

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
17-08-2023 AT 10:30 AM

CP (IB) No. 97/7/HDB/2023
u/s. 7 of IBC, 2016

IN THE MATTER OF:

ASREC (INDIA) LIMITED

...Financial Creditor

VS

Manidhari StainlessWire Private Limited

...Corporate Debtor

C O R A M:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

ORDER

Orders pronounced, recorded vide separate sheets. In the result, this Company Petition is admitted. Corporate Debtor is put under CIRP, Moratorium is imposed, as per the terms of the order. Shri Dinesh Gopal Mundada is appointed as Interim Resolution Professional.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1**

C.P. (IB) NO. 97/7/HDB/2023

*(Under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the
Insolvency and Bankruptcy (AAA) Rules, 2016)*

IN THE MATTER OF:

ASREC (INDIA) LIMITED

UNIT NO.201, 200A, 202 & 200B,
GROUND FLOOR, BUILD NO.2,
SOLITAIRE CORPORATE PARK,
ANDHERI (E), ANDHERI KURLA ROAD,
MAHARASHTRA- 400059.

...FINANCIAL CREDITOR

VERSUS

M/S. MANIDHARI STAINLESS WIRE PRIVATE LIMITED

PLOT NO.137 & 138, I.D.A., JEEDIMETLA,
HYDERABAD, TELANGANA- 500033.

...CORPORATE DEBTOR

Date of order: 17.08.2023

Coram:

Dr. N. Venkata Ramakrishna Badarinath, Hon'ble Member Judicial
Shri Charan Singh, Hon'ble Member Technical

Appearance:

For Petitioner: Shri Amir Bavani, Advocate

**PER: BENCH
ORDER**

1. This Company Petition is filed under Section 7 of Insolvency & Bankruptcy Code, 2016 r/w Rule 4 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 by **ASREC (India) Limited**, seeking

initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor/**M/s Manidhari Stainless Wire Private Limited** claiming that a sum of **Rs. 68,85,39,040.54** (Rupees Sixty Eight Crores Eighty Five Lakhs, Thirty Nine Thousand and Forty and paise fifty four only), which includes interest, is due and payable to the Petitioner. However, the Respondent defaulted in making payment of the same.

2. The averments germane to the petition are:-

2.1 That M/s. Manidhari Stainless Wire Pvt. Ltd., (hereinafter referred as ‘Corporate Debtor’) is engaged in the business of manufacturing various stainless steel items, such as S.S. Wire, S.S. Flat, S.S.Wire Rod, etc. The Corporate Debtor for its business has availed various credit facilities from State Bank of Hyderabad (‘SBH’), which have been enhanced/renewed from time to time vide sanction letters i.e., 30.08.2008, 09.11.2010 and 31.03.2011. Meanwhile, the Corporate Debtor while acknowledging the aggregate credit facilities of Rs.23,50,00,000/-, executed a revival letter on 22.09.2011. Thereafter, another, sanction letter dated 30.01.2012 was issued, thereby, ultimately the Corporate Debtor obtained various credit facilities from SBH to the tune of Rs.23,00,00,000/-.

- 2.2 It is averred that the Corporate Debtor has availed financial assistance time and again from SBH, but the Corporate Debtor failed to keep up with the repayment of the credit facilities and thereby the account of Corporate Debtor was classified as Non-Performing Asset ('NPA') on 28.02.2014.
- 2.3 It is stated that despite repeated request from SBH, when the Corporate Debtor failed and neglected to repay the dues/outstanding liabilities, a demand notice dated 26.03.2014 under Section 13(2) of Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI') followed by possession notice dated 07.06.2014 under Section 13(4) of SARFAESI Act were issued by SBH.
- 2.4 Subsequently, SBH filed Original Application bearing OA No.2212 of 2017 (old OA No.1472 of 2014) on 17.09.2014, under Section 19 of the Recovery of Dues and Bankruptcy Act, 1993 ('RDB Act') for recovery of Rs.23,23,17,393.39ps before the Hon'ble Debts Recovery Tribunal, at Hyderabad ('DRT'), (sum of Rs.20,98,41,955.97ps with future interest at 13.7% per annum simple under cash credit account and a sum of Rs.2,24,75,437.42ps with future interest at 15.2% per annum simple under the CC standby line of credit account, from the date of filing of OA till the date of realization).
- 2.5 While things stood thus, SBH assigned its debt of Corporate Debtor to M/s. ASREC (India) Limited (herein after referred as 'Financial Creditor') vide

assignment agreement dated 31.03.2015. As per the assignment agreement, the outstanding amount due from the Corporate Debtor stood as Rs.25.04 Crores as on 28.03.2015, wherein the principal amount was Rs.20.48 Crores and uncharged interest was Rs.4.55 Crores.

