

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH - COURT-II  
KOLKATA**

**CP (IB) No. 16/KB/2023**

*A petition under section 10 of the Insolvency and Bankruptcy Code, 2016  
read with rule 7 of the Insolvency and Bankruptcy Board of India  
(Insolvency Resolution Process for Corporate Persons), Regulations 2016.*

In the matter of:

**Laxmi Cores Manufacturing Private Limited**

(CIN: U27310WB1982PTC035606)

Having its registered office at:-

56 E, Hemanta Basu Sarani, Stephen House, 5<sup>th</sup> Floor, Room No. 95, Kolkata,  
West Bengal, Pin- 700001.

*...Corporate Applicant*

**Date of Hearing: 29.03.2023**

**Date of pronouncement: 17.08.2023**

**Coram:**

**Bidisha Banerjee** : **Member (Judicial)**

**Balraj Joshi** : **Member (Technical)**

**Appearances (through video conferencing):**

For the Corporate Applicant : Mr. Joy Saha, Senior Advocate

: Mr. S. Biswas, Advocate

: Mr. R. Bhowmick, Advocate

**ORDER**

**Per Balraj Joshi, Member (Technical)**

1. This Court convened through hybrid mode.

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
(COURT-II)**

**Laxmi Cores Manufacturing Private Limited  
CP (IB) No. 16/KB/2023**

2. The present Petition has been filed by Laxmi Cores Manufacturing Private Limited (*the Corporate Applicant*) under section 10 of the Insolvency and Bankruptcy Code, 2016 (*the Code*) for initiation of Corporate Insolvency Resolution Process (“CIRP”) against itself. The Application has been filed through its Director Parmatma Prasad, DIN: 08372469, duly authorized *vide* Board Resolution dated 4 March, 2022<sup>1</sup>.
3. The shareholders of the Corporate Applicant have given their consent by way of a resolution<sup>2</sup> passed in the Extra Ordinary General Meeting held on 4 March, 2022 to file the application under section 10 of the Code.
4. The Corporate Applicant was incorporated on 30 December 1982 under the provisions of the Companies Act, 1956. The authorised share capital of the Corporate Applicant is Rs. 50,00,000/- and the paid-up share capital is Rs. 43,28,000/-.
5. The reasons for applying for initiation of the CIRP by the Corporate Applicant are as follows:-
  - 5.1 The Corporate Applicant is engaged in the business of Manufacturing, trading, selling or dealing in India or abroad all kinds of sand cores, resin coated sand cores, coated sand, dry sand, resin sand and all other kinds of cores and conveniences of all kinds.
  - 5.2 The Corporate Applicant stood as a Guarantor to two separate and independent principal borrowers namely M/s Keshav Sponge and Energy Pvt Ltd and Shri Badrinarain Alloys and Steel Ltd, for credit facilities sanctioned to the principal borrowers by consortium of lenders from time to time.

---

<sup>1</sup> Annexure A-3, Page 60 of the Petition

<sup>2</sup> Annexure A-3, Page 61 of the Petition

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
(COURT-II)**

**Laxmi Cores Manufacturing Private Limited  
CP (IB) No. 16/KB/2023**

- 5.3 The Corporate Applicant stood as a Corporate Guarantor in order to secure the credit facilities sanctioned to one M/s Keshav Sponge and Energy (erstwhile known as M/s Ambika Ispat India Pvt Ltd) which were renewed, reviewed and enhanced from time to time. Subsequently, a Corporate Debt Restructuring Package was approved by the Corporate Debt Restructuring (CDR) Cell, and accordingly a Master Restructuring Agreement was executed at Kolkata on 31.03.2014 between all CDR lenders under the Consortium Arrangement and the Principal Borrower pursuant to which the Corporate Applicant executed a Deed of Guarantee dated 31.03.2014<sup>3</sup> which is still continuing and co extensive with that of the principal borrower.
- 5.4 Thereafter the principal borrower had failed and/or neglected to make repayments of the principal debt and interest and having seen this conduct, the account of the principal borrower was declared as NPA by the Lenders therein.
- 5.5 Pursuant to the above, the principal borrower had filed an application being C.P. (I.B) No. 40/KB/2017 before the Hon'ble National Company Law Tribunal at Kolkata under Section 10 of IBC, 2016 and the same was admitted vide order dated 16.02.2017. Furthermore, no Resolution Plan was approved by the CoC and at the request of the Resolution professional, an order of liquidation was passed on 14.11.2017. Finally vide order dated 21.09.2021, the affairs of the Principal Borrower were completely wound up and the principal borrower was dissolved.
- 5.6 Thereafter, Punjab National bank being a Financial Creditor to such principal borrower had issued a notice under Section 13(2) of the SARFAESI Act, 2002 dated 26.04.2016 to the Corporate Applicant

---

<sup>3</sup> *Annexure- A5 of the Petition*

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
(COURT-II)**

**Laxmi Cores Manufacturing Private Limited  
CP (IB) No. 16/KB/2023**

herein. Subsequently two other demand notices dated 11.06.2018 and 26.04.2019 were issued by Punjab National Bank and Indian Overseas Bank thereby invoking the Corporate Guarantee which was given by the Corporate Applicant. The Punjab National Bank had also filed O.A No. 1187 of 2018 before the Learned DRT at Jalalpur against the Principal Borrower and the Guarantors which includes the Corporate Applicant herein. Thereafter another Financial Creditor namely, Oriental Bank of Commerce on 26.02.2020 had also filed an O.A being T.A. No. 498 of 2020 (O.A. No. 1034 of 2018) before the Learned DRT-II at Kolkata. Both the applications are pending adjudication at present.

