



THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH

CP (IB) No.4/CB/2024

[Under Section 7 of the Insolvency and Bankruptcy Code,2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules,2016.]

In The Matter of:

**NATIONAL AGRICULTURAL CO-OPERATIVE MARKETING
FEDERATION OF INDIA LIMITED (NAFED)**

Office at: NAFED House,
Siddharth Enclave, Ashram Chowk,
New Delhi

..... **APPLICANT/ FINANCIAL CREDITOR**

Versus

ZENITH MINING PRIVATE LIMITED

Shadaad, Biju Patnaik Chowk,
P.O Tulsipur, C.P & District-Cuttack,
Orissa-753001

.....**RESPONDENT/ CORPORATE DEBTOR**

Order pronounced on: 07.11.2024

CORAM: DEEP CHANDRA JOSHI, Member (JUDICIAL)

KAUSHALENDRA KUMAR SINGH, Member (TECHNICAL)

APPEARANCE:

FOR THE APPLICANT: RAKESH KUMAR (ADVOCATE)

FOR THE RESPONDENT: PRATAP SAHANI (ADVOCATE)



ORDER

1. The present application was filed on 30.06.2023 by National Agricultural Cooperative Marketing Federation of India Limited (NAFED) (**Applicant/Financial Creditor**) under section 7 of the Insolvency and Bankruptcy Code, 2016 (**The CODE**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiation of Corporate Insolvency Resolution Process (CIRP) against Zenith Mining Private Limited (**Respondent/Corporate Debtor**) for the default amount total of **Rs. 194,01,78,454/-**.

2. The averments made by the financial creditor/applicant in its application and as argued by the learned counsel are summarized as under:

i. The Corporate Debtor is a private limited company engaged in the business of mining, export and import of iron ores. The Corporate Debtor in the year 2004 approached the Financial Creditor for financial assistance to continue its trade in Iron ores.

ii. The financial creditor vide agreement dated 12.02.2004, agreed to grant financial debt to the Corporate Debtor to extract iron ore from mines in India so as to execute its export orders.

iii. On 27.02.2004, the Corporate Debtor submitted a proposal to the Financial Creditor that certain Chinese and Korean companies had approached him for export of Iron ore and the Corporate Debtor wanted to execute it with the aid of the Financial Creditor.

iv. Then on 16.03.2004, in furtherance of the aforesaid proposal the financial creditor executed a separate agreement with the corporate debtor which was later on amended with the consent of both parties.

v. Accordingly, the Financial Creditor from 26.02.2004 to 12.05.2005, advanced a sum of Rs 90,22,00,000/- (Rupees Ninety Crores Twenty-Two Lakhs only) to the Corporate Debtor



through its bank and also paid it EGGC premium to the tune of Rs.57,13,606/- (Rupees Fifty-Seven Lakhs Thirteen Thousand Six Hundred Six only) as financial debt, totalling to Rs.90,79,13,606/-.

vi. Then corporate debtor during the period of 01.03.2004 to 30.03.2007, repaid a sum of Rs. 30,65,00,000/- (Rupees Thirty Crores Sixty-Five Lakhs only) leaving an outstanding amount of Rs. 60,14,00,000 (Rupees Sixty Crores Fourteen Lakhs only).

vii. The Corporate Debtor was liable to pay outstanding amount Rs. 59,64,00,000/- (Rupees Fifty-Nine Crore Sixty-Four Lakhs only) plus a sum of Rs. 17,11,09,611 (Rupees Seventeen Crore Eleven Lakh Nine Thousand Six Hundred and Eleven Only) towards an interest @8% per annum from 01.03.2004 to 30.09.2007 making it a total of Rs. 76,75,09,611/- (Rupees Seventy-Six Crore Seventy-Five Lakh Nine Thousand Six Hundred and Eleven) with pendent lite and future interest. However, the corporate debtor did not make any further payment against its debt and dues.

