

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)**

PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 23.12.2021 AT 10.30 AM

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB) No.32/7/AMR/2021		7 of IBC	State Bank of India Vs Ethnic Aros Ltd

Counsel for Petitioner(s):

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

Counsel for Respondent(s):

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

ORDER

CP(IB) No.32/7/AMR/2021 is admitted, vide separate orders.

7/12/21
**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

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CP (IB) No. 32/7/AMR/2021

**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. ETHNIC AGROS LIMITED**

Between

State Bank of India,
Registered Office at State Bank Bhavan,
14th Floor, Madam Cama Road, Nariman Point,
Mumbai, Maharashtra – 400021.

... Financial Creditor

AND

M/s. Ethnic Agros Limited,
D.No.6-23-6/A, Jaya Towers,
5th Lane, 4th Cross Road, Arundalpet,
Guntur, Andhra Pradesh -522 002.

... Corporate Debtor

Date of Order: 23.12.2021

CORAM:

Justice Telaprolu Rajani, Member Judicial.

Appearance:

For Operational Creditor : Mr.G.P.Yash Vardhan, Advocate.
For Corporate Debtor : Mr.R.S.Sravan Kumar, Advocate

ORDER

1. This Application is filed by **State Bank of India** (“hereinafter referred to as Financial Creditor”) seeking initiation of Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Ethnic Tobacco (India) Limited (“hereinafter referred to as Corporate Debtor”) alleging that the Corporate Debtor committed default in making payment of **Rs.96,17,15,861.76/-** to the Financial Creditor

7/1/2022

in view of the various loans and working capital facilities availed by the Corporate Debtor, by invoking 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.

2. The Financial Creditor is a "Commercial Bank" a well-Recognised Bank and has garnered reputation since its incorporation. The Corporate Debtor is a Private Limited Company registered and incorporated under the Provisions of Companies Act, engaged in the business of trading of agri-commodities of tobacco.
3. It is submitted that the Corporate Debtor approached the Financial Creditor for availing financial assistance, working capital loan facilities. Hence, as per the request of the Corporate Debtor the Financial Creditor sanctioned various credit facilities. The Corporate Debtor executed various Agreements with the Financial Creditor for availing financial assistance from the Financial Creditor. As per the request of Corporate Debtor the Financial Creditor has sanctioned the credit facilities from time to time on various occasions.
4. The Corporate Debtor and its Guarantors executed Memorandum of Entry regarding mortgage by deposit of title deed dated 29.03.2012 & 10.04.2012. The Corporate Debtor despite full co-operation and assistance given by the Financial Creditor, neglected repaying the dues. The Financial Creditor requested the Corporate Debtor several times to pay the loan outstanding. But the Corporate Debtor neglected and failed to make the payment to the Financial Creditor.

7/10/20

5. The Financial Creditor issued demand notice dated 30.03.2019 to the Corporate Debtor. But the Corporate Debtor did not issue any reply to the said demand notice and no payment was made towards the demanded debt thereafter.
6. The Corporate Debtor filed counter stating that the loan was sanctioned for working capital (cash credit) and the limit was Rs.12 Crores. The last sanction of working capital of Rs.67 Crores on 07.01.2018 by the Financial Creditor. The Corporate Debtor loan account became NPA on 27.02.2019. Due to the global commodities price crash the Corporate Debtor business has been affected badly.
7. The Financial Creditor instead of extending helping hand, has issued various legal notices to the Corporate Debtor. As a result, the Corporate Debtor could not recover from the lenders hostile attitude. The Corporate Debtor's precarious financial situation compounded further due to the hostile attitude of the Financial Creditor and led to severe cash flow mismatches, which hurt the Corporate Debtor's operations. The hopes of revival also have been severely and adversely impacted since March, 2020 due to Covid-19 outbreak. The interest coupled with penal interest mounted to the extent that the total exposure included mostly interest debited in the previous three to four years. Because of the attitude of the Financial Creditor the Corporate Debtor lost heavy amounts with its fortunes lingering in a suspended state. If the Financial Creditor revisits the sequence of events and loss to the Corporate Debtor due to inaction, it would be evident that the Corporate Debtor does not have to pay any amount towards loans availed by it in the past.

2/10/20

8. The Corporate Debtor Company has been particular that the Financial Creditor examines the genuine grievances and addresses its concerns comprehensively to arrive at an amicable solution to adequately compensate the Corporate Debtor in quick time for the irreparable damage caused to the business and losses incurred that are solely attributable to the acts of omission on the part of the Financial Creditor. Upon reconciliation, the Debt may not exist and therefore, the Petition is not maintainable.
9. Heard the counsel for the Financial Creditor and the Counsel for the Corporate Debtor. The Counsel appearing for the Corporate Debtor reported that though he contacted by his client, his client did not give any instructions to him and he sought the Tribunal to pass orders on merits. He did not make any submissions either opposing the submissions made by the Counsel for the Financial Creditor or in support of the contentions made in his counter.
10. 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.Kasi Srinivas (IBBI/IPA-003/IPA-ICAI-N-00237/2019-2020/12840) 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.Kasi Srinivas (IBBI/IPA-003/IPA-ICAI-N-00237/2019-2020/12840), having office at 1-2-37/4B, Flat No.4B, Jains Bhavani Residency, STNo.3, Kakatiya Nagar, Habsiguda,

7/11/20

Hyderabad, Telangana-500007; e-mail:
Srinivaskashyap111080@gmail.com; Mobile: 8008022887 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 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.

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JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL

Swamy Naidu