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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

**Coram :** (1) Shri Madan B. Gosavi, Hon'ble Member (J)  
(2) Shri Virendra Kumar Gupta, Hon'ble Member(T)

**CP (IB) No. 1140/KB/2018**

**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:**

**International Asset Reconstruction Company Ltd.**, having its registered office at 709, 7<sup>th</sup> floor, Ansal Bhawan, 16, Kasturba Gandhi Marg, New Delhi- 110 001 and its Corporate Office At A-601/602/605, 6<sup>th</sup> floor, 215, Atrium, Kanakia Spaces Andheri- Kurla Road, Andheri (East), Mumbai-400 093;

... **Applicant/Financial Creditor**

-Versus-

**In the matter of:**

**Aditi Oil Extraction Private Ltd.**, having its registered office at Diamond Chambers, Block-III, Suite No.6E 4C, Chowringhee Lane, Park Street, Kolkata- 700 016  
CIN: U15326WB2007PTC117798;

... **Respondent/Corporate Debtor**

**Counsel appeared:**

1. Mr. Avishek Guha, Advocate ] For Financial Creditor
2. Ms. Trini Joarder, Advocate ]
3. Mr. Somnath Roy, Advocate-on-record]

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1. Mr. Sailendra Tiwari, Adv. ] For Corporate Debtor  
2. Mr. Ajit Keshani, Advocate ]

**Date of Pronouncement of Order: 24.10.2019**

**ORDER**

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

**International Asset Reconstruction Company Ltd.-** the Financial Creditor filed this application under section 7 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **Aditi Oil Extraction Private Ltd –** Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor as the Corporate Debtor committed default in paying the financial debt of Rs.19,81,81,982/-.

2. The following facts are not in dispute-

3. By letter of sanction dated 29.04.2018, Allahabad Bank has granted and disbursed loan of Rs.5 crores to the corporate debtor. Terms of the loan was extended from time to time. On 14.12.2011, the bank declared the loan account of the corporate debtor to be NPA. On 26.12.2011, the bank served on the corporate debtor notice under section 13(2) of SARFAESI Act. The financial creditor states that on 11.02.2014, the debt of Rs. 9,42,38,000/- was assigned to them by the bank by executing deed of assignment. Financial Creditor then filed recovery proceeding against the corporate debtor in DRT, Kolkata. It is pending. Since the corporate debtor committed default in paying the debt, this proceeding is filed to start CIRP of the corporate debtor.

4. The Financial Creditor suggested name of one Mr. Debashis Nanda (Mob. No.9717000163) of S-7, Manish Plaza, Plot No.2, I.P. Extension, Patparganj,





Delhi- 110092, having registration no. IBBI/IPA-003/IP-N00040/2017-18/10316 and email id. [dnanda.cms@gmail.com](mailto:dnanda.cms@gmail.com) for appointment of I.R.P. Proposed IRP has also submitted Acceptance from the IRP in terms of Form 2 dated 09.08.2018.

5. Corporate debtor contested the claim by filing affidavit-in-reply and contended that debt is in dispute. No default in paying debt has taken place. Hence, this proceeding is not maintainable. According to the corporate debtor, the project for which the loan was granted, was delayed due to some technical problems. In the year 2012, they have requested the bank to restructure the loan but the bank refused. As there is no default in paying the debt, application is not maintainable.

6. From the pleadings of the parties and more particularly, the reply filed by the corporate debtor, it is clear that debt is, in fact, admitted but the default is disputed. When the corporate debtor admitted the debt, it was for the corporate debtor to prove that there is no default. However, as per their own admission in para 29(g) of the affidavit-in-reply that their loan amount was wrongly declared to be NPA on 14.12.2011. We hold that they have admitted the default in paying the debt.

7. It is not in dispute that by the deed of assignment dated 11.2.2014 (exhibit "P"), the bank assigned the debt of the corporate debtor in favour of the financial creditor. The question before us is whether this proceeding is filed within limitation as per Article 137 of Law of Limitation. The bank has got right to sue the corporate debtor. On 14.12.2011 when their loan account became NPA. The debt was assigned to the financial creditor in the year 2014. This proceeding is filed in the year 2018. The Financial Creditor filed on record the balance-sheet of the corporate debtor for the year ending 31.03.2017, which shows that corporate

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debtor admitted and acknowledged the debt of Allahabad Bank. It appears to us that the existence of debt is continued throughout the year 2011 to 2017. This proceeding is filed within one year, after the corporate debtor admitted and acknowledged debt in their balance-sheet for the year 2017. It is filed within limitation. In view of evidence on record, we hold that financial creditor has proved that there is a debt due and payable by the corporate debtor and corporate debtor committed default in paying the same. There appears no disciplinary enquiry pending against the Resolution Professional, whose name is suggested for appointment as the IRP. This application is defect-free. Hence, we admit the corporate debtor in CIRP by the following order:

### ORDER

- (i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process in respect of **Aditi Oil Extraction Private Ltd.** Moratorium order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.
- (ii) The 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 Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- (iii) Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

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- a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 possession of the corporate debtor.
- iv) 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.
- v) 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.
- vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.
- vii) Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the

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resolution plan under sub-section (1) of Sec.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.

viii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the resolution professional upon receipt of the copy of this order.

(ix) As per proposal given by the Financial Creditor, Mr. Debashis Nanda (Mob. No.9717000163) of S-7, Manish Plaza, Plot No.2, I.P. Extension, Patparganj, Delhi- 110092, having registration no.IBBI/IPA-003/IP-N00040/2017-18/10316 and email id. [dnanda.cms@gmail.com](mailto:dnanda.cms@gmail.com) is appointed as the Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.

x) The Financial Creditor to pay to IRP a sum of Rs.1,00,000/- as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment.

xi) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016

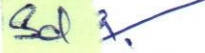
xii) Registry is hereby directed under section 7(7) of the I&B Code, 2016 to communicate the order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post and also by email.

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Let the certified copy of the order be issued upon compliance with requisite formalities

List the matter on **10.12.2019** for filing progress report.



(Virendra Kumar Gupta)  
Member (T)



(Madan B. Gosavi)  
Member (J)

*26/10/2019*

*Signed on this, the 23<sup>rd</sup> day of October, 2019.*