- 2.6 It is stated that the Corporate Debtor on 15.02.2016, has sent a letter to the Financial Creditor herein acknowledging that the possession of the factory premises is with the Financial Creditor herein.
- 2.7 It is further stated that, Hon'ble DRT vide order dated 30.05.2019 dismissed SA No.313 of 2017 (old SA No.491/2014) under Section 17 of the SARFAESI, Act, 2002 filed by the Corporate Debtor before the Hon'ble DRT, assailing the possession notice dated 07.06.2014.
- 2.8 It is averred that upon assignment of debt, the Financial Creditor herein was substituted as the Applicant in the OA proceedings vide order dated 02.08.2018, wherein eventually, an order was passed by the Hon'ble DRT on 23.01.2020 duly allowing the OA. Further, the Recovery Certificate was issued on 12.03.2020 by DRT and thereafter, the securitization proceedings were relegated to recovery proceedings bearing RC No.322 of 2020 wherein, the Recovery Officer issued demand notice dated 06.05.2022 upon the Corporate Debtor under Sections 25 to 28 of RDB Act calling upon the Corporate Debtor to pay Rs.40,62,17,309.39ps along with

pendente lite and future interest at 13.70% with effect from 13.03.2020 till realization.

- 2.9 Thus submitting, the Financial Creditor herein sought initiation of CIRP qua the Corporate Debtor, on account of failure on the part of the Corporate Debtor to repay the debt of the Financial Creditor.
3. The record reveals that notice sent to the Corporate Debtor was returned with an endorsement “the addressee left without any instructions”. Hence, this Tribunal, vide order dated 01.05.2023 directed the Ld. Counsel to cause notice by way of publication. Accordingly, the Ld. Counsel filed memo dated 23.05.2023 complying the said order of this Tribunal. Consequently, Corporate Debtor was set ex-parte and the case was fixed for ex-parte hearing against the Corporate Debtor on 14.07.2023.
4. We have heard Shri Amir Bavani, Ld. Counsel for the Financial Creditor and perused the record. The Assignment Agreement dated 31.03.2015 discloses that SBH, the native lender has assigned the debt covered by OA No. 2212 of 2017 in favour of the present Petitioner. The said OA has been allowed vide order dated 23.01.2020 by Ld. DRT Hyderabad and a Recovery Certificate dated 12.03.2020 also has been issued in favour of the Petitioner herein.
5. As per the ruling of Hon’ble Supreme Court of India in re: Dena Bank (Now Bank Of Baroda) vs C. Shivakumar Reddy, (2021) ibclaw.in 69 SC, a fresh period of limitation of three years would accrue in favour of the Decree Holder, Recovery Certificate Holder, from the date of

Decree/Recovery Certificate. Therefore, the present petition since filed on 10.03.2023 is within 3 years of prescribed period of limitation.

6. The Petitioner also filed the record of default issued by NESL wherein the default on the part of the Corporate Debtor has has been certified. We also found that the Petition is in order.
7. In the light of the discussion as above, we are satisfied that the Petitioner is able to establish existence of a Financial Debt of a sum of over Rs. 1 crore due and payable by the Corporate Debtor and its default.
8. Hence, under the circumstances, the Adjudicating Authority is inclined to admit the petition and put the Corporate Debtor into Corporate Insolvency Resolution Process.
9. Therefore, the Adjudicating Authority admits this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:

ORDER

- (1) The Bench hereby prohibits 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; Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or

lessor where such property is occupied by or in possession of the corporate Debtor;

- (2) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (3) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (4) That the order of moratorium shall have effect from date of this order till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.
- (5) That this Bench hereby appoints Shri Dinesh Gopal Mundada, having IBBI Registration No. IBBI/IPA-001/IP-P00286/2017-2018/10530 as Interim Resolution Professional, whose contact details are:

e-mail : mundada2007@gmail.com

Address: 403, Fortune House, Sr. No,6, H.No. 1/10, Baner-Electricity Pashan Link Bill Road, Pune, Maharashtra-411045

as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code. Proposed IRP to file Form-2 within 2 days of receipt of this order. Authorization for Assignment is valid to 21.12.2023. This information is also available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended.

Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.

- (6) That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the Code.
- (7) The Applicant/Financial Creditor is directed to deposit an amount Rs. 2,00,000/- with the IRP to meet the initial CIRP expenses including the fee of IRP.
- (8) The Financial Creditor is directed to communicate this order to the IRP appointed in this case.
- (9) The Registry of this Tribunal is directed to send a copy of his order to the Registrar of Companies, Hyderabad for marking appropriate remarks against the Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.

The Company Petition is accordingly admitted.

SD/-

(Charan Singh)
Member (Technical)

SD/-

(Dr. N. Venkata Ramakrishna Badarinath)
Member (Judicial)

Binnu