

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

**TP No. 30/CTB/2019
-IN-
CP (IB) No. 1323/KB/2018**

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

Bank of India, having its registered office at “Star House”, G-Block, Plot No. C-5, Bandra Kurla Complex, Bandra (East), Mumbai-400 051, India.

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

-Versus-

In the Matter of:

M/s Maa Durga Rice Processing & Exports Private Limited having its Registered Office at Kairapari, Kotsahi, (Tangi) Cuttack, Odisha-754 022, India.

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

sd

sd

Counsel appeared for the Petitioner

1. Laxmidhar Dash

Counsel appeared for the Respondent

1. Durga Prasad Dhal

Date of pronouncement of Order 4th day of September, 2019.

ORDER

Per: Ms. Sucharitha R. Member (J)

1. This application is filed under Section 7 of the Insolvency & Bankruptcy Code, 2016 (for brevity IBC Code, 2016) by Bank of India/ Financial Creditor against the Corporate Debtor that is **M/s Maa Durga Rice Processing & Exports Private Limited** to start Corporate Insolvency Resolution Process as the Corporate Debtor has committed default in paying, the Financial debt of sum of Rs. 27,97,61,164/- (Rupees Twenty-Seven Crores Ninety-Seven Lacs Sixty-one Thousand One Hundred Sixty-Four) as on 8th August, 2018. This application was originally filed before NCLT, Kolkata Bench numbered as **CP (IB) No. 1323/KB/2018**. After Constitution of this Bench, the matter was transferred and re-numbered as **TP No. 30/CTB/2019**.
2. Applicant/Financial Creditor states that Corporate Debtor availed various financial facilities with the applicant, cash credit facilities and terms loan facilities since 2004. This financial facility was time and again

Sd

Sd

renewed/ revised. The Corporate Debtor had executed various documents in favour of the applicant, thereby adhered to abide by the terms and condition of the loan. The loans are also secured by hypothecation of the movables & mortgage of the immovable properties.

3. The applicant/Financial Creditor submits that the Corporate Debtor failed to repay the loan. Hence, the loan was declared as non-performing assets (NPA) on 31.03.2014. The applicant/Financial Creditor submits that in spite of repeated/ reminder the Corporate Debtor failed to repay the loan. Hence, the applicant has approached this Tribunal for commencement of Corporate Insolvency Resolution Process against the Corporate Debtor.

4. This application has been executed by one Mr. Nitendranath Bagchi, Chief Manager, Bank of India, Bhubaneswar Zonal Office, Star House, 1/ID, Jaydev Vihar, Nayapalli, Bhubaneswar, Odisha-751015, on behalf of the applicant.

5. The Respondent /Corporate Debtor availed the entire loan, however, did not repay the loan and committed default in repayment of the financial debts hence filed this application to start Corporate Insolvency Resolution Process of the Corporate Debtor.

sd

sd

6. Corporate Debtor was served with the notice of this application. Corporate Debtor has filed its reply. Corporate Debtor stated that the loan was availed and, however, the Corporate Debtor has approached the applicant bank for enhancement of the loan which was denied by the applicant bank. Hence, the Corporate Debtor could not run the business successfully. Therefore, there are heavy debts on the Corporate Debtor. Corporate Debtor further states that due to cyclone in 2012 and 2019 the Corporate Debtor suffered heavy losses. The Corporate Debtor also states that there were few talks of one-time settlement of the loan. However, it did not materialise.

7. We have gone through the record in proceedings and pleadings of both the parties. The consideration under Section 7 of IBC is whether Bank of India/Financial Creditor can start Corporate Insolvency Resolution Process of the Corporate Debtor. It is not a dispute that the Financial Creditor has granted and disposed financial assistance to the Corporate Debtor. It is also not a dispute that Corporate Debtor did not repay the loan. It is not a defence of the Corporate Debtor, did not receive any financial assistance from the Bank of India. The defence has appeared from the pleadings of the Corporate Debtor states that they were not given enhancement of the loan and the settlement talks with the bank also failed. Hence, they were unable to repay the loan amount.

Sd

Sd

8. Financial Creditor has suggested the Name **Kamalesh Kumar Singhania** Address: **Bajrang Kunj, Room No. 412-413, 2B, Grant Lane, 4th Floor, Kolkata-700012** and Email: info@avipgroup.co.in and Registration No: **IBBI/IPA-002/IP-N00023/2016-2017/10050**. There is nothing on record to say that any disciplinary proceedings against the proposed Interim Resolution Professional. This application is defect free. Hence, we 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 Maa Durga Rice Processing & Exports Private Limited** is hereby admitted.
- ii) We declare a moratorium and public announcement in accordance with Sections 13 and 15 of the Insolvency & Bankruptcy Code, 2016.
- iii) Moratorium is declared for the purpose referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The Interim Resolution Professional 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

sd

sd

(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 or other Authority;

b) Transferring, encumbering, alienating or disposing off 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 an action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

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.

Sd

Sd

- vi) The provisions of sub-Section (1) shall not apply to such transactions 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.
- x) **Mr. Kamallesh Kumar Singhania having Registration No. IBBI/IPA-002/IP-N00023/2016-2017/10050 and email Id: info@avipgroup.co.in** is appointed as a 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.

Sd

Sd

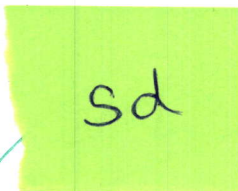
The Interim Resolution Professional is directed to produce **Form -2** and written communication within one week from the date of the receipt of the order.

- xii) Registry is hereby directed under Section (7) of the Insolvency & Bankruptcy Code, 2016 to communicate the order to the Financial Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.

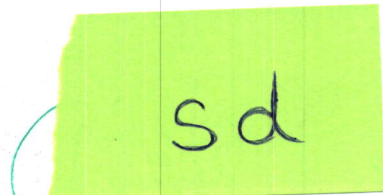
Interim Resolution Professional to file 1st Progress Report on **14/10/2019**.

List the matter on **14/10/2019**

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



Shri Satya Ranjan Prasad
Member (T)



Ms. Sucharitha R.
Member(J)

Signed on this, the 4th day of September, 2019.

Kaushal-Steno