IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

CP (IB) No. 176/CTB/2019

In the matter of:

An application under section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

Punjab National Bank, a body corporate constituted under the provisions of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, having its Head Office at: Plot No.4, Sector-10 Dwarka, New Delhi, PIN- 110075 Branches amongst other places at Katora Talab, Raipur, Chhattisgarh PIN- 492 001;

...Financial Creditor

-Versus-

PLUTUS INFRAVENTURES PVT. LTD, a company constituted under the Companies Act, 2013 having its registered office at Paradise, Ring Road No.1 Kaushal Ghri Nirman Samiti, Raipura Chowk, Raipur CT 492 001.

...Corporate Debtor

Coram:

Shri P. Mohan Raj	:	Member (Judicial)
Shri Satya Ranjan Prasad	:	Member (Technical)

Appearances (through video conferencing)

For the Applicant	:	Mr. Manoj Kumar Mishra, Adv

Order reserved on: 07.03.2022

Order pronounced on: 15.03.2022

ORDER

Per: Satya Ranjan Prasad, Member (Technical)

1. The Court convened via video conference on 07.03.2022.

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2. Heard the Ld. Counsel appearing for the Petitioner. There was no representation for the Respondent. In view of non-appearance of the Respondent since 01.03.2022 the respondent was set *ex-parte* on 07.03.2022. After considering the submissions of the petitioner and on perusal of the material on record, we pass this order.

3. This application under Section 7 of Insolvency and Bankruptcy Code, 2016 read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, has been filed by **Punjab National Bank** *[Financial Creditor]*, through its Authorised Officer Mr. Pradeep Pandey, Chief Manager, thereby seeking initiation of Corporate Insolvency Resolution Process *(CIRP)* in respect of **PLUTUS INFRAVENTURES PVT. LTD** [CIN: U51432CT2014PTC001546], a company constituted under the Companies Act, 2013 having its registered office at Paradise, Ring Road No.1 Kaushal Ghri Nirman Samiti, Raipura Chowk, Raipur Chhattisgarh 492 001, *(hereinafter referred to as the Corporate Debtor).*

4. The applicant i.e., Financial Creditor claims an amount of ₹12,79,79,316/- (Rupees Twelve Crore Seventy-Nine Lakh Seventy-Nine Thousand Three Hundred Sixteen Only) from the Corporate Debtor. It is stated in the Petition that the Financial Creditor has sanctioned Cash Credit to the tune of ₹ 4.80 crore on 09.10.2015 and further by way of enhancement the Credit Limit was raised to ₹ 9.00 crore (with sub limit of book debts for ₹ 2.50 Crore) and fresh Letter of Credit limit of ₹2.00 crore interchangeable within overall CC limit of ₹ 1.00 crore on 28.01.2016 and Adhoc Limit of ₹ 2.00 crore on 16.04.2016 for three months. It is further submitted that the Corporate Debtor company in the meeting of its board of directors held on 06.01.2016 *inter alia* resolved to take the aforesaid enhancement. The Directors of Corporate Debtor Company requested the Financial Creditor to

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enhance the Cash Credit (Hypothecation) limit from ₹ 4,80,00,000/- to ₹ 9,00,00,000/- within which a fresh limit of ₹ 2,00,00,000/- and grant of bank guarantee limit of ₹ 1,00,00,000/- to them vide sanction letter dated 28.01.2016. A copy of the sanction letter has been annexed with the petition.

5. It is stated in the petition that for the sanction of said loan the Corporate Debtor in their capacity as guarantors, *inter alia* executed the documents in favour of the Financial Creditor on 09.10.2015. An agreement of the hypothecation of Goods and Book debts of ₹ 4,80,00,000/- dated 09.10.2015 by the directors of the Corporate Debtor in favour of the Financial Creditor whereby they hypothecated the present and future stocks of raw material, work in progress, finished goods, consumables, stores and spares in course and in future. Further, the Corporate Debtor agreed to pay interest at base rate plus applicable interest tax per annum with monthly rests. The terms and conditions of the said agreement have been with the petition. To secure the various credit facilities sanctioned by the Financial Creditor to the Corporate Debtor from time to time, the Directors of the Corporate Debtor intended to create equitable mortgage over the immovable properties, jointly and owned by them, the details whereof are mentioned herein below-

Recorded Interest	**Village/Mouza/Thesil**	**Khata No.**	**Plot No.**	**Area (Acres)**
Smt. Chandramukhi Dewangan	Mandrihasaud/Arang	1484/1-2-4-5	73/16	0.086 dec.
Smt. Smriti Dewangan	Mahrishhi Valmiki/Raipur	343/3 & 343/5	113	1764 (sq. ft.)
M/s. Chandramohini Dewangan	Kalimata Ward (Ward No. 30)/ Lodhipara Chowk	220/2	109/47	
M/s. Chandramohini Dewangan.	Shankar Nagar Raipur, Maharish I Valmiki Ward No.28	720/147	63	1500 (sq. ft.)

