

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.376/07/HDB/2018
Under Section 7 of IB Code, 2016,
Read with Rule 4 of the Insolvency & Bankruptcy
(Application to Adjudicating Authority) Rules, 2016.

In the matter of:-
M/s. SAGAR INFRA RAIL INTERNATIONAL LIMITED.

State Bank of India,
Stressed Assets Management Branch-II,
TSRTC Bus Stand, Kachiguda, Hyderabad.

...Petitioner/
Financial Creditor

Vs

M/s. Sagar Infra Rail International Limited
B-67, APIE Balanagar,
Hyderabad, Telangana – 500 037.

Respondent/
Corporate Debtor

Date of Order: 08.08.2019.

Parties/Counsel Present:

For the Petitioner/Financial Creditor:

Mr. Durga Bose Gandham, Advocate.

For the Respondent/Corporate Debtor:

Mr. R. Raghunandan Reddy, Senior Advocate, Mr. V.Venkata Rami Reddy
& Mr. G.Bhupesh, Advocates.

Mr. K.Satyasheel Reddy, Asst. Production Manager.

Mr. Ch. Rama Mohan Rao, Asst. Director.

4

PER: K. ANANTHA PADMANABHA SWAMY,
MEMBER JUDICIAL

O R D E R

1. The present Company Petition is filed by 'State Bank of India' (hereinafter referred to as '**Financial Creditor**') under section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as '**IB Code**') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 against M/s. Sagar Infra Rail International Limited (hereinafter referred to as '**Corporate Debtor**').
2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
3. The Petitioner/Financial Creditor, is a Public Sector Bank incorporated under the Companies Act, 1956, having its Registered Office at Hyderabad, whereas the Respondent/Corporate Debtor is a Company incorporated under the Companies Act, 1956 and having its registered office at Balanagar, Hyderabad, Telangana.
4. It is stated that at the request of the Corporate Debtor, the Balanagar Branch of the Financial Creditor at Hyderabad was pleased to sanction a Loan to the Corporate Debtor for an overall limit of Rs.17 Crores viz., CC Limit of Rs.11 Crores, LC Limit of Rs. 3 Crores and BG Limit of Rs.3 Crores vide its letter of arrangement dated 30.08.2006 stipulating various terms and conditions in the said letter. The Corporate Debtor has passed a Resolution at its board of directors meeting for availing the said loan facilities and to


4

execute the loan documents. Further, two directors of the Corporate Debtor namely. G. Narasimha Rao and K. Srinivas Rao stood as guarantors to the said loan facilities and accepted the terms and conditions of the said sanction along with the Corporate Debtor and executed the loan documents. The Corporate Debtor has duly availed the said loan facilities on 04.09.2006.

5. It is stated that, after the request of the Corporate Debtor, the Balanagar Branch, Hyderabad of the Financial Creditor vide its various letters of arrangement sanctioned various loan facilities by way of enhancement of the existing limits/sanctioning additional loan facilities from time to time for the business requirements of the Corporate Debtor as against the personal guarantee of the Directors. As stated above, Corporate Debtor availed the loan facility from the Financial Creditor's Balanagar Branch which was transferred in the year 2010 to industrial Finance Branch of the Financial Creditor and thereafter the account of the Corporate Debtor was transferred from the State Bank of India, Industrial Finance Branch, Hyderabad to the present Branch i.e., State Bank of India, Stressed Assets Management Branch, Hyderabad for administrative reasons. The total loan sanctioned to the Corporate Debtor is Rs.69,50,00,000/- and the total amount claimed till 31.05.2018 is Rs.191,41,99,102.24/- including interest.

6. In support of its claim, the Financial Creditor has filed the following Documents :

- Copy of Loan sanction documents.


