

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 1**

TP/MP/ 240 of 2019 [CP(IB) 549 of 2018]

**Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
INDORE BENCH AT AHMEDABAD OF THE NATIONAL COMPANY LAW TRIBUNAL ON 29.01.2021**

Name of the Company:

Bank of India

V/s

Sai Magic Foods Product Pvt Ltd

Section:

7 of the Insolvency and Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


**(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)**


**(MADAN B GOSAVI)
MEMBER (JUDICIAL)**

Dated this the 29th day of January, 2021.

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 1**

CP (IB) No.549/7/NCLT/INDORE/2018

An application filed under Section 7 of the Insolvency and
Bankruptcy Code, 2016

In the matter of :

Bank of India,
(Mr. Sridhar Seshadri)
Having Branch Office at
Pungalia Bhawan, Santha Bazar,
Indore
MP 452002
Having registered office at
Star House, C-5,
G Block, Bandra- Kurla Complex,
Bandra (East) Mumbai-400051

..Financial Creditor

Versus

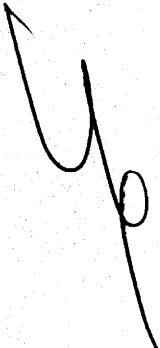
M/s Sai Magic Foods Products Pvt. Ltd.,
CIN:15400MP2010PTC023774
Registered Office at :
"Swastik House",
105-107, Sairam Plaza, 63,
Mangal Nagar, A.B. Road,
Indore
MP-452001

.. Corporate Debtor

Date of Hearing: 28th day of January, 2021

Date of Pronouncement of Order 29th day of January, 2021

**Coram: MADAN B. GOSAVI, MEMBER(J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**



Appearance:

Learned Counsel Mr. Anand Prabhawalkar for the Financial Creditor.

ORDER

[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]

1. The facts, in brief, are that the application filed under Section 7 by Financial Creditor to initiate CIRP against the Corporate Debtor M/s. Sai Magic Foods Products Pvt. Ltd. The amount of debt in default has been claimed at Rs.9,69,82,263/- including interest. The date of default has been stated as 30.09.2016.
2. The Financial Creditor granted various credit facilities to the Corporate Debtor since 2011 which were extended from time to time. The Corporate Debtor, however, was unable to fulfil its commitments and ultimately the account was classified as NPA on 30.09.2016. Notice under Section 13(2) of the SARFEASI Act was also issued on 03.12.2016.

3. Learned Counsel Mr. Anand Prabhwalkar on behalf of Financial Creditor submitted that outstanding amount was due and payable and the Corporate Debtor had committed default in repayment thereof, hence, this application met all requirements of Section 7 of IBC, 2016. It was also pleaded that at various occasions, Corporate Debtor including during the course of pendency of this petition, offered various settlement proposals but ultimately could not comply / fulfil its commitment of such settlement schemes. Our attention was also drawn to various documents attached with the petition in support of its claim. It was also contended that name of IRP Mr. Ashutosh Gokhale proposed whose consent is on record. Further, from the material on record, it is evident that no disciplinary proceedings are pending against such IRP. We may accordingly, appoint Mr. Ashutosh Gokhale to act as IRP to take CIRP.
4. Reliance was also placed on the decision of the Hon'ble Supreme Court in the case of Innovative

Industries in support of its various claims. Accordingly, it was prayed that the application was required to be admitted. The application is otherwise complete and defect free.

5. We have considered the submissions made before us as well as material on record. It is not in dispute that the default has occurred in repayment of financial debt which is due and payable and amount is more than Rs. 1 lakh. The said default has been occurred on 30.09.2016. This application has been filed on 22.10.2018. Thus, application is well within limitation period. The name of IRP has also been proposed which is mandatory in case of an application filed under Section 7 of IBC, 2016. Accordingly, we admit this application and order as under:

ORDER

1. Corporate Debtor M/s Sai Magic Foods Products Pvt. Ltd., is admitted in Corporate Insolvency

Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.

2. We appoint Mr. Mr. Ashutosh Gokhale, registration no. IBBI/IPA-001/IP-P00613/2017-2018/11072, having address 206, Extn. Manas Bhawan, 11, RNT Marg Indore, M.P.-452001, Email gokhale206@gmail.com under section 13(1) (c) of the IB Code as IRP.
3. That the Moratorium under Section 14 of the Code shall come to effect from 29.01.2021 till the completion of 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 Debtor under Section 33, as the case may be.
4. That the Bench hereby prohibits the institution of suits or continuation of pending suit 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(s), transferring, encumbering, alienating or disposing of by the Corporate Debtor 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 Debtor in respect of its property including any action under the SARFAESI 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 Debtor.

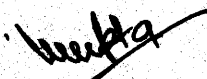
5. Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to pronouncement of this order such proceedings are expected to be dealt with in accordance with law r.w. Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.

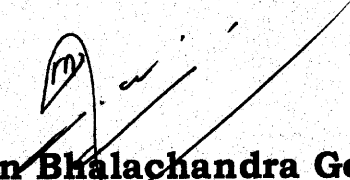
6. That the supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the Moratorium, period. The Corporate Debtor to provide effective assistance to the IRP as and when he takes charge of the Corporate Debtor.
7. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.
8. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the

Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

9. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
10. We direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. 1,00,000/- (Rs. One lakh) as fees & expenses till the COC decides about his fees / expenses.

11. The Registry is directed to communicate a copy of this order to the Petitioner-Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.
12. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.
13. CP(IB) No. 549/7/NCLT/INDORE/2018 is allowed and stands disposed of.


(Virendra Kumar Gupta)
Member (Technical)


(Madan Bhalachandra Gosavi)
Member (Judicial)

Signed on this, the 29th day of January, 2021.

Prakash