viii. The Financial Creditor upon arising dispute with the Corporate Debtor in 2007 invoked the arbitration clause and filed an arbitration petition bearing Arb. Petition No.196/2007 before the Hon'ble Delhi High Court Whereby Justice S. K. Aggarwal (a former Judge of the Delhi High Court) was appointed as the Sole Arbitrator.

ix. Vide order dated 20.05.2019, the Ld. Tribunal passed an arbitral award in favour of the Financial Creditor directing the Corporate Debtor to pay to the Financial Creditor a sum of Rs. 76,75,09,611/- (Rupees Seventy-Six Crores Seventy-Five Lakhs Nine Thousand Six Hundred Eleven Only). The Corporate Debtor was further made liable to pay pendente lite interest at the rate 8% per annum and the same interest on the awarded amount till the realisation of the amount. Accordingly, together with the



interest, the amount payable as on 31.03.2023 would workout to Rs. 194,01,78,454/-.

x. The name of the Interim Resolution professional (IRP) as proposed by the financial creditor is Mr. Sanjeet Kumar Sharma (IP Registration No.- IBBI/IPA-001/IP-P01132/2018-19/11827) and the written consent with certificate of Registration of the same are placed on record.

3. The averments made by the respondent/corporate debtor filed by way of a counter affidavit/objection on 07.05.2024 and as argued by the learned counsel are summarized as under:

i. The Present petition was barred by law of limitation as the applicant has failed to disclose that the above liability accrued in the year 2005.

ii. The financial creditor has claimed Rs.194,01,78,454.00/- including interest at 8% per annum from 01.10.2007 to 31.03.2023 which is based upon the Arbitral Award dated 27.05.2019 passed by the Learned Arbitrator Retired Justice S.K.Agarwal which arises from the agreement dated 12.02.2004 and 16.03.2004.

iii. It is mentioned in the agreement dated 12.02.2004 that the financial creditor has obtained a contract to export iron ore fines from India and accordingly they wanted to buy Iron ore fines of cut-off grade 62.5% to 63.5% from different mines in Orissa, a transporter to arrange trucks for transport of the same from mining areas to port areas and a stevedoring company to unload fines into port plot from trucks and load into vessel/ship for which they need a party to supply the same on Freight on Board (FoB) at Paradip Port.

iv. The corporate debtor, as the second party to the said agreement, approached the financial creditor who is the first party to the agreement, to undertake all the engagements from obtaining Iron Fines from different mines in Orissa and to arrange trucks for transportation of the same from mining areas to port



areas and to appoint stevedoring company in the respective Paradip Port area to unload Iron Fines into port plot from trucks and load into vessels/ship on Freight on Board (FoB) at Paradip Port, Paradeep for the first party to the agreement either directly or through an agent for which the corporate debtor has the infrastructure to do so.

v. The Decretal debt arises from the failure of the corporate debtor to pay against the supply of goods for the applicant. Section 5(21) of the Code defines operational debt to mean a claims in respect of the provisions of goods or services. Accordingly, the underlying debt being a claim arising from supply of goods is an operational debt and not a financial debt as defined under Section 5(8) of the Code. So accordingly, the decretal debt is an operational debt and the applicant is an operational creditor and as such the applicant cannot file an application under Section 7 of the code as under Section 7 only financial creditor is entitled to file application.

vi. The Arbitration Award was passed on 27.05.2019 and this case was filed on 25.05.2023 which is three years after the arbitration award. Hence this petition is also not maintainable as per the law of limitation.

vii. In the Arbitral Award it has been mentioned that the claimant is required to pay deficit stamp duty within 45 days from the receipt of the signed copy of the award, but they have not deposited the stamp duty till today. If the claimant will file execution before the competent court, the award cannot be executed. Therefore, with a malafide intention the applicant had filed the application before this Hon'ble Tribunal to exclude himself to pay the rest stamp duty.

