

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

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CP (IB) No. 30/7/AMR/2021

**In the matter of a Petition 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 M/s. ETHNIC TOBACCO (INDIA) LIMITED

Between

State Bank of India,
Registered Office at State Bank Bhavan,
14th Floor, Madam Cama Road, Nariman Point,
Mumbai, Maharashtra – 400021.

... Financial Creditor

AND

M/s. Ethnic Tobacco (India) Limited,
D.No.6-23-6/A, Jaya Towers,
5th Lane, 4th Cross Road, Arundalpet,
Guntur, Andhra Pradesh -522 002.

... Corporate Debtor

Date of Order: 23.12.2021

CORAM:

Justice Telaprolu Rajani, Member Judicial.

Appearance:

For Operational Creditor : Mr.G.P.Yash Vardhan, Advocate.
For Corporate Debtor : Mr.R.S.Sravan Kumar, Advocate

ORDER

1. This Application is filed by **State Bank of India** (“hereinafter referred to as Financial Creditor”) seeking initiation of Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Ethnic Tobacco (India) Limited (“hereinafter referred to as Corporate Debtor”) alleging that the Corporate Debtor committed default in making payment of **Rs.137,68,37,255.53/- (Rupees One Hundred and Thirty Seven Crores Sixty Eight Lakhs Thirty Seven**

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Thousand Two Hundred and Fifty Five Rupees and Fifty Three Paise Only) to the Financial Creditor in view of the various loans and working capital facilities availed by the Corporate Debtor, by invoking 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.

2. The Financial Creditor is a “Commercial Bank” a well-Recognised Bank and has garnered reputation since its incorporation. The Corporate Debtor is a Limited Company registered and incorporated under the Provisions of Companies Act, engaged in the business of processing and export of tobacco.
3. It is submitted that the Corporate Debtor approached the Financial Creditor for availing financial assistance, working capital loan facilities. Hence, as per the request of the Corporate Debtor the Financial Creditor sanctioned various credit facilities. The Corporate Debtor executed various Agreements with the Financial Creditor for availing financial assistance from the Financial Creditor. As per the request of Corporate Debtor the Financial Creditor has sanctioned the credit facilities from time to time on various occasions.
4. The Corporate Debtor and its Guarantors executed Memorandum of Entry regarding mortgage by deposit of title deed dated 22.09.2016. The Corporate Debtor despite full co-operation and assistance given by the Financial Creditor, neglected repaying the dues. The Financial Creditor requested the Corporate Debtor several times to pay the loan outstanding. But the Corporate Debtor neglected and failed to make the payment to the Financial Creditor.



W/O

5. The Financial Creditor issued demand notice dated 09.05.2019 to the Corporate Debtor. But the Corporate Debtor did not issue any reply to the said demand notice and no payment was made towards the demanded debt thereafter.
6. The Corporate Debtor filed counter stating that the amount of Rs.300.41 Crore was paid over a period by interest and other bank charges till its account declared as NPA. The Corporate Debtor group repaid tem loans and also serviced interest on working capital loans till 31.12.2018. Due to the global commodities price crash, the stock's value deteriorated which led to insufficient stocks to support the Cash Credit/Export Packing Credit exposure of Financial Creditor.
7. The Financial Creditor instead of extending helping hand, has issued various legal notices to the Corporate Debtor. As a result, the Corporate Debtor could not recover from the lenders hostile attitude. The Corporate Debtor's precarious financial situation compounded further due to the hostile attitude of the Financial Creditor and led to severe cash flow mismatches, which hurt the Corporate Debtor's operations. The hopes of revival also have been severely and adversely impacted since March, 2020 due to Covid-19 outbreak. The interest coupled with penal interest mounted to the extent that the total exposure included mostly interest debited in the previous three to four years. Because of the attitude of the Financial Creditor the Corporate Debtor lost heavy amounts with its fortunes lingering in a suspended state. If the Financial Creditor revisits the sequence of events and loss to the Corporate Debtor due to inaction, it would be evident that the Corporate Debtor does not have to pay any amount towards loans availed by it in the past.



7/10/21

8. The Corporate Debtor Company has been particular that the Financial Creditor examines the genuine grievances and addresses its concerns comprehensively to arrive at an amicable solution to adequately compensate the Corporate Debtor in quick time for the irreparable damage caused to the business and losses incurred that are solely attributable to the acts of omission on the part of the Financial Creditor. Upon reconciliation, the Debt may not exist and therefore, the Petition is not maintainable.
9. Heard the counsel for the Financial Creditor and the Counsel for the Corporate Debtor. The Counsel appearing for the Corporate Debtor reported that though he contacted by his client, his client did not give any instructions to him and he sought the Tribunal to pass orders on merits. He did not make any submissions either opposing the submissions made by the Counsel for the Financial Creditor or in support of the contentions made in his counter.
10. Hence I am of the considered view that it is a fit case to admit and order initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The Financial Creditor has suggested one name i.e., Mr.Kasi Srinivas (IBBI/IPA-003/IPA-ICAI-N-00237/2019-2020/12840) as Insolvency Resolution Professional (IRP).

ORDER

The Company Petition is admitted. The Corporate Insolvency Resolution Process of the Corporate Debtor shall commence from this date and shall be completed within 180 days hence.

- i. Mr.Kasi Srinivas (IBBI/IPA-003/IPA-ICAI-N-00237/2019-2020/12840), having office at 1-2-37/4B, Flat No.4B, Jains Bhavani Residency, STNo.3, Kakatiya Nagar, Habsiguda,

Mess

Hyderabad, Telangana-500007; e-mail:
Srinivaskashyap111080@gmail.com; Mobile: 8008022887 is
appointed as the Interim Resolution Professional. No disciplinary
proceeding is pending against him as per the IBBI website.

- ii. He is directed to take charge of the Corporate Debtor's
management forthwith and take necessary steps in furtherance of
the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and
Rules made thereunder.
- iii. Moratorium in respect of the Corporate Debtor is hereby declared
in terms of Section 14 of the Code.
- iv. The Directors, Promoters or any other person(s) associated with the
management of Corporate Debtor shall extend all assistance and
cooperation to the IRP as stipulated under section 19 of the Code
for effectively discharging his functions under the Code.
- v. The Registry shall communicate the order to the Financial Creditor
and the Corporate Debtor forthwith.
- vi. The Financial Creditor and the Registry shall send the copy of this
order to IRP for necessary compliance.



7/Nov
JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL

Swamy Naidu

Swamy Naidu
Deputy Registrar / Assistant Registrar / Court Officer
National Company Law Tribunal, Amaravati Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER... (CP(IB) No. 30/7/AMR/2021)
निर्णय का तारीख
DATE OF JUDGEMENT... 23/12/2024
प्रति तैयार किया गया तारीख
COPY MADE READY ON... 23/12/2024