

**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.1284/KB/2019

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:

State Bank of India, having its registered office at Stressed Assets Resolution Group Corporate Centre, 21st Floor, Maker Tower "E", Cuffe Parade, Mumbai-400005, India.

.....Financial Creditor

In the Matter of:

Ess Dee Aluminium Limited, CIN No. L27203WB2004PLC170941, a company having its registered office at 35, Sagore Dutta Ghat Road, Kamarhat, Kolkata-700058, West Bengal, India.

..... Corporate Debtor





Counsels appeared:

For Financial Creditor

1. Mr. Uttiyo Mallick, Advocate
2. Mr. Dwaipayan Ghosh, Advocate

For the Corporate Debtor

1. Mr. Kuldip Mullick, Advocate
2. Mr. Soumen Mohanty, Advocate
3. Ms. Kera Nafir, Advocate

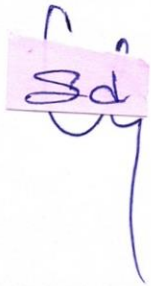
Date of pronouncement of order: 14th February, 2020.

Date of amendment of order : 19th February, 2020

ORDER (AMENDED)

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

1. **State Bank of India**, the Financial Creditor filed this application under Section 7 of Insolvency and Bankruptcy Code, 2016 against **M/s Ess Dee Aluminium Limited** (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. 4,69,84,98,431/- (Rupees Four Hundred Sixty-Nine Crore Eighty four Lakh Ninety Eight Lakh Four Thirty One Only).
2. The Bank stated that it has granted and disbursed the term loan and cash credit facility to the extent of Rs. 21.89 Crore. Firstly, in the year 2005, at the request of Ld. Counsel for the Corporate Debtor, the term loan and cash credit facility was increased time to time and repayment schedule was also extended lastly on 24.09.2015. The term loan and cash credit facility was increased and extended to the amount of Rs. 424.80 Crore. On 29.03.2016, the loan account of the Corporate






Debtor was declared to be NPA. However, on 31.03.2017, the Corporate Debtor admitted the debt but did not pay. Hence, notice under Section 13(2) of the SURFAESI Act, 2002 was served and that proceeding is filed before Hon'ble Debt Recovery Tribunal, Kolkata. This proceeding is filed to start Corporate Insolvency Resolution Process of the Corporate Debtor.

3. The Financial Creditor suggested name of on Ms. Deepika B Prasad having registration no. IBBI/IPA-003/IP-N000110/2017-18/11186 for appointment as the Interim Resolution Professional (in short "IRP").
4. The notice of this proceeding was duly served on the Corporate Debtor. The Corporate Debtor appeared in the matter but it did not choose to file affidavit in reply. It did not contest this proceeding at all.
5. We have gone through the material on record. We found that there is absolutely no dispute relating to relevant facts that the Financial debt of more than Rs. 400 Crores is due and payable by the Corporate Debtor to the Financial Creditor and the Corporate Debtor committed default in paying the same. There is nothing on record to show that the IRP sought to be appointed is facing any disciplinary proceeding. Hence, we admit the Corporate Debtor in CIRP and pass the 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 Ess Dee Aluminium Limited** is hereby admitted.





ii) We 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.

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- 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) Ms. Deepika B Prasad having registration no. IBBI/IPA-003/IP-N000110/2017-18/11186, email id. deepika.bhugra@aaainsolvency.com, contact no. 9717998112 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. 1,00,000/- (Rupees One Lakh 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.

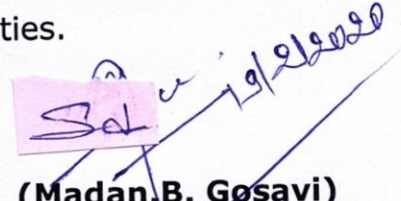
xiii) Registry is hereby directed under section 9(5) of the I.B. Code, 2016 to communicate the order to the Financial Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.

List the matter on **27.03.2020** 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.

 19/2/2020

(Virendra Kumar Gupta)
Member(T)

 19/2/2020

(Madan.B. Gosavi)
Member(J)

Signed on this, the 19th day of February, 2020.

Deeksha(steno)

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

**CORAM: Shri M.B. Gosavi,
Member (Judicial)
&
Shri Virendra Kumar Gupta,
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CP(IB)No.1284/KB/2019

**CORRIGENDUM TO ORDER DATED
14th February, 2020**

In the matter of:

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..... Corporate Debtor

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Per Shri M.B. Gosavi, Hon'ble Member(J)

1. Some typographical errors occurred in the Order of this Tribunal dated 14th February, 2020 passed in CP(IB)No.1284/KB/2019.

2. Accordingly, the following rectification are made:

(i) **The Name of the Corporate Debtor mentioned in the said order is ESS DEE Limited. It is hereby corrected and changed to Ess Dee Aluminium Limited at page no. 1, 2 and 3 of the said order.**

3. The above rectification of the Order of this Tribunal dated 14th February, 2020 has been made in terms of the power conferred upon the Tribunal under Rule 154 of the NCLT Rules, 2016.

4. Accordingly, the order dated 14th February, 2020 passed in CP(IB)No.1284/KB/2019 stands rectified as above and this order shall form integral part of the order of this Tribunal dated 14th February, 2020.

Urgent copy of this order be supplied to the party.

Sd
19/2/2020

(Virendra Kumar Gupta)
Member(Technical)

Sd
19/2/2020

(Madan B. Gosavi)
Member(Judicial)

Signed on this, the 19th day of February, 2020.

Deeksha(steno)

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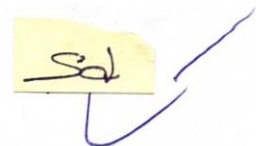
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(Virendra Kumar Gupta)
Member(T)

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(Madan.B. Gosavi)
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Signed on this, the 14th day of February, 2020.

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