4. The applicant has filed its rejoinder on 10.06.2024. The submissions are summarized as under:

i. The financial creditor is a cooperative society registered under the Multi-State Societies Act and is engaged in the



business of trading in agricultural and non-agricultural items like food grains, edible oils, dry fruits, metal ores etc. On receipt of a proposal by different business entities, if such a proposal is found viable, the applicant also provides financial assistance for export of the related material.

ii. The applicant herein falls under the category of a financial creditor as in terms of the agreement dated 12.02.2004, the financial creditor issued a letter of credit (L.C) in favour of the corporate debtor with Union Bank of India. On the credit provided by the financial creditor, the corporate debtor was liable to pay an interest at 10% per annum. Additionally, the applicant was to pay the negotiation charges, bank commission, bank interest, collection charges, etc. on the Letter of Credit and the same was to be reimbursed by the Corporate Debtor. The applicant was not involved in handling the operations as specified in the said agreement but was only facilitating finance to the Corporate Debtor to run such operations. As per the above-mentioned terms and conditions stipulated in the agreement dated 12.02.2004, the outstanding dues clearly falls under the purview of "Financial Debt" as defined under section 5(8) of the Insolvency and Bankruptcy Code, 2016. Hence, the applicant is a financial creditor and is entitled to receive the said amount in terms of the arbitral award dated 27.05.2019.

iii. The Arbitral Award dated 27.05.2019 passed by Ld. Arbitrator Justice (Retired) S.K. Agarwal has attained finality and has not been challenged till date. The period of filing a petition under Section 34 of the Arbitration and Conciliation Act, 1996 is over a long time ago. So, the debt of the Applicant/Financial creditor and default thereof are undisputed. Further, the failure on the part of the Corporate Debtor/Respondent to repay the said amount is a clear case of default debt. As it is an established position of law that the CIRP process can be initiated against the corporate debtor when there is an undisputed debt and a default



in payment thereof. Reliance is also placed on the judgment of the Hon'ble Supreme Court in **M/S S.S. Engineers & Ors. Versus Hindustan Petroleum Corporation Ltd., Civil Appeal No. 4583 of 2022.**

iv. The application under consideration is filed within the period of limitation in terms of order/judgment of the Hon'ble Supreme Court in Suo Motu Writ Petition 3 of 2020 **In Re: Cognizance of Extension of Limitation** dated 10.01.2022, wherein the Hon'ble Court has held that keeping in views the circumstances and difficulties arising out of Covid-19, period from 15.03.2020 to 28.02.2022 shall be excluded for limitation as may be prescribed under the general or special laws in respect of judicial or quasi-judicial authorities.

v. The proceeding is not for enforcement of award but is a petition under section 7, IBC, 2016 seeking initiation of CIRP against the Corporate Debtor for which there is a twin requirement i.e., there must be debt and there must be a default of payment of such debt. This adjudicating authority has to see herein the records of the information utility or other evidence produced by the applicant/financial creditor to satisfy itself that a default has occurred. The scope of enquiry before the adjudicating authority is therefore limited to assessing the records provided by the applicant/financial creditor to satisfy itself that the default has occurred. Therefore, the plea about stamp duty on the arbitral award is not relevant and cannot be used as a defence to the proceeding under section 7 of the IBC.

5. We have heard the learned counsels for both the applicant and the respondent, and we have carefully perused the materials available on record. It is noted that agreements were executed between the applicant and the respondent on 12.02.2004 and 16.03.2004, respectively. These agreements show that the respondent approached the applicant to finance for the purpose of export of Iron Ore Fines from its mines. The applicant agreed to provide the necessary financing for



these exports. However, a dispute later arose between the parties regarding the amount of finance provided by the applicant on basis of agreements. This dispute was ultimately resolved through an Arbitral Award dated 27.05.2019. The applicant has now filed the present application on basis of the Arbitral Award, which constitutes a decretal debt.

