SL. No.137

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

(Video Conference)

CORAM: DR.VENKATA RAMAKRISHNA BADARINATH NANDULA – HON'BLE MEMBER (J)
CORAM: SHRI VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 26.09.2022 AT 02:30 PM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition IB/36/2022
NAME OF THE COMPANY	Ravi Cranes and Movers Ltd
NAME OF THE PETITIONER(S)	Indian Overseas Bank
NAME OF THE RESPONDENT(S)	Ravi Cranes and Movers Ltd
UNDER SECTION	7 of IBC

ORDER

Orders in **CP (IB) 36/2022** pronounced and recorded vide separate sheets. In the result, CP is admitted. Corporate Debtor is put under CIRP.

-Sd-

MEMBER (T)

-Sd-

MEMBER (J)

Syamala

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

C.P. (IB) No.36/7/HDB/2022
Under Section 7 of the IB Code, 2016
r/w Rule 4 of the Insolvency and Bankruptcy
(Application Adjudicating Authority) Rules, 2016.

In the matter of
M/S RAVI CRANES AND MOVERS LIMITED

Between:

Indian Overseas Bank,
Asset Recovery Management Branch,
3rd Floor, IOB Platinum Plaza,
Chikkadpally, Hyderabad – 500020.
...Applicant/Financial Creditor

A N D

M/S Ravi Cranes and Movers Ltd.,
Rep. by its Managing Director,
Regd. Office: 6-16/5, Kukatpally X Road,
Hyderabad – 500072.
...Respondent/Corporate Debtor

Date of Order: 26.09.2022

Coram:

Dr. Venkata Ramakrishna Badarinath Nandula, Member, Judicial
Sri Veera Brahma Rao Arekapudi, Member, Technical

Counsel present:

For the Financial Creditor: Mr. Alluri Krishnam Raju

For the Corporate Debtor: None appeared

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Per : Bench

ORDER

1. Under consideration is an Application filed by Indian Overseas Bank (hereinafter referred to as "Financial Creditor"), under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code, 2016"), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP"), against M/S Ravi Cranes and Movers Limited (hereinafter referred to as "Corporate Debtor"), alleging default of a financial debt of a sum over Rupees One Crore by the Corporate Debtor.

2. Brief facts of the case, as borne out from the record submitted by the Financial Creditor, are as follows:
   a) The Applicant is a banking company, constituted under the Companies (Acquisition & Transfer of Undertakings) Act, 1970. The Corporate Debtor is a private limited company, incorporated on 03.07.1995, bearing CIN: U74999TG1995PLC020915.
   b) The Corporate Debtor stood as a Corporate Guarantee for the loan account of M/S RCM Infrastructure Ltd., against which CIRP was initiated vide order of this Tribunal dated 03.01.2019, in C.P. (IB) No. 601/10/HDB/2018.
   c) The Applicant is the recipient of a Recovery Certificate against the Corporate Debtor, issued vide order of the Debt Recovery Tribunal – II, Hyderabad, dated 09.03.2020, in O.A. No. 247/10, filed under Section 19 of the Recovery of Debts and Bankruptcy Act, 1993. It was held by the Debt Recovery Tribunal that the Corporate Debtor and the other defendants therein are jointly and severally liable to pay a sum of Rs. 33,42,94,009/-, with a future interest at 14.25%

Sd/-

-Sd-p.a., from the date of filing of the said application till the date of realization.

d) The amount due to the Applicant is Rs. 33,42,94,009/-, with an interest at 14.25% p.a., from the date of default, i.e., 09.03.2020, the date on which the Corporate Debtor failed to make the payment, under the aforesaid order of the Debt Recovery Tribunal, Hyderabad.

Reiterating the above, learned counsel for the Financial Creditor, prayed that the instant Application be admitted.

3. This Tribunal, on 08.02.2022, ordered that the notice be issued to the Corporate Debtor by the Financial Creditor, calling upon the Corporate Debtor to appear before the Tribunal. However, as the Corporate Debtor failed to appear, another notice was ordered on14.03.2022. The said notice returned unserved because of "insufficient address". Yet another notice was directed to be issued, vide order dated 12.04.2022, which was sent to three different addresses of the Corporate Debtor. The said notice returned unserved with remarks "addressee left without instructions". Hence, notice by way of substituted service was ordered directing publication of notice in newspapers. The publication was made in an English daily, namely, "Financial Express" and a vernacular daily, namely, "Nava Telangana", both dated 21.05.2022, in spite of which, the Corporate Debtor did not appear before this Tribunal. Hence, the Tribunal set the Corporate Debtor *ex-parte.*

4. We have heard the learned counsel for the Financial Creditor and perused the record.

5. The present Application is against the Corporate Guarantee to recover the dues payable to the Financial Creditor by the Debtor, M/S RCM Infrastructure Ltd., for which the Corporate Debtor had stood as

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guarantee. The Applicant had initiated proceedings before the Debt Recovery Tribunal, Hyderabad, against the Debtor as well the Corporate Debtor herein, which was allowed and a Recovery Certificate was directed to be issued, vide order dated 09.03.2020, ordering recovery of the sum specified therein. As the said amount was not discharged, the instant Application is filed for the defaulted payment.

6. A three-judge bench of the Hon'ble Supreme Court of India, in *Kotak Mahindra Bank Limited* v. *A. Balakrishnan* [2022 SCC OnLine SC 706] held that "liability in respect of a claim arising out of a Recovery Certificate would be a "financial debt" within the meaning of clause (8) of Section 5 of the Code, 2016." It was consequently held that the holder of the Recovery Certificate would be a financial creditor within the meaning of clause (7) of Section 5 of the Code, 2016 and as such, the holder of such certificate would be entitled to initiate CIRP, if initiated within a period of three years from the date of issuance of the Recovery Certificate.

7. In the light of the above, we are of the view that, in the instant case, there is a financial debt and there has been a default committed by the Corporate Debtor in repayment of the same, this Adjudicating Authority is satisfied that the Financial Creditor has proved its case by producing evidence that default has occurred, for which the Corporate Debtor is liable to pay. The Application is also filed within the period of limitation.

8. The Financial Creditor has also fulfilled all the stipulations as required under the provisions of the Code, 2016, for the purpose of initiating the Corporate Insolvency Resolution Process. In these circumstances, this Adjudicating Authority is inclined to admit the instant Application.

9. Accordingly, the Application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process, which shall ordinarily be completed within the

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timelines stipulated in the Code, 2016 (as amended), reckoning from the date on which this order is passed.

10. The Financial Creditor has proposed the name of Ms. Mummaneni Vazra Laxmi, as the Interim Resolution Professional (hereinafter referred to as the "IRP"). Accordingly, this Adjudicating Authority appoints Ms. Mummaneni Vazra Laxmi, bearing Registration No.: IBBI/IPA-001/IPP00919/2017-2018/11526, E-mail: emailtolak@gmail.com, R/o Flat No. 107, V.V. Vintage Residency, Somajiguda, Hyderabad - 500082, as the Interim Resolution Professional. The IRP is directed to file Authorization for Assignment within three days from the date of this order.

11. The IRP is directed to take charge of the management of the Corporate Debtor, immediately. She is also directed to cause public announcement as prescribed under Section 15 of the Code, 2016, within three days from the date of receipt of this order, and call for submissions of claim in the manner as prescribed.

12. Moratorium is, hereby, declared and shall have effect from the date of this order till the completion of the CIRP, for the purposes referred to in Section 14 of the Code, 2016. It is hereby ordered that all of the following are prohibited:

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 or 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 rights or beneficial interest therein;*

iii. *Any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action*

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under the Securitization 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.*

v. *Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*

13. The supply of essential goods or services to the Corporate Debtor shall not be terminated, suspended or interrupted during the moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.

14. The IRP shall comply with the provisions of Sections 13(2), 15, 17 and 18 of the Code, 2106. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under

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Section 19 and for discharging her functions under Section 20 of the Code, 2016.

15. The Financial Creditor as well as the Registry are directed to send the copy of this order to the IRP, to enable her to take charge of the assets etc. of the Corporate Debtor, and comply with this order as per the provisions of the Code, 2016.

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

17. The Registry shall also communicate this Order to the Registrar of Companies, Hyderabad, for updating the status of the Corporate Debtor in the website of the Ministry of Corporate Affairs.

18. Accordingly, this Petition is admitted.

Sd/-
Veera Brahma Rao Arekapudi
Member, Technical

Sd/-
26/09/2022
Dr. N.V. Ramakrishna Badarinath
Member, Judicial