

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P.(IB) -3075/(MB)/2019

Under section 10 of IBC, 2016

In the matter of

United Salt Works Industries Limited,
c/o Saroosh C. Dinshaw, 3rd Floor, Sir H. C.
Dinshaw Building, 16 Horniman Circle, Fort,
Mumbai-400001.

....Corporate Applicant

Order delivered on: 14.10.2019

Coram:

Hon'ble Suchitra Kanuparthi, Member (Judicial)

Hon'ble V. Nallasenapathy, Member (Technical)

For the Applicant: Mr. Rohit Gupta Adv., Ms. Namrata Parikh Adv.,
Mr. Avan Ardeshir i/b Mulla & Mulla & Craigie
Blunt & Caroe

Per: Suchitra Kanuparthi, Member (Judicial)

ORDER

1. This Company Petition is filed by United Salt Works Industries Limited (hereinafter called "Corporate Applicant"), under Section 10 of Insolvency and Bankruptcy Code 2016 ("the Code") read with Rule 7 (1) of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, for initiation of Corporate Insolvency Resolution process.
2. The Corporate Applicant submits that its registered office is at c/o Saroosh C. Dinshaw, 3rd Floor, Sir H. C. Dinshaw Building, 16 Horniman Circle, Fort, Mumbai-400001 incorporated on 25.10.1941 vide CIN U74999MH1941PLC003466 on the file of Registrar of Companies Maharashtra.
3. The Corporate Applicant between the period of 1941 to 1985 have been the oldest and best laid out salt works in India. The Corporate Applicant on 09.02.1959 taken on lease by 5 separate deeds of lease from Kandla Port Trust (hereinafter the "Lessor") a large plot of land admeasuring 1335.54 Acres and 4 small plots admeasuring 38.850 acres, 27.924 acres, 25.574 acres and 3 acres respectively, totalling to an area admeasuring 1430.278 acres (hereinafter the "said lands"). The leases were initially for a period of 15 years and the same were on expiry renewed for a further period of 30 years and expired in April 2004 (hereinafter referred to as the said Leases).



4. The Leases were subsequently terminated on July 1st, 1994, proceedings were initiated to challenge such termination and the same was dismissed by the Hon'ble Gujarat High Court on 09.05.2003. Appeal was also dismissed on 05.01.2015. The possession of the said land was taken back on 25.04.2012. in the meantime, between the period of 1985 to 1987 the Corporate Applicant started incurring heavy losses and thereby the production came to stand still. An order was passed by BIFR in case no. 57/1989 and the Corporate Applicant was declared as sick unit under the provisions of Sick Industrial Companies (Special provisions) Act, 1985 and appointed Bank of India as operating Agency.
5. The Lessor of the land raised demand for damages with interest to a sum of Rs. 26,35,82,334/- on account of alleged unauthorised, used in occupation of the said lands from the period of 1985 to 25.04.2012. on 21.04.2017 the Estate Officer passed the order directing payment of Rs. 38.24 crores. The order of Estate Officer was confirmed in appeal bearing No. 35/2006 before Hon'ble Second District Judge, Gandhi Dham. Therefore, there is debt and default qua payment of Decree passed by Estate Officer. Further, the payment to Electricity Department towards its claim is not made. There is no default of Financial Creditor except related parties loan.
6. The Corporate Applicant has cash and bank balance of Rs. 3,91,640/- and advance against gratuity Rs. 33,373/- as against the liability set out above. The premises at which the registrar address of the Corporate Applicant is located, Mr. saroosh dinshaw (Director of Corporate Applicant) in his personal capacity and his being used gratuitously by the Corporate Applicant a sum of Rs. 47,54,86,898/- as per altered balance sheet 31.03.2019 as on date of application is due and payable by the Corporate Applicant to the dean dayal port trust, formerly known as Kandla Port Trust whereas the assets of the Corporate Applicant company are valued at Rs. 3,91,640/-.
7. The Corporate Applicant vide its EGM passed on 30.04.2019 resolved to initiate the Corporate Insolvency Resolution Process under Section 10 of Insolvency and Bankruptcy Code, r/w Insolvency bankruptcy rules. The EGM further authorise Mr. Saroosh Kowasji Dinshaw on behalf of the Board of directors of the company to file the necessary Application under the Code.



8. The Corporate Applicant has annexed the Annual Financial Statement of Accounts for the years 2016-2017, 2017-2018, 2018-2019 and the provisional Profit and Loss statement for the period ended on 08.08.2019.

9. There are no fixed assets as per the books of accounts of the year 2017-2018 annexure Exhibit J. the list of shareholders as on 27.09.2018 is also annexed as part of books of accounts for the year 2017-2018. The summary of total creditors/ liabilities as follows:

Particulars	Amt in Rs.
Financial Creditors	28,11,469
Operational Creditors	48,37,52,626
Total liabilities	48,65,67,095

10. The Corporate Applicant proposed Mr. Kairav Anil Trivedi having registration No. as IBBI/IPA-002/IP-N00728/2018-19/12332 having address at 23, A 5TH Floor, Jyoti Building Barquatali Dargah Marg, Wadala, East Mumbai-400037 as Interim Resolution Professional to carry the functions as mentioned under the Code.

11. It is submitted that there is no malafide intention in seeking for CIRP process but it is on account of closure of business, reposition of asset and incapacity to make payment of decree passed by the said Officer. The Corporate Applicant has cash balance of Rs. 3,91,640/- and advance against gratuity Rs. 33,373/- and the total liabilities as shown in the table above is Rs. 48,65,67,095/-, as such it is just an equitable that the Corporate applicant be wound up.

12. On reading the Petition, the supporting documents annexed with the Petition and on hearing the submissions of the Counsel for the Corporate Applicant, this Bench is of the view that the Corporate Applicant has committed default and the Petition contains the particulars as required u/s 10 of the Code. Hence, this Bench hereby admits this petition, declaring moratorium with consequential directions as mentioned below:

- (i) That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Applicant including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the Corporate Applicant any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Applicant in respect



of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant.

- (ii) That the supply of essential goods or services to the Corporate Applicant, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (iii) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (iv) That the order of moratorium shall have effect from 14.10.2019 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Applicant under Section 33, as the case may be.
- (v) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- (vi) That this Bench hereby Mr. Kairav Anil Trivedi having registration No. as IBBI/IPA-002/IP-N00728/2018-19/12332 having address at 23, A 5TH Floor, Jyoti Bldg. Barquatali Dargah Margh, Wadala, East Mumbai-400037 as Interim Resolution Professional to carry the functions as mentioned under the Code.

13. Accordingly, this Petition is admitted.

14. The Registry is hereby directed to communicate this order to the Applicant and the Interim Resolution Professional immediately.

Sd/-
V. Nallasenapathy
Member (Technical)

Sd/-
Suchitra Kanuparthi
Member (Judicial)



Certified True Copy
Copy Issued Free of Cost
On 26/11/2019

Assistant Registrar