6. It is noted that, under the agreement dated 12.02.2004, the financial creditor as the first party of the agreement had obtained a contract to export Iron Ore fines from India and for which they wanted to buy it from different mines in Orissa and also required a transporter and stevedoring company to transport and unload Iron ore fines into port plot from trucks and load into vessels/ships. For this task they needed a party to supply on Freight on Board, Paradip Port. The corporate debtor approached to the applicant to engage them to execute all these works. The applicant then issued a Letter of Credit (L.C.) in favour of the corporate debtor. This was issued against an advance of ₹50.00 lacs (Rupees Fifty Lacs) for a minimum period of three months, backed by a bank guarantee. The advance was subject to interest at a rate of 10% per annum. The Union Bank of India was designated as the advising bank, and all charges associated with the Letter of Credit were to be borne initially by the financial creditor, with later reimbursement by the corporate debtor.

Subsequently, on 27.02.2004, the corporate debtor again approached the financial creditor, stating that they had received offers from Chinese and Korean companies to export iron ore fines and sought the short term finance on interest @ 7.5%. For ready reference, the said letter [at page No.29 of the application], is reproduced hereunder:



ZENITH MINING PRIVATE LIMITED

Head Office
Shaadab, Tulsipur,
Cuttack, Orissa, India

Branch Office
P.O. Box No.35
At P.O.-Barbil
Dist.-Keonjhar

File No.....

Date.....

To,

27.02.2004

The Addl. Managing Director,
NAFED
New Delhi

Sub: Export of Iron Ore Fines.

Dear Sir,

We are Mine owners and traders for Iron Ore Fines and have our mines in the State of Orissa. We have entered into a contract for supply of Iron Ore Fines to NAFED also. We now have been approached by certain Chinese and Korean Companies for export of Iron Ore Fines. The quantity expected to be fled up is about 80,000 to 1,50,000 metric tonnes.

We would like to route this export order through the good offices of NAFED. The brief proposal is as follows:

1. An export contracts has already been prepared and are ready for signing.
2. The transferrable Letter of Credit would be opened in the name of our Company very soon.
3. This transferrable sight L/C would be transferred in the name of NAFED and a 2% PG bond would be issued by NAFED to the purchaser.
4. The exports would be made on FOB basis.
5. NAFED would be getting the 1% canalizing agency charges of the total turnover of about Rs. 16.95 crores to Rs. 50,00 crores and all the Export benefits and incentives.
6. NAFED would advance us money (Short term finance) at an agreed rate of interest of 7.5%.
7. A margin of 20% would be deposit in form of Bank Guarantee.
8. The money received as advance would be adjusted against the total value of exports and the balance payment released to us.
9. At all given times, the goods would be hypothecated to NAFED and thus NAFED is secured by ownership of goods and letter of credit.

Please give your in principle approval in this matter so that the things may be fled up at an early date. NAFED and our company are Partners in growth already and we hope to continue this present process.

Thanking you,

Yours Faithfully,

(Vinod Gupta)
Director.



Item 6 of this letter shows that the corporate debtor had taken short term finance on interest @ 7.5%. Based on this request, another agreement dated 16.03.2004 was executed between the parties, which demonstrates that the corporate debtor again sought finance from the applicant to facilitate the export of iron ore fines to its existing clients. For ready reference, the opening paras of this agreement is also reproduced hereunder:

AGREEMENT

This agreement made this 16 day of March, 2004 at Delhi between National Agricultural Co-operative Marketing Federation of India Ltd. (NAFED), a co-operative society deemed to have been registered under Multistate Cooperative Societies Act, 1984, having its Registered Office at Nafed House, Sidhartha Enclave, Ashram Chowk, New Delhi-110014 (hereinafter called NAFED) which expression shall wherever the context so admits means and includes its successors in office having its office assigns of the one part.

AND,

M/s Zenith; Mining P. Ltd. (ZENITH), a company incorporated; under the India Companies Act, 1952, having its Registered Office at : 'Shadaab', Tulsipur, Cuttack and Corporate Office at E-102, Lajpat Nagar-I, New Delhi (hereinafter called ZENITH) which expression shall wherever the context so admits means and includes its legal heirs, representatives, executors, administrators, successors in office having its office and assigns of the other part.