- Copy of Demand notice dated 01.08.2016 issued under section 13(2) of the SARFAESI Act.
 - Copy of letter dated 19.09.2016 issued by Corporate Debtor and its directors requesting time for repayment along with the reply dated 30.09.2016 issued by the Financial Creditor.
 - Copy of Possession Notice dated 16.02.2017 issued by Financial Creditor on Corporate Debtor and its directors under Rule 8 of Security Interest (Enforcement) Rules, 2002.
 - Copy of Possession Notice of properties issued in various newspapers on 21.02.2017.
 - Copy of Photographs showing that the possession of properties was taken over by the Financial Creditor.
 - Copy of E-auction Notice dated 01.04.2017 issued by Financial Creditor on Corporate Debtor issued under Rule 8(6) of Security Interest (Enforcement) Rules, 2002.
 - Copy of letter dated 22.06.2017 to Corporate Debtor intimating the E-auction to be held on 28.07.2017 for the properties at Hyderabad and East Godavari along with publication issued in the newspaper.
7. Respondent filed counter stating that the company is in financial struggle. The reasons stated as encashment of Bank guarantees amounting to Rs.20.00 Crores by IVRCL, Hyderabad and non-paying of final bill amount of Rs.100 Crores by empowerer, Dubai govt, due to their sudden financial problem.
8. It is stated that the Corporate Debtor is prepared to pay an amount of ₹24.5 Crores as OTS towards all their liabilities to the bank within a period of 12 months, it is further stated that Corporate Debtor has prepared to arrange and deposit a sum of Rs. 25 Lakhs in non-lien account as a token of earnestness. Once this proposal is agreed by the Financial Creditor in principle, Corporate Debtor would deposit 5% of the agreed amount in a non-lien account. This said amount would go to the Bank as the first instalment of the settlement amount, in case the said proposal is approved by the Financial
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Creditor at appropriate level. It is further stated that upon receiving the final settlement agreement from the Bank, the Corporate Debtor would make its efforts to sell the properties under pledge to the Financial Creditor by supporting letter from bank and clear the debt of the Financial Creditor.

9. Reiterating above, the counsel for the Corporate Debtor prayed to allow the counter which enable them to pay debt as per the proposals without causing any trouble to the Financial Creditor.

10. Heard both sides and perused the record.

11. It is the case of the Financial Creditor who provided Loan facilities, Fund Based Limit (OCC) and Bank Guarantee facilities to the Corporate Debtor for which the Corporate Debtor was liable to repay and has defaulted in repayment of the same. The Corporate Debtor in its counter nowhere denied the debt amount in default but has stated various reasons which are untenable grounds for rejection of instant Petition. Further, the Petitioner has proved its case by placing documentary evidences which prove that the default has been occurred for which the present Corporate Debtor was liable to pay. In these circumstances, this Adjudicating Authority is satisfied with the submissions put forth by the Petitioner/Financial Creditor. Further, the Financial Creditor has fulfilled all the requirements as contemplated under IB Code, in the present Company Petition and has also proposed the name of IRP after obtaining the written consent in Form-AA. In view of the above, I am inclined to admit this petition.



12. The instant petition is hereby admitted and this Adjudicating Authority order the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

13. I hereby appoint Mr. Kambhammettu Sri Vamsi as the name proposed by the Financial Creditor and his name is reflected in IBBI website. He has also filed his written consent in Form - AA. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

14. I declare the moratorium which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process (CIRP) for the purposes referred to in Section 14 of the I&B Code, 2016. I order to prohibit all of the following, namely:

- i. *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;*
- ii. *Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*

4

- iii. *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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);*
- iv. *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

15. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

16. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016. Accordingly, the application is admitted.

17. The Petitioner/Financial Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

18. The Registry is also directed to communicate this Order to the Financial Creditor and the Corporate Debtor.

19. The address details of the IRP are as follows:-



Mr. Kambhammettu Sri Vamsi
Address : #309/1, 3rd Floor, Krishna Plaza,
Khairtabad, Hyderabad – 500 004,
Telangana.
Email: casrivamsi@gmail.com
Mobile No.9866122632
Reg. No: IBBI/IPA-001/IP-P00664/2017-18/11141.

24.The present Petition is hereby admitted.



K. ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL

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