- 5.7 The Corporate Applicant also stood as a Corporate Guarantor in order to secure the credit facilities sanctioned to one M/s Shri Badrinarain Alloys & Steel Limited which were renewed, reviewed and enhanced from time to time. Subsequently, in the year 2014, a Corporate Debt Restructuring Package was approved by the Corporate Debt Restructuring (CDR) Cell, and accordingly a Master Restructuring Agreement was executed between all CDR lenders under the Consortium Arrangement and the Principal Borrower, pursuant to which the Corporate Applicant executed a Deed of Corporate Guarantee dated 29.03.2014 which is still continuing and co extensive with that of the principal borrower.
- 5.8 Subsequently, at the request of the said principal borrower in 2016, another Corporate Debt Restructuring Package was approved by the Corporate Debt Restructuring (CDR) Cell, and accordingly a Master Restructuring Agreement was executed between all CDR lenders under the Consortium Arrangement and the Principal Borrower

---

<sup>4</sup> Annexure- "A-9" of the Petition

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
(COURT-II)**

**Laxmi Cores Manufacturing Private Limited  
CP (IB) No. 16/KB/2023**

pursuant to which the Corporate Applicant executed a Deed of Corporate Guarantee dated 07.04.2016<sup>5</sup>

- 5.9 Thereafter, the principal borrower again failed to repay the amount as agreed upon and failed and/or neglected to repay the said amount, pursuant to which the account of the aforesaid principal borrower was declared as an NPA by the lenders.
- 5.10 Bank of Baroda, another Financial Creditor of the aforesaid principal borrower had on 11.10.2018 filed an application under Section 7 of the IBC, 2016 against the principal borrower being C.P.(I.B) No. 1370/KB/2018 before the National Company Law Tribunal at Kolkata which was admitted vide order dated 05.12.2018. The Resolution Plan was not approved by the Committee of Creditors(CoC) and at the request of the Resolution Professional a Liquidation order dated 06.09.2019 was passed by the Hon'ble Tribunal which is currently pending adjudication.
- 5.11 Furthermore, demand notices under Section 13(2) of the SARFAESI Act were issued by lenders, being a part of the consortium, to the Corporate Applicant. Bank of Baroda had also sent a recall notice dated 20.09.2018 to the principal borrower and its guarantors. Bank of Baroda also filed an O.A being O.A no. 41 of 2019 before the Learned DRT-I, Kolkata on 13.02.2019 against the guarantors including the Corporate Applicant.
- 5.12 The Corporate Applicant further states that there is an existence of debt and default which has become due and payable by the Corporate Applicant but the Corporate Applicant has been suffering losses for the year ending 31.03.2020 and 31.03.2021 and the same can be seen from the Audited Financial Statements/Balance which reveals a bleak

---

<sup>5</sup> Annexure- "A-10" of the Petition

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
(COURT-II)**

**Laxmi Cores Manufacturing Private Limited  
CP (IB) No. 16/KB/2023**

possibility of the Corporate Applicant of paying back its dues to any creditors in its entirety.

6. The Corporate Applicant has proposed the name of **Mr. Santanu Brahma**, registration number IBBI/IPA-001/IP-P01482/2018-2019/12251, having email id:- santanubrahma@gmail.com, to function as the Interim Resolution Professional (IRP). **Mr. Santanu Brahma** has submitted his written communication in Form 2. The written communication is annexed to the application from pages 253 to 255.

***Analysis***

7. We have heard the Learned Counsel appearing for the Corporate Applicant and have perused the documents on record.
8. The Adjudicating Authority, vide order dated 09.02.2023, directed the Corporate Applicant to publish notice of filing the petition in Form no. NCLT-3A in two newspapers, once in English and once in a regional language. The Corporate Applicant, vide affidavit dated 24.03.2023 has affirmed that the order had been complied with by publishing the said notice in “Financial Express” (English Edition) and “Aajkal” (Bengali Edition) on 12.03.2023 and that pursuant to such publication, no objection has been received.
9. Therefore, there is no dispute from any quarter that the debt is due and payable by the Corporate Applicant to various creditors and that the Corporate Applicant is unable to pay the same.
10. While perusing the documents annexed to the petition we find that Bank of Baroda had invoked the guarantee *vide* a letter dated 09.10.2019.<sup>6</sup> Even if we consider this as date of default, we find that the present petition is

---

<sup>6</sup> Page 137-138 of the Petition

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
(COURT-II)**

**Laxmi Cores Manufacturing Private Limited  
CP (IB) No. 16/KB/2023**

barred by limitation as it was filed on 14.01.2023 i.e., after expiry of 3 (years) from the date of invocation of guarantee.

11. In view of the above facts and circumstances, we find that the present petition is liable to be rejected on the ground of limitation.

12. Hence C.P.(I.B.) 16/KB/2023 stands **rejected**.

13. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**(Balraj Joshi)**  
**Member (Technical)**

**(Bidisha Banerjee)**  
**Member (Judicial)**

This order is pronounced on the 17<sup>th</sup> day of August, 2023.

*(FA, LRA)*