMBER (TECHNICAL)

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T.KRISHNAVALLI
MEMBER (JUDICIAL)

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