

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

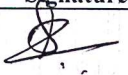

PRESENT: HON'BLE SHRI K ANANTHYA PADAMANABHA SWAMY – MEMBER JUDICIAL

PRESENT: HON'BLE SHRI BINOD KUMAR SINHA –MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 27.08.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) NO.102/7/HDB/2019
NAME OF THE COMPANY	Sarda Agro Oils Ltd
NAME OF THE PETITIONER(S)	Allahabad Bank
NAME OF THE RESPONDENT(S)	Sarda Agro Oils Ltd
UNDER SECTION	7 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
S. V. VANSHI KRISHNA	Adv	8919448958	
Ashta Agri Ltd	Adv	903033331	

Counsel for Respondent(s):

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

ORDER

Order pronounced in open court. CP admitted and IRP appointed vide separate order.



MEMBER TECHNICAL



MEMBER JUDICIAL

AS

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.102/07/HDB/2019
U/s. 7 of the Insolvency & Bankruptcy Code, 2016,
Read with Rule 4 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016.

In the matter of:-
M/s. SARDA AGRO OILS LIMITED

Between:-

Allahabad Bank
Himayathnagar Branch,
3-6-435, Ground Floor,
Main Road, Himayathnagar,
Hyderabad – 500 029, Telangana.

...Petitioner/
Financial Creditor

And

M/s.Sarda Agro Oils Limited
655, Satamrai,
Gaganpahad, Hyderabad – 501323.
Telangana.

...Respondent/
Corporate Debtor

Date of Order: 27.08.2019

Coram: Shri. K. Anantha Padmanabha Swamy, Member Judicial.
Dr. Binod Kumar Sinha, Member Technical.

Parties/Counsels present:-

For the Petitioner/Financial Creditor:

Dr. S.V.Rama Krishna, Mr. S.V.Vamshi Krishna & Ms. Deepa Sree,
Counsels.

For the Respondent/Corporate Debtor:

Ex-parte.

Per: Dr. Binod Kumar Sinha, Member Technical

ORDER

1. Under consideration is a Company Petition, filed by Allahabad Bank (hereinafter referred to as 'Financial Creditor') under section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IBC) read with Rule 4 of the Insolvency and Bankruptcy (Application to



Adjudicating Authority) Rules, 2016 against M/s. Sarda Agro Oils Limited (hereinafter referred to as 'Corporate Debtor').

2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
3. The Petitioner/Financial Creditor, is a Public Sector Bank incorporated under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, having its Head Office at No.2, Netaji Subhash Road, Kolkata - 700 001, West Bengal and branches all over the country and one such Branch is located at Hyderabad. The Respondent/Corporate Debtor is a Company incorporated under the Companies Act, 1956 having its registered office at Hyderabad, Telangana and is engaged in the business of vegetable oils refinery. The authorised share capital of the Corporate Debtor is ₹ 8,50,00,000/- and paid up share capital is ₹ 5,50,00,000/- as per the MCA data.
4. It is stated that the Corporate Debtor approached the Financial Creditor for grant of loan facilities for setting up a new vegetable oil refinery unit at Nandigama Village, Mahaboobnagar District, Telangana and expansion of its existing Unit at Kakinada, Andhra Pradesh, under consortium Arrangement lead by the Financial Creditor and another Bank i.e., Bank of Baroda. The Financial Creditor considered the requests and sanctioned Cash Credit (Working Capital) facility of ₹ 20,00,00,000/-, Rupee Term Loan of ₹ 14,00,00,000/- and inland/Foreign Letters of Credit to the tune of ₹ 35,00,00,000/- totaling ₹ 69,00,00,000/- (Rupees Sixty Nine Crore Only) to the Corporate Debtor vide its sanction advice dated 31.05.2012. The Corporate Debtor had accepted the terms and conditions and availed the facilities for its existing units except the Rupees Term Loan of ₹ 14,00,00,000/- as it has not taken up the new Vegetable Oils Refinery Unit at Nandigama.



5. It is stated that the Corporate Debtor has availed both the Cash Credit facility of ₹ 20 Crores and LC facility of ₹ 35 Crore aggregating ₹ 55 Crore and it is a continuous current amount transactions with the Financial Creditor. Over a period of time, the account became irregular and became an NPA on 30.09.2015 due to non-payment of dues in time. However, some payments are made into the current account and the last payment being on 19.02.2016 for an amount of ₹ 49,50,000/- reflected in the Statement of Account of the Corporate Debtor in the books of the Financial Creditor. Presently, the total defaults committed by the Corporate Debtor to the Financial Creditor herein amounts to ₹ 77,80,99,079/- (Rupees Seventy Seven Crore Eighty Lakh Ninety Nine Thousand and Seventy Nine Only) as on 28.12.2018 as per the Statement of Account.
6. It is stated that Financial Creditor being a Nationalized Bank has taken all necessary measures to recover the dues by invoking the provisions u/s. 13(2) and (4) of SARFAESI Act, 2002 and rules made thereunder by issuing demand notice on 04.11.2015, possessions notices on 18.01.2016, 27.01.2016, 28.01.2016 & 04.02.2016. The financial Creditor also filed an O.A No.694/2016 under the provisions of RDDB Act, 1992 before the DRT, Hyderabad and orders dated 29.01.2018 were issued by the DRT, Hyderabad. Pursuant to the said Orders of DRT, a Recovery certificate dated 05.07.2018 and attachment Order dated 03.11.2018 were also issued. As such the present petition is not barred by limitation.
7. In support of its claim, the Financial Creditor has filed the following Documents :
- a) Sanction letter dated 31.05.2012 from Financial Creditor to the Corporate Debtor sanctioning Cash Credit, LC and Term facilities.
 - b) Working Capital Consortium Agreement dated 06.09.2012.

