

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

**C.P. (IB) No. 3610/NCLT/MB/2019**

Under Section 7 of the I&B Code, 2016

In the matter of:

**Punjab National Bank**

...Financial Creditor / Petitioner

V/s

**Dhavalpratapsinh Mohitepatil Agro  
Industries Limited**

...Corporate Debtor / Respondent

**Order Dated: 20<sup>th</sup> February 2020**

**Coram:** Hon'ble Member (Judicial): Mr Bhaskara Pantula Mohan  
Hon'ble Member (Technical): Mr Rajesh Sharma

**For the Petitioner:** Advocate Falguni Shete i/b. Intralegal

**For the Respondent:** None Present

*Per: Bhaskara Pantula Mohan, Member (Judicial)*

**ORDER**

1. This is a petition being C.P. (IB) No. 3610/NCLT/MB/2019 filed by **Punjab National Bank**, the Financial Creditor / Petitioner, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Dhavalpratapsinh Mohitepatil Agro Industries Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).
2. The petition is filed claiming a total default of ₹82,22,50,347/- (Rupees Eighty Two Crore Twenty Two Lakh Fifty Thousand Three Hundred Forty Seven Only) including interest as on 31.08.2019. The petition is filed by Mr Virendra Kumar Singh, Chief Manager, of the

Financial Creditor duly authorised to file this petition vide Authorization Letter dated 24.08.2019.

3. The Petitioner submitted that it had sanctioned credit facilities in the form of Term Loans and Cash Credit to the tune of ₹35,36,00,000/- (Rupees Thirty Five Crore Thirty Six Lakh Only) to the Corporate Debtor vide 3 (Three) Sanction Letters dated 20.03.2009, 10.05.2010 and 15.03.2011. The Petitioner and Corporate Debtor entered into Term Loan Agreements dated 18.04.2009, 19.05.2010 and 19.03.2011 in respect of the said credit facilities. Deeds of Mortgage dated 17.04.2009, 11.05.2010 and 18.03.2011 secured the said credit facilities. The Petitioner has filed Deeds of Hypothecation dated 18.04.2009, 19.05.2010 and 19.03.2011 in support of its claim. Copies of the Documents mentioned supra are annexed to the petition.
4. The Petitioner submitted that the Corporate Debtor has confirmed and acknowledged the said financial debt vide "Balance and Security Confirmation Letters" dated 21.04.2012. Copies of the said letters are annexed to the Petition.
5. The Petitioner submitted that the credit facilities granted by the Petitioner to the Corporate Debtor were repayable as per the Repayment Clause contained in the respective Sanction Letters. The Petitioner submitted that the Corporate Debtor defaulted in repayment of the said credit facilities and therefore the Account of Corporate Debtor was classified as Non-Performing Asset (NPA) on 01.07.2012. The Petitioner further submitted that it issued Notice dated 03.07.2013 under Section 13(2) of Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest (SARFAESI) Act, 2002 calling upon the Corporate Debtor to pay the entire outstanding amount of ₹30,85,04,838/- (Rupees Thirty Crores Eighty Five Lakhs Four Thousand Eight Hundred Thirty Eight Only). The copy of SARFAESI Notice dated 03.07.2013 is annexed to the petition.

6. The Petitioner has annexed Statements of Accounts of Corporate Debtor maintained by the Petitioner, reflecting total outstanding balance of ₹22,02,06,290/- (Rupees Twenty Two Crore Two Lakh Six Thousand Two Hundred Ninety Only) as due from the Corporate Debtor. The last payment was made by the Corporate Debtor to the Petitioner on 03.09.2018. Bank Certificate dated 31.08.2019 under Bankers' Books Evidence Act, 1891 is also annexed. The Petitioner has further annexed Commercial Credit Information Report (CIBIL) dated 27.06.2019 reflecting the classification of Corporate Debtor's account as "Suit Filed, Written Off, Not Wilful Defaulter" and total outstanding balance of ₹22,02,06,290/-.
7. The Petitioner filed present petition on 16.09.2019. The Petitioner was directed vide our order dated 14.10.2019 to serve the Court Notice to the Corporate Debtor. The Petitioner filed its Affidavit of Service on 22.11.2019 annexing the tracking report of the postal department. It was stated in the Affidavit of Service that the Court Notice sent by the Petitioner returned back with a remark "Door Locked". Therefore, vide our order dated 28.11.2019 the Petitioner was directed to serve the notice by way of paper publication. The Petitioner filed its second Affidavit of Service on 17.12.2019 proving the service of notice by way of paper publication. Thus, it is on record that the notice was duly published however, the Corporate Debtor chose not to come before this Tribunal nor to file any objections in its defence.
8. No one appeared on behalf of the Corporate Debtor on the date of hearing. We heard the arguments of the Petitioner and perused the records.
9. On perusal of the documents submitted by the Petitioner, it is clear that financial debt amounting to more than ₹1,00,000/- (Rupees One Lakh Only) is due and payable by the Corporate Debtor to the Petitioner as on the date of filing of this Petition. The Corporate Debtor has also admitted the financial debt vide Balance and Security Confirmation Letters" dated 21.04.2012. Therefore, an amount of more than ₹1,00,000/- is due and payable and there is default by the Corporate Debtor in repayment thereof. The Corporate Debtor has not

filed any reply and has admitted the liability therefore, we have not received any objections on record against the Petition filed for initiation of CIRP against the Corporate Debtor.

10. The Petition is complete and has been filed under the proper form. The debt amount of more than Rupees One Lakh and default of the Corporate Debtor has been established and the Petition deserves to be admitted.
11. The Petitioner has proposed the name of Mr Dharit Kishorebhai Shah, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-001/IP-P00993/2017-18/11640] as **Interim Resolution Professional**, to carry out the functions of IRP along with his declaration in Form 2 that no disciplinary proceedings are pending against him, is annexed with the petition.
12. The petition under sub-section (2) of Section 7 of I&B Code, 2016 is complete. The existing financial debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the petition filed under section 7 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

### **ORDER**

This petition filed under Section 7 of I&B Code, 2016, filed by **Punjab National Bank**, Financial Creditor / Petitioner, against **Dhavalpratapsinh Mohitepatil Agro Industries Limited**, Corporate Debtor, for initiating corporate insolvency resolution process is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
  - 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;
  - d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.
- II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to –
- (a) such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
  - (b) a surety in a contract of guarantee to a corporate debtor.
- IV. That the order of moratorium shall have effect from the 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.
- VI. That this Bench appoints **Mr Dharit Kishorebhai Shah**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-001/IP-P00993/2017-18/11640]** as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

13. The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

**Sd/-**

**RAJESH SHARMA**  
Member (Technical)

**Sd/-**

**BHASKARA PANTULA MOHAN**  
Member (Judicial)

20<sup>th</sup> February 2020