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M/s Plutus Infraventure Pvt. Ltd.	Village Dangania, Ward: Pt Deen Dayal Upadhyay Ward/Raipur			
M/s. Chandramohini Dewangan.	Kushal Grih Nirman Samiti/Raipur	376/1	208	B. 5575 (Sq. ft.)
M/s. Chandramohini Dewangan.	Village Sivani/District Jangir Champa	470	3	B. 0.336 Hectares
M/s. Chandramohini Dewangan.	Village: Tulsi/Dharsiwa	515/3	41	B. 0.139 Hectares

6. The applicant has stated that the Directors of the Corporate Debtor for the aforesaid purpose, approached the Branch Office of the Corporate Debtor and deposited the Original Title deed as aforesaid, relating the aforesaid properties, to create mortgage on the aforesaid properties by deposit of title deeds, as security for due repayment of the entire overall limit advanced by the Financial Creditor to the Corporate Debtor along with interest, costs and expenses. The mortgage was duly registered in the mortgage register of the Financial Creditor. The copies of the entries made in the equitable mortgage register of the Financial Creditor have been annexed to the petition and marked as Annexure-H. It is stated in the petition that the Corporate Debtor failed to maintain satisfactory accounts and did not adhere to financial discipline. The Corporate Debtor through its directors Corporate as borrowers executed Balance and Security Confirmation Letter dated 12.05.2018 in favour of the Financial Creditor whereby they confirmed the balance outstanding amounting to ₹ 12,79,55,802 as on 31.03.2018 in the cash credit (Hypothecation) limit of the Corporate Debtor bearing No. 3246008700003016. A copy of Balance and Security Confirmation dated 12.05.2018 has been annexed with the petition and marked as Annexure-I.

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7. The applicant has stated that for the recovery of loan, he has issued Registered Legal Notice dated 27.04.2018 to the Corporate Debtor thereby calling upon them to repay the outstanding dues in relation to the aforesaid Cash Credit Limit (Hypothecation) in the manner stated but did not yield any result. Copy of Registered Legal Notice dated 27.04.2018 is annexed with the petition and marked as Annexure-J. Further, the Financial Creditor classified the Corporate Debtor as Non-Performing Asset with effect from 31.03. 2018. A copy of the ledger account of the Corporate Debtor is accordance with the Banker's Books Evidence 1891 is attached with the petition and marked as Annexure-L. Thereafter, the Financial Creditor issued a notice dated 07.05.2018 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002. The copy of notice dated 07.05.2018 is annexed with the petition and marked as Annexure-K. The Financial Creditor vide O.A No. 1188 of 2018 approached the Debt Recovery Tribunal, Jabalpur for realization of outstanding dues which is pending. Therefore, the plea can be taken that this petition filed on December 18, 2019 is not time barred.

8. The Corporate Debtor was duly served with notice and was accorded opportunity to file reply. They have not denied the debt and consequent default. However, they have stated to the effect that in the instant case the petitioner has not made any disclosure about the pendency of matter with the Hon'ble DRT Jabalpur. It is noted that the matter has been disclosed by the Petitioner as has been referred to at Para 6 above. There is no stay granted by any authority prohibiting the Petitioner not to go ahead with IBC proceedings.

9. We have carefully gone through the material on record. Heard the learned counsel in detail. On the merits of the case the Corporate Debtor has no defence. The issue of limitation has already been discussed at para 6 above. Debt reflected in the balance sheet of the Corporate Debtor

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for the Financial Year 2017-18 is very clear evidence therefore this petition filed on December 18, 2019 cannot be considered as barred by limitation.

10. In view of the forgoing, we are convinced that the loan amount was duly disbursed to the Corporate Debtor by the Petitioner Financial Creditor, i.e., Punjab National Bank. The requisites of an application under section 7 of IBC are available on record and duly proved. Debt is reflected in the Balance Sheet of the Corporate Debtor as has been stated above.

11. The Financial Creditor has taken consent from **Mr. Pankaj Khetan** an Insolvency Professional to become Interim Resolution Professional (IRP) of the Corporate Debtor in Form-2 and that no disciplinary proceedings are pending against him.

12. We, therefore, consider it a fit case for admitting the petition, and for initiation of Corporate Insolvency Resolution Process in respect of the Corporate Debtor.

13. In view of the aforesaid observations, we hereby admit the petition and pass the following Orders: -

ORDERS

a. The Petition bearing CP (IB) No. 176/CTB/2019 filed by Punjab National Bank the Financial Creditor, under section 7 of the Code read with rule 4(1) of the Insolvency & Bankruptcy (Petition to Adjudicating Authority) Rules, 2016 for initiating CIRP against PLUTUS INFRAVENTURES PVT. LTD [CIN: U51432CT2014PTC001546], the Corporate Debtor, is **admitted.**

b. There shall be a moratorium under section 14 of the Code.

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c. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the Code, as the case may be.

d. Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

e. **Mr. Pankaj Khetan (Reg. No. IBBI/IPA-002/IP-N00010/2016-17/10014**) having address at H-38, LGF, Jangpura Extension Near Eros, Complex, New Delhi- 110014 [email id: pankaj.khetan@yahoo.com] is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code, subject to his possessing a valid Authorisation for Assignment (AFA) in terms of 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the Code. During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow.

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f. The IRP/RP shall submit to this Adjudicating Authority periodical reports concerning the progress of the CIRP in respect of the Corporate Debtor.

g. The Financial Creditor shall deposit a sum of ₹3,00,000 (Rupees three lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

h. In terms of section 7(5)(a) of the Code, the Registry is hereby directed to communicate a copy of this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and e-mail immediately, and in any case, not later than two days from the date of this Order.

i. Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Odisha, Cuttack by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

14. **CP (IB) No. 176/CTB/2019** to come up on 18.04.2022 for progress report.

15. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

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Satya Ranjan Prasad
Member (Technical)

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P. Mohan Raj
Member (Judicial)

Signed this 15th day of March, 2022.

Ravijeet _P.S.