- c) Joint Deed of Hypothecation dated 06.09.2012 creating charges on both movable and immovable properties of Corporate Debtor for repayment of total loans of ₹ 139 Crore (includes Terms Loan of ₹ 14 Crore sanctioned by the Financial Creditor but not availed) together with interest, charges, expenses etc. thereon.
- d) Letter of Hypothecation-cum-Assignment dated 06.09.2012, inter-alia, agreeing to pay ₹ 125 Crore at Bank's base rate plus 3.25% PA with a minimum rate of 10.50 PA on monthly rests etc.
- e) Letter of Undertaking dated 06.09.2012 for creating second charge on fixed assets.
- f) Declaration dated 06.09.2012 in terms of the Companies Act, 1956.
- g) Deeds of Guarantees dated 06.09.2012 for securing the facilities from promoters/directors irrevocably and unconditionally guaranteeing repayment of loan facilities to the Consortium Bankers (lead by Allahabad Bank) for ₹ 129.85 Crore.
- h) Deeds of Guarantees dated 06.09.2012 individually and separately guaranteeing repayment facilities of ₹ 69 Crores sanctioned by this Financial Creditor.
- i) Equitable Mortgages created by Corporate Debtor and promoters/directors on immovable properties by depositing title deeds on 25.09.2012 and executed Memorandum of Deposit of Title Deeds on 09, 10 & 11.10.2012 in favour of the Financial Creditor (Leader of Consortium) as security for the repayment of loan facilities.

8. The matter was posted for hearing on various dates viz., 18.02.2019, 06.03.2019, 27.03.2019, 08.04.2019, 29.04.2019 but the Corporate Debtor failed to appear. Before proceeding with the matter, it is necessary to mention herein that a final chance was given to the Respondent for appearance before this Adjudicating Authority. Therefore, this

Adjudicating Authority on 08.04.2019, directed the counsel for Petitioner/Financial Creditor to issue newspaper publication by way of notice regarding intimation of next date of hearing to the Corporate Debtor and the same was carried out by the Petitioner in Business Standard (English) and Mana Telangana (Telugu) on 19.04.2019 edition in the region where the Registered Office of the Corporate Debtor is located and filed the proof of the same.

9. Having satisfied with the proof of service of notice and when there was no representation, Respondent was proceeded *ex-parte* on 03.05.2019.
10. On 04.07.2019, Ms. H. Deepika, Counsel appeared on behalf of Respondent, filed vakalat and prayed time for filing counter. But, the counsel for Respondent neither filed any application before this Adjudicating Authority to set-aside *ex-parte* order dated 03.05.2019 nor filed counter. No representation was made thereafter when the case was posted on 02.08.2019 and 05.08.2019.
11. Heard submissions of the learned counsel for the Petitioner/Financial Creditor and perused the record.
12. After hearing submissions of the learned counsel for the Petitioner/Financial Creditor and having perused the records, this Adjudicating Authority is satisfied with the proof placed by the Petitioner that default has occurred in respect of financial debt which the Corporate Debtor was liable to pay to the Petitioner. The Petitioner has also placed on record proof of sending notices and paper publication. The Petitioner has complied with all the requirements as stipulated under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, this Adjudicating Authority is inclined to admit the instant petition.
13. The instant petition is admitted and this Adjudicating Authority order the commencement of the Corporate Insolvency Resolution Process which



shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

14. This Adjudicating Authority hereby Appoint Mr. Madhusudhan Rao Gonugunta, as IRP as proposed by the Financial Creditor. There is no disciplinary proceedings pending against the IRP as evidenced from Form-2 and his name is reflected in IBBI website. The IRP is directed to take charge of the Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the Insolvency and Bankruptcy Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

15. The moratorium is hereby declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purpose referred to in Section 14 of the I & B Code, 2016. It is hereby ordered to prohibit all of the following, namely:-

- 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 panel or other authority.*
- b) *Transferring, encumbering, alienating or disposing of 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 any action under the Securitisation 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.*

16. The Supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provision of Sub-section (1) of Section 14 shall not apply to such transaction, as notified by the Central Government.
17. The IRP shall comply with the provisions of Sections 13 (2), 15, 17, & 18 of the Code. The directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor is expected to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his function under Section 20 of the I & B Code, 2016.
18. The Operational Creditor and the Registry are directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I & B Code, 2016.
19. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
20. The detailed address of the IRP is as follows:-
Mr. **Madhusudhan Rao Gonugunta**,
Insolvency Professional
(IBBI/IPA-001/IP-P00181/2017-18/10360)
7-1-285, Flat No.103,
Sri Sai Swapnasampada Apartments,
Balkampet, Sanjeev Reddy Nagar,
Hyderabad, Telangana – 500 038.
Telangana.
Email ID: *madhucs1@gmail.com*
21. The present Petition bearing CP (IB) No.102/7/HDB/2019 is hereby admitted.


27.05.19
Dr. BINOD KUMAR SINHA
MEMBER TECHNICAL


K. ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL