

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

C.P. (IB) No. 1698/NCLT/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of:

Corporation Bank

...Financial Creditor / Applicant

V/s

**Vikram Iron and Steel Company Private
Limited**

...Corporate Debtor / Respondent

Order Dated: 10th January 2020

Coram: Mr Rajesh Sharma

Mr Bhaskara Pantula Mohan

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

For the Applicant: Advocate Prakash Shinde, Advocate Nishit Dhruva i/b. MDP & Partners

For the Respondent: None present

Per: Rajesh Sharma, Member (Technical)

ORDER

1. This is an application being C.P. (IB) No. 1698/NCLT/MB/2019 filed by **Corporation Bank**, the Financial Creditor / Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Vikram Iron and Steel Company Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).
2. The application is filed claiming a total default of ₹18,04,48,321/- (Rupees Eighteen Crore Four Lakh Forty Eight Thousand Three Hundred Twenty One Only) including interest. The application is filed by Mr Akshat Telang, Assistant General

Manager, of the Financial Creditor duly authorised to file this application vide letter dated 22.04.2019.

3. The Applicant submitted that it had sanctioned credit facilities to the Corporate Debtor in the form of Demand Loan, Cash Credit and Working Capital Term Loan to the tune of ₹10,08,72,000/- (Rupees Ten Crore Eight Lakh Seventy Two Thousand Only), vide six Sanction Letters between 2007 to 2013. The said six Sanction Letters are annexed to the application.
4. The Applicant submitted that, Deed of Hypothecation dated 29.06.2007; Memorandum of Deposit of Title Deeds dated 29.06.2007; Supplemental Deeds of Hypothecation dated 26.03.2009, 22.05.2010, 06.03.2012, 23.08.2013, 31.08.2013; Guarantee Agreements dated 29.06.2007, 22.05.2010, 06.03.2012, 23.05.2013, 31.08.2013; and Demand Promissory Notes dated 29.06.2007, 26.03.2009, 06.03.2012, 31.08.2013, all secured the said credit facilities. Copies of the documents mentioned supra are annexed to the application.
5. The Applicant further submitted that the Corporate Debtor vide Letter of Undertaking dated 22.05.2010, confirmed and acknowledged its indebtedness towards the debt availed from the Applicant. The Letter of Undertaking dated 22.05.2010 is annexed to the application.
6. The Applicant submitted that the Corporate Debtor defaulted in repayment of said credit facilities and therefore the Account of Corporate Debtor was classified as Non-Performing Asset (NPA) on 08.02.2014. The Applicant submitted that, it issued Notice dated 13.02.2014 under Section 13(2) of Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest (SARFAESI) Act, 2002 calling upon the Corporate Debtor and its Guarantors to pay the outstanding liabilities together with future interest. The Corporate Debtor vide its letter dated 05.03.2014 replied to the SARFAESI Notice and disputed the

claim of the Applicant stating that the Applicant failed to grant the intended finance to the Corporate Debtor to the tune of ₹15,00,00,000/- (Rupees Fifteen Crore Only) and therefore, the facilities granted by the Applicant proved non-useful and fruitless to the Corporate Debtor. The Applicant submitted that it issued another Notice dated 22.04.2014 under the SARFAESI Act, 2002 calling upon the Corporate Debtor and its Guarantors to handover and surrender the possession of the secured assets to the Applicant. After that, the Applicant took over symbolic possession of the property under the provisions of the SARFAESI Act, 2002 and issued Possession notice dated 30.04.2014. The copy of the documents mentioned supra are annexed to the application.

7. The Applicant has annexed Statement of Accounts of Corporate Debtor prepared in its Books of Accounts dated 05.02.2019, reflecting total outstanding balance of ₹14,58,25,968/- (Rupees Fourteen Crore Fifty Eight Lakh Twenty Five Thousand Nine Hundred Sixty Eight Only) due from the Corporate Debtor. The last payment was received by the Applicant from e-auction of plant and machinery of the Corporate Debtor on 07.09.2017. Bank Certificate dated 07.02.2018 under Bankers Books Evidence Act, 1891 is also annexed. The Applicant has further annexed Certificate of Registration for Modification of Charge for Corporate Debtor reflecting the name of Applicant as Charge Holder and Commercial Credit Information Report (CIBIL) dated 23.04.2019 reflecting the classification of Corporate Debtor's account as Doubtful.
8. The Applicant filed present application on 01.05.2019. The Applicant was directed to serve Notice of Hearing to the Corporate Debtor vide our Order dated 10.06.2019 and 03.07.2019. The Applicant has filed its affidavit of service proving the service of notice of hearing and also paper publication of notice of hearing. Thus, it is on record that the

court notice was duly published however, the Corporate Debtor chose not to appear or file any objections in its defence.

9. On perusal of the documents submitted by the Applicant, 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 Applicant. The Corporate Debtor has also admitted the financial debt vide Letter of Undertaking dated 22.05.2010 and also vide its reply letter dated 05.03.2014. Therefore, an amount of more than ₹1,00,000/- is due and payable and there is default by the Corporate Debtor in repayment of the loan amount. Further, the Corporate Debtor has failed to appear before this Bench. Therefore, we do not have any objection on record against the application filed for initiation of CIRP against the corporate debtor.
10. The application 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 application deserves to be admitted.
11. The Applicant has proposed the name of Uday Sakrikar, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-001/IP-P01230/2018-19/11927] 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 application.
12. The application 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 application 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 application filed under Section 7 of I&B Code, 2016, filed by **Corporation Bank**, Financial Creditor / Applicant, against **Vikram Iron and Steel Company Private 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 **Uday Sakrikar**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-001/IP-P01230/2018-19/11927]** 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)

10th January 2020