Whereas ZENITH has "approached NAFED for financing the exports of Iron Ore Fines from its mines.

And whereas NAFED has agreed to finance for the export of Iron Ore Fines by ZENITH.

NOW THIS AGREEMENT BETWEEN THE PARTIES BOTH WITNESS AS FOLLOWS:

.....



The applicant had paid a total sum of Rs.90,22,00,000/- (Ninety Crore Twenty-Two Lakh) to the corporate debtor. In addition to this payment, the applicant also covered the interest on the packing credit limit provided to the corporate debtor through their bank, along with an EGGC premium amounting to Rs. 57,13,606/- (Fifty-Seven Lakh Thirteen Thousand Six Hundred and Six only), which was debited to the corporate debtor's account. Consequently, the total amount paid reached Rs.90,79,13,606/- (Ninety Crore Seventy-Nine Lakh Thirteen Thousand Six Hundred and Six only). During the period from 01.03.2004 to 30.03.2007, the corporate debtor repaid only Rs. 30.65 crores of the total amount due, leaving an outstanding balance of Rs. 60.14 crores that the applicant is entitled to recover, along with applicable service charges and interest. Furthermore, the applicant added an interest sum of Rs. 17.11 crores at a rate of 8% per annum, covering the period from 01.03.2004 to 30.09.2007. This brings the total to Rs. 76,75,09,611/- (Rupees Seventy-Six Crores Seventy-Five Lakhs Nine Thousand Six Hundred and Eleven only), along with service charges of 1%, amounting to Rs. 0.90 crores, resulting in a cumulative total of Rs. 77.65 crores. Thus in view of the terms of agreement as referred above, we hold that the outstanding debt falls within the meaning of financial debt only as defined in Section 5(8) of the Code and it is not at all an operational debt as pleaded by the respondent corporate debtor.

We also note that in accordance with the agreement, the applicant invoked the arbitration clause and appointed Justice S.K. Jain (a former judge of the Delhi High Court) as the sole arbitrator to adjudicate the dispute. On 20.05.2019, the arbitrator issued an award in favour of the applicant, granting a sum of Rs.76,75,09,611/- (Seventy-Six Crore Seventy-Five Lakh Nine Thousand Six Hundred and Eleven) and imposing a liability on the corporate debtor to pay pendent lit and future interest at the rate of 8% per annum. Additionally, the same interest rate was applied to the awarded amount until the full realization of the



payment as the interest rate @ 8% per annum from 01.10.2007 to 27.05.2019 upon the amount of Rs. 76,75,09,611/- and the interest amount then comes to Rs.71,61,18,009/-. After computing, the total amount it comes to Rs.148,36,27,620/- till 27.05.2019. Then from 27.05.2019 to 31.03.2023 @ 18% per annum upon the preceding amount, the interest amount now comes to Rs.45,65,50,834/- and the total default amount works out to Rs. 194,01,78,454/- which has been considered as defaulted amount in this application.

7. During the course of the hearing, vide order dated 02.08.2024, the applicant was asked to explain how the application was within the limitation period, as the date of default was not specifically mentioned in Part IV of the application. Following that the applicant filed an affidavit explaining therewith the issue of limitation, and also relied on certain judgments. The submission so made is also summarized hereunder:

i. The Arbitral Award dated 27.05.2019 became enforceable after 90 days, as per Section 36 of the Arbitration and Conciliation Act, 1996. Therefore, the award became enforceable on 26.08.2019, which is when the corporate debtor was obligated to pay the decretal debt to the petitioner. However, the corporate debtor failed to make this payment, constituting a default on the financial debt. To support this claim, the applicant relied on the judgment of the Hon'ble Supreme Court in **Kotak Mahindra Bank Limited versus A. Balakrishna & Anr (2022 SCC Online SC 706)**.

ii. The applicant also relied on the judgment dated 10.02.2022 from the Hon'ble Supreme Court in the case of **In Re: Cognizance for Extension of Limitation, Suo Moto Writ Petition No. (3) of 2020**, which excludes the period from 15.03.2020 to 28.02.2022 for the purposes of limitation. The relevant excerpt from the order is reproduced below for reference:



“The Order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.”

In the present case, the period of limitation was set to expire on 25.08.2022; however, following the aforementioned order, the limitation was extended to 11.08.2024. The present petition was filed on 25.05.2023.

iii. Furthermore, the financial statements of the corporate debtor for the years 2020-2021 and 2021-2022, available on the Ministry of Corporate Affairs portal, acknowledge the debt owed to the applicant. As this claim has been acknowledged by the corporate debtor within the limitation period, Section 7 of the Insolvency and Bankruptcy Code, 2016, is not barred by limitation. To underscore these facts, the applicant has cited the judgment of the Hon'ble Supreme Court in ***Asset Reconstruction Company (India) Limited versus Tulip Star Hotels Limited & Ors (2022 SCC Online SC 944)***.

8. Considering the above we find that the date of default must be aligned with the date of the enforceability of Arbitral Award, as specified in Section 34(3) of the Arbitration and Conciliation Act, 1996. This section clearly states that an application to set aside the award must be made within three months from the date the party receives the arbitral award. Therefore, it can be inferred that the date of default should be considered 90 days after the arbitral award becomes enforceable. It is because if within 90 days the arbitral award had been challenged, then date of default would not arise. This is further supported by the information recorded in the Information Utility based on the arbitral award which has been placed by applicant in its



application. In this context, the respondent challenges the execution of the arbitral award, questioning why the applicant has not pursued enforcement when it was available. However, the NCLAT ruling in **Ugro Capital Limited vs. Bangalore Dehydration and Drying Equipment Co. Private Limited** clarifies the definition of "creditor" under Section 3(10) of the Insolvency and Bankruptcy Code (I&B Code). These rulings state that the term "decree holder" falls under the definition of a creditor. As the code encompasses "decree holder," a petition filed for the realization of a decretal amount cannot be dismissed simply because the applicant did not take immediate steps for enforcement after receiving the award. Paragraphs 19 and 20 of the above-mentioned case law are reproduced herein for ready reference:

19. It is important to point out that the definition of creditor provided in Sec 5(10) of the I&B Code provides that "Creditor means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree-holder."

20. Based on the decree of the Court this petition was filed U/S 7 of the Code. Since the definition of word creditor in I&B Code includes decree-holder, therefore if a petition is filed for the realisation of decretal amount, then it cannot be dismissed on the ground that applicant should have taken steps for filing execution case in Civil Court.

Hence, here the arbitral award is a decretal debt and the word "decree holder" satisfies it and it comes under the purview of the definition of creditor under section 3(10) of the I&B Code and the filing of the petition under section 7 of I&B Code is maintainable.

9. Thus, we find that the date of default is 26.08.2019 as per the enforceability of award date. The application was filed after three years on 25.05.2023. However, in view of the decision of the Hon'ble Supreme Court in the Suo Moto writ Petition No. 3 of 2020 **In Re: Cognizance for Extension of Limitation** wherein the Hon'ble Supreme Court



stated that the period of 15.03.2020 to 28.02.2022 needs to be excluded for limitation to file any case in any court or tribunal, the present application falls within limitation.

Even otherwise, the financial statements of the corporate debtor for the years 2020-2021 and 2021-2022, available on the Ministry of Corporate Affairs portal, acknowledge the debt owed to the applicant which also extends the period of limitation. To this, reliance is placed onto the decision of supreme Court in the case of ***Asset Reconstruction Company (India) Limited versus Tulip Star Hotels Limited & Ors (2022 SCC Online SC 944)***. In that case, the Hon'ble Supreme Court had held that if there were an acknowledgment of the debt by the Corporate Debtor before the expiry of the period of limitation of three years, in which case the period of limitation would get extended by a further period of three years. Hence, on the basis of the above facts we hold that the petition is well within the period of limitation.

10. In view of the factual matrix of the present case, we are of the concerned view that there exists a financial debt which has been defaulted by the respondent corporate debtor. The debt is above threshold limit of Rs. 1 crore and the application is filed within the limitation period and accordingly it deserves to be admitted.

11. The Petitioner has proposed the name of IRP Mr. Sanjeet Kumar Sharma having Registration No. IBBI/IPA-001/IP-P01132/2018-19/11827 and Email Id: sansharma1975@gmail.com residence at BE-149, Street No.5, Hari Nagar, New Delhi-110064. There is nothing on record to show that any disciplinary proceeding is pending against the proposed IRP. This application is defect free.

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

- i.** The Petition bearing CP (IB) No. 4/CB/2024 filed by National Agricultural Marketing Cooperative Federation of India Ltd. 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 Zenith Mining Private



Limited [**CIN: U14108OR1996PTC004466**] amended as per the order dated **08.11.2024**, the Corporate Debtor, is **ADMITTED**.

ii. The moratorium under section 14 of the Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of section 14(1) of the Code

- 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;
- 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.

iii. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of Corporate Debtor under section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

iv. As proposed by the Financial Creditor **MR. SANJEET KUMAR SHARMA** having Registration **No. IBBI/IPA-001/IP-P01132/2018-19/11827** and Email Id: sansharma1975@gmail.com residence at BE-149, Street No.5, Hari Nagar, New Delhi-110064 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.

v. The IRP so appointed shall make a public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by section 13(1) (b) of the Code.

vi. The supply of essential goods or services to the 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 assets and management of the corporate debtor.

vii. 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 extending 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 cooperate with IRP, do not assist or co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

viii. The IRP shall be under a duty to protect and preserve the value of the property of the 'Corporate Debtor' and manage the operations of the Corporate Debtor as a going concern as a part of the obligation imposed by section 20 of the Insolvency & Bankruptcy Code, 2016.

ix. The Financial Creditor shall deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs only) within two weeks from the date of receipt of this order for the purpose of smooth conduct of the Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First



Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

x. In terms of section 7(7)(a) of the Code, the Registry is hereby directed to communicate a copy of this order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, within seven (7) working days and upload the same on website immediately after pronouncement of the order.

xi. The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST, State Commercial Tax, and Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/employee's associations so that they are informed of the initiating of CIRP against the Corporate Debtor timely.

xii. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

13. The Resolution Professional shall submit his periodic reports before this Adjudicating Authority as per rules.

14. Certified Copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

15. File be consigned to records.

-Sd-

KAUSHALENDRA KUMAR SINGH
Member (Technical)

-Sd-

DEEP CHANDRA JOSHI
Member (Judicial)

(Subrat Kumar Singh, LRA)



NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
COURT No. 1
VC AND PHYSICAL (HYBRID) MODE

CP (IB) No. 4/CB/2024

Proceedings under Section 7 IBC

IN THE MATTER OF:

National Agricultural Co-operative Marketing Federation of India Ltd.

.....Applicant

V/S

Zenith Mining Pvt. Ltd.

....Respondent

Order delivered on 08/11/2024

Coram:

Deep Chandra Joshi, Hon'ble Member(J)

Kaushalendra Kumar Singh, Hon'ble Member(T)

ORDER

The final order was pronounced on 07.11.2024 in the instant Company Petition and uploaded on the website. However, on perusal of the order, it is noted that some typographical error occurred in the order wherein the CIN in the order has been wrongly mentioned as **U45201DL2003PTC122489**. Hence, by taking the suo-moto action under Rule 154 of the National Company Law Tribunal Rules, 2016, the aforesaid correction is made i.e. the **U45201DL2003PTC122489** shall be read as **U14108OR1996PTC004466**. This order be uploaded and send by the Registry along with the main order.

-Sd-

Kaushalendra Kumar Singh
Member (Technical)

-Sd-

Deep Chandra Joshi
Member (Judicial)