



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

**CORAM: SHRI DEEP CHANDRA JOSHI,  
HON'BLE JUDICIAL MEMBER**

**SHRI PRASANTA KUMAR MOHANTY,  
HON'BLE TECHNICAL MEMBER**

**Company Petition No. (IB)- 06/10/JPR/2022**

**IN THE MATTER OF:**

**M/s PPAGRO INDIA PRIVATE LIMITED**

R/o: 6-D-55 Jai Narayan Vyas

Colony, Bikaner- 334001.

**... Corporate Applicant/ Debtor**

**For the Applicant** : Nitesh Shrivastava, Adv.  
**For PNB** : Vikas Jain, Adv.

**Order Pronounced On: 13.01.2023**

**ORDER**

**Per: Shri Deep Chandra Joshi, Judicial Member**

1. The instant Application is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 ('Code') read with Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ('Rules') for initiation of Corporate Insolvency Resolution Process in respect of M/s PPAgro India Private Limited, the Corporate Debtor being the Applicant Company itself. The instant Application is filed through its director, Mr. Narayan Swami, who has been authorised vide Board Resolution dated 15.01.2022.



2. The Applicant, 'M/s PPAgro India Private Limited', is a company incorporated under the provisions of the Companies Act, 2013 on 22.03.2014 bearing CIN U51224RJ2014PTC045480. The registered office of the Applicant company is situated at 6-D-55, Jai Narayan Vyas Colony, Bikaner- 334001. The company has authorised share capital of Rs. 2 crores and paid-up share capital of Rs. 1,47,70,000/- (Rupees One Crore Forty-Seven Lakh Seventy Thousand Only).
3. The main object of the company is to carry on business of export, import, processing, packing, re-packing, trading in, purchase, sell and to act as mercantile agents, clearing and forwarding agents, brokers, consignors, consignees, conversion agents, distributors, act as stockiest or otherwise in any other manner deal in all types of agro products, agricultural produce, etc.
4. In order to expand its business in the year 2016-17, the applicant company availed loan and other facilities amounting to Rs. 4 crores from the Punjab National Bank ('PNB') vide sanction letter dated 20.03.2017. Due to financial stress, the Applicant Company requested the Bank to restructure its existing loan and thereafter, the creditor renewed and restructures the loan account vide sanction letter dated 30.03.2020.
5. The Applicant Company submits that in the year 2020-21, the company incurred heavy losses due to nationwide lockdown on account of outbreak of COVID-19. Thereon, due to unavailability of funds, the account of the Applicant was classified as NPA



by the Financial Creditