

NATIONAL COMPANY LAW TRIBUNAL
AMRAVATHI BENCH

PRESENT: HON'BLE JANAB MOHAMMED AJMAL _ MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 15.11.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 157/10/AMR/TP/2019
NAME OF THE COMPANY	Nithin Grains And Mills Pvt Ltd
NAME OF THE PETITIONER(S)	
NAME OF THE RESPONDENT(S)	
UNDER SECTION	10 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
V. Ravi Kumar	Adv Cal for C.O	9963067404	Ravi Kumar

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Company Petition is admitted. Orders passed vide separate sheets.


 Member (Judicial)

Binnu

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT HYDERABAD**

*** **

CP (IB) No.157/10/AMR/2019

**In the matter of a petition under section 10 of the Insolvency and
Bankruptcy Code, 2016**

and

**IN THE MATTER OF M/S NITHIN GRAINS AND MILLS
PRIVATE LIMITED**

Between

M/s Nithin Grains and Mills Private Limited,
18-3-60/C, Road No. 2, Srihari Colony,
Santhi Nagar, Tirupati – 517 501,
Andhra Pradesh .

... Petitioner

And

Bank of India,
18-1-24/C, Vaishnavi Towers,
K T Road, Tirupathi – 517 501,
Chittoor District,
Andhra Pradesh.

... Respondent

Date of Order: 15.11.2019

CORAM:

Hon'ble Janab Mohammed Ajmal, Member Judicial

Appearance:

For the Petitioner: Mr. V. K. Sajith & Mr. V. Ravi Kumar,
Advocates.

For the Respondent: Mr. V. Sethu Madhava Rao & Ms. V.
Dyumani, Advocates.

My note
15/11/19

ORDER

This is a Petition under section 10 of the Insolvency and Bankruptcy Code, 2016 (the Code for short) seeking to initiate Corporate Insolvency Resolution Process (CIRP) for itself due to its default in payment of a financial debt.

2. The Petitioner Company (CIN: U15400AP2014PTC095200) incorporated on 03.09.2014 was established to carry on the business *inter alia* to manufacture, buy, sell, refine, prepare, grow, import, export and deal in food products and provisions of all kinds, both wholesale and retail. In order to give effect to the objects of the Company it availed a term loan of Rs. 10 crores and availed a cash credit facility of Rs. 7.25 crores from Bank of India, Tirupathi Branch, the Respondent. It defaulted in repayment of the credit facility as early as June, 2016. Having been unable to clear the debts and committed a default, it came up with the present Petition seeking its own CIRP. The Petitioner further stated that one M/s Vishwabharti Foods Private Limited filed a Company Petition i.e. CP (IB) No. 319/9/HDB/2017 against the petitioner herein before the National Company Law Tribunal, Hyderabad Bench under Section 9 of the Code. The Tribunal vide its order dated 22.03.2018 admitted the Company Petition and initiated CIRP in respect of the present petitioner. Subsequently, the operational creditor submitted the application in Form for withdrawal of CIRP initiated against the Corporate Debtor. The Committee of Creditors (CoC) approved the same unanimously. Consequently, the Resolution Professional filed an Application i.e. IA No. 502/2018 under Section 12A of the Code. The

15/11/19

Tribunal vide its order dated 12.11.2018 allowed the said Application and the CIRP stood closed.

3. The Respondent bank in its counter submitted that the Petitioner has approached this authority to avoid action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act) and the recovery proceedings initiated in OA No. 681 of 2019 before the Debt Recovery Tribunal-II, Hyderabad. The Petitioner approached this authority with unclean hands. Thus, its prayer for initiation of CIRP cannot be granted.
4. Admittedly there is a default by the Petitioner (CD) in payment of a financial debt. It has enclosed along with the Petition a copy of the special resolution passed by the shareholders resolving to initiate CIRP. All the conditions mentioned in section 10 of the Code have been fulfilled. It is thus appropriate, that the Company Petition is admitted. Hence ordered.

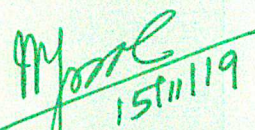
ORDER

- i. The Company Petition be and the same is admitted on contest.
- ii. The Corporate Insolvency Resolution Process of the respondent shall commence from this date and shall be completed within 180 days hence.
- iii. Mr. Pavan Kankani, (Registration No. IBBI/IPA-002/IP-N00368/2017-2018/11062), having office at F-45, First Floor, 5-9-1121, Agarwal Chambers, King Kothi, Hyderabad – 500 001. E-mail ID: ippavankankani@gmail.com is appointed as the Interim Resolution

Handwritten signature and date:
15/11/19

Professional. No disciplinary proceeding is pending/proposed against him as per the IBBI website.

- iv. He is directed to take charge of the Petitioner/Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made there under.
- v. Moratorium in respect of the respondent is hereby declared under Section 14 of the Code.
- vi. The Directors, Promoters or any other person(s) associated with the management of Petitioner/Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under section 19 for effectively discharging his functions under the Code.
- vii. The Registry is directed to communicate the order to the Petitioner/Corporate Debtor and the Respondent/Financial Creditor forthwith.
- viii. The petitioner and the Registry are also directed to send the copy of this order to IRP for necessary compliance.


(MOHAMMED AJMAL)
MEMBER JUDICIAL