



S.No.9

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
30-10-2023 AT 10:30 AM

CP(IB) No. 139/7/HDB/2023
u/s. 7 of IBC, 2016

IN THE MATTER OF:

Mr. Ram Govind Reddy Narapa Reddy

... **Financial Creditor**

Vs

M/s. Sathwik Projects Private Limited

... **Corporate Debtor**

C O R A M:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

ORDER

Orders pronounced. In the result, **this Company Petition is allowed**. CIRP is initiated against the CD and Moratorium is imposed, as per the terms of the order. Shri Chandrasekhar Arasada, Insolvency Professional is appointed as Interim Resolution Professional.

Sd/-

MEMBER (T)

Sd/-

MEMBER (J)



**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1**

CP (IB) No. 139/7/HDB/2023

U/S 7 of IBC, 2016, r/w Rule 4 of I & B(AAA) Rules, 2016

Between

Mr.Ram Govind Reddy Narapa Reddy
R/o. Villa no.32, CPR-RK Palm Ridge Villas,
Masjid Banda, Kondapur, Srilingampally,
Telangana- 500 084.

...Petitioner/Financial Creditor

VERSUS

M/s Sathwik Projects Private Limited
Registered Office at Flat No.601,
6th Floor, Swarna Jayanthi Commercial Complex,
Ameerpet, Hyderabad- 500 016.

...Respondent/Corporate Debtor

Date of order:30.10.2023

Coram:

Dr. Venkata Ramakrishna Badarinath Nandula, Hon'ble Member (Judicial)
Sh. Charan Singh, Hon'ble Member (Technical)

Appearance:

For Petitioner: Mr. I V Srikrishna Raya and Shri P.Harish,
Counsels

For the Respondent: Mr. K.Nikhil, Counsel



**PER: BENCH
ORDER**

1. This application is filed under Section 7 of Insolvency and Bankruptcy Code (hereinafter to be referred as “Code”), read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking admission of the application for initiation of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon, contending that the Respondent defaulted in the payment of alleged debt of Rs.2,05,45,720.64/- (Rupees Two Crore Five Lakhs Forty Five Thousand Seven Hundred and Twenty and Sixty Four Paise Only) as on 31.07.2021.
2. **The averments made in the Petition are as follows:**
 - i. It is averred that Shri Ram Govind Narappa Reddy, (Financial Creditor herein), was the shareholder of M/s.Sathwik Projects Private Limited (Corporate Debtor herein).
 - ii. It is averred that corporate debtor was involved in the business of construction and maintenance of foundation work,



scaffolding water well drilling, foundation work maintenance etc.,

- iii.** It is averred that the financial creditor and the Director of corporate debtor i.e Shri Devaiah Pagidipati, have entered into Share Purchase Agreement dated 07.12.2019 where under it was agreed that, 8,98,000 equity shares of Corporate debtor will be purchased by the financial creditor for a consideration of Rs.89,80,000/- . As per Clause 3.2(b) of the Agreement, financial creditor has provided an unsecured loan amounting to Rs.1,94,57,836/-, even before entering the Share Purchase Agreement.
- iv.** It was agreed that the Director of the corporate debtor would ensure that the corporate debtor would repay the unsecured loan advanced by the financial creditor, within one year from the date of the agreement or one week from the date of payment by IROAF of the dues payable to the corporate debtor, whichever is earlier.
- v.** Thus, financial creditor disbursed the unsecured loan amounting to Rs.1,94,57,836 to the corporate debtor by way of



two payments i.e Rs.81,16,615/- through its personal account and Rs.1,13,41,221/- through Pruthvi Adithya Infratech Pvt Ltd.

