

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
CUTTACK BENCH  
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**TP No. 192/CTB/2019  
Arising out of  
CP (IB) No. 4701/MB/2018**

**CORAM: 1. Ms. Sucharitha R. (J)  
2. Shri Satya Ranjan Prasad (T)**

**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:**

**Dena Bank**, having its Registered Office situated at Dena Corporate Centre, C – 10, G – Block, Bandra Kurla Complex, Bandra, Mumbai, Maharashtra.

... .. **Applicant/Financial Creditor**

-Versus-

**In the Matter of:**

**M/s Kanak Pulp & Paper Mills Pvt. Ltd.**, having its Registered Office situated at C/o Bharat Sales, Opp. Hotel Grand International, Station Road, Raipur, Chhattisgarh – 492 001.

... .. **Respondent/Corporate Debtor**

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**Counsels appeared for Petitioner (s):**

1. Umesh Chandra Sahoo

**Date of pronouncement of Order: 14<sup>th</sup> day of November, 2019.**

**ORDER**

**Per Ms. Sucharitha R., Member (J):**

1. The applicant **Dena Bank** is represented by Mr. Uma Shankar Barik as per authorisation letter dated 13.11.2018. This application is filed under Section 7 of Insolvency and Bankruptcy Code, 2016 for initiation of Corporate Insolvency Resolution Process of the Corporate Debtor **M/s Kanak Pulp & Paper Mills Pvt. Ltd.**
2. The respondent **M/s Kanak Pulp & Paper Mills Pvt. Ltd.** is registered under the Companies Act, 1956, bearing CIN U21000CT2010PTC022174 having its Registered Office situated at C/o Bharat Sales, Opp. Hotel Grand International, Station Road, Raipur, Chhattisgarh – 492 001.
3. This application was originally filed before NCLT, Mumbai Bench & numbered as CP (IB) No. 4701/MB/2018. After constitution of this

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Bench, the matter was transferred and re-numbered as TP No. 192/CTB/2019.

4. The applicant filed an Affidavit of Service dated 03.08.2019 stating therein that the Notice sent to the Corporate Debtor through Speed Post on 19.07.2019, however, the same was returned with an endorsement "insufficient address". The notice by way of publication was taken out in one English newspaper "Deccan Chronicle" dated 31.08.2019 and one vernacular newspaper "Navbharat" dated 31.08.2019, since there was no representation, the respondent was called absent and set ex parte on 27.09.2019. Hence, we are inclined to proceed the matter exparte.
  
5. The respondent/Corporate Debtor availed various financial facilities like Term Loan, Cash Credit limit etc. from Dena Bank and has been enjoying the financial facilities with the bank since 31.12.2013. The loan account was renewed time and again. The respondent/Corporate Debtor has executed various documents in favour of the bank for the loan facilities availed by them. However, the Corporate Debtor did not repay the loan. Hence, the loan account was declared as non-performing assets (NPA) on 31<sup>st</sup> March, 2017.

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6. Hence, the matter is well within the period of limitation. The Registered Office of the Corporate Debtor is at C/o Bharat Sales, Opp. Hotel Grand International, Station Road, Raipur, Chhattisgarh – 492 001. Hence, this Adjudicating Authority has jurisdiction.
7. The applicant granted Term Loan (I) to the tune of Rs. 3,54,00,000/- disbursed on 31.12.2013, Term Loan (II) to the tune of Rs. 3,95,99,106.61 disbursed between 15.01.2016 to 11.02.2016 and Cash Credit Limit to the tune of Rs. 8,50,00,000/- disbursed on 22.10.2015 to the **M/s Kanak Pulp & Paper Mills Pvt. Ltd.** The loans were secured by hypothecation of movables and mortgage of immovables of the Corporate Debtor. The cash credit facilities were enhanced time and again. The sum of Rs. 13.41 Crores is due and payable as on 31.03.2017.
8. The Financial Creditor suggested name of **Shri Jagdish Kumar** as IRP residence of B56, Wallfort City, Bhatagaon, Ring Road No. 1, Raipur, Chhattisgarh – 492 001 having **Registration No.: IBBI/IPA-001/IP-P00671/2017-18/11143** and **Email Id.: [jkparulkar@aaainsolvency.com](mailto:jkparulkar@aaainsolvency.com)** There is nothing on record to show that any disciplinary proceeding is pending against proposed IRP.

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9. We have gone through the records and the documents filed by the applicant. The consideration under Section 7 of Insolvency and Bankruptcy Code, 2016 is whether the Financial Creditor can start Corporate Insolvency Resolution Process of the Corporate Debtor. The applicant has established that the loan amount was given and availed by the Corporate Debtor and there is an outstanding of Rs. 13.41 Crores due and payable by the Corporate Debtor and the Corporate Debtor has committed default in repayment of the amount. The debt and the default are proved.
10. Hence, we are inclined to **ADMIT** this application by following Order.

### ORDER

- i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor **M/s Kanak Pulp & Paper Mills Pvt. Ltd.** is hereby admitted.
- ii) We declare a moratorium and public announcement in accordance with Sections 13 and 15 of the Insolvency & Bankruptcy Code, 2016.

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iii) 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 Section 15. The public announcement referred to in Clause (b) of sub-Section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

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 (54 of 2002);

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- d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- v) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.
- vi) 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.
- vii) The Order of moratorium shall have effect from the date of admission till the completion of the Corporate Insolvency Resolution Process.
- viii) Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 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.
- ix) Necessary public announcement as per Section 15 of the Insolvency & Bankruptcy Code, 2016 may be made.

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- x) **Shri Jagdish Kumar** residence of B56, Wallfort City, Bhatagaon, Ring Road No. 1, Raipur, Chhattisgarh – 492 001 having **Registration No.:** **IBBI/IPA-001/IP-P00671/2017-18/11143** and **Email Id.:** [jkparulkar@aaainsolvency.com](mailto:jkparulkar@aaainsolvency.com) is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a Resolution Plan.
- xi) The Resolution Professional should convene a meeting of the Committee of Creditors and submit the Resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within **105 days** from the insolvency commencement date. The Interim Resolution Professional is directed to produce **Form - 2** and written communication within **one week** from the date of the receipt of the Order.
- xii) Registry is hereby directed under Section 7 (7) of the Insolvency & Bankruptcy Code, 2016 to communicate the Order to the Financial Creditor, the Corporate Debtor and to the IRP by Speed Post as well as through e-mail.

Interim Resolution Professional to file **1<sup>st</sup> Progress Report** on **18.12.2019**.

List the matter on **18.12.2019**.

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Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

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**Shri Satya Ranjan Prasad  
Member (T)**

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**Ms. Sucharitha R.  
Member (J)**

*Signed on this, the 14<sup>th</sup> day of November, 2019.*

***Santosh\_P.S.***