- vi.** It is averred that though financial creditor had sent several reminder mails dated 26.04.2021, 26.07.2021, 06.09.2021 to the Director of the corporate debtor only an amount of Rs.20,00,000/- was paid to the financial creditor. Remaining amount of Rs.1,74,57,836/- was due and payable to the corporate debtor.
- vii.** Despite of multiple reminders there was no reply. Thus, financial creditor issued legal notice dated 12.08.2022 for which the corporate debtor replied to the same vide dated 11.10.2022 stating that the due amounts from IROAF to the corporate debtor is still pending and thus prayed for time to clear the dues.
- viii.** It is averred that corporate debtor had neither disputed the claim nor paid the amount, which is evident that the corporate debtor is unable to pay the amount thus the financial creditor prayed the Tribunal to initiate CIRP against the corporate debtor for an



amount of Rs.1,74,57,836/-(principal) @12% interest. The total amount due and payable is Rs.2,05,45,720.64/-.

3. In the above backdrop the point that emerges for consideration by this Tribunal is:

Whether a financial debt as claimed by the Applicant is due and payable by the corporate debtor to the applicant, If so, whether the Corporate Debtor defaulted in payment of the same?

4. We have heard learned counsel for financial creditor Mr. I V Srikrishna Raya and Shri P.Harish, Counsels and Mr. K.Nikhil, Counsel, for corporate debtor. Perused the record.

5. According to the learned counsel for financial creditor, pursuant to the Share Purchase Agreement dated 07.12.2019, corporate debtor is liable for payment of Rs.2,05,45,720.64/-. However, the same was not paid. Financial creditor had issued demand notice on 12.08.2022 to the respondent calling upon the respondent to pay the debt within 15 days from the date of receipt of the notice. The corporate debtor sent reply dated 11.10.2022 by requesting time and has not disputed the claim. Therefore, the present Application has been instituted.

6. Though respondent entered appearance through its Counsel, but did not choose to file any counter despite grant of sufficient opportunity



by this Tribunal. Therefore, opportunity to file counter has been forfeited on 24.08.2023. Thereafter, the corporate debtor has not taken any steps to file counter.

7. It is found from the record that as per Clause 3.2(b) of the Share Purchase Agreement there was prior lending of unsecured loan amounting to Rs.1,94,57,836/-. Record reveals that after several reminders an amount of Rs.20,00,000/- paid to the financial creditor.
8. In this back drop the contentions and allegations as made in this application by the financial creditor remain un-rebutted by the corporate debtor. We have carefully perused the record and are fully convinced that financial debt of sum over one crore was due and payable by the corporate debtor has been defaulted. As no material is placed before us by the corporate debtor discharging the debt, we hold that existence of a financial debt and its default by the corporate debtor has been established. Hence is fit case to admit the corporate debtor into CIRP.

The point is answered accordingly.

9. Hence, in view of the reasons stated as above, the Adjudicating Authority is inclined to admit the petition. Accordingly, this Company Petition under Section 7 of IBC, 2016, is hereby admitted declaring



moratorium for the purposes referred to in Section 14 of the Code, with following directions:

- (a) The Bench hereby prohibits 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; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor;
- (b) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (c) 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.
- (d) That the order of moratorium shall have effect from the date of this order 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 Debtor under Section 33, whichever is earlier.

- (e) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.
- (A) That this Bench hereby appoints Shri Chandra Sekhar Arasada, having registration no. IBBI/IPA-001/IP-P00670/2017-2018/11138 with e-mail chandra61ca[at]gmail[dot]com, , as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.
- (B) Proposed IRP filed Form-2 on 25.01.2023. Authorisation for assignment is valid upto 17.10.2024. This information is also available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.
- (f) The petitioner is directed to pay a sum of Rs.1,00,000/- to the interim resolution professional to meet out the initial CIRP expenses to perform the functions assigned to him in accordance with Regulation 6 of IBBI regulation, 2016.
- (g) The Registry of this Tribunal is directed to send a copy of this order to the Registrar of Companies, Hyderabad for marking appropriate remarks against the Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.



- (h) Registry is directed to send a copy of this order to the Financial Creditor and IRP appointed in this case.
- (i) Accordingly, petition is admitted.
- (j) The Financial Creditor is directed to communicate this order to the IRP appointed in this case.
- (k) The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.

SD

Charan Singh

Member Technical

SD

Dr. Venkata Ramakrishna Badarinath Nandula

Member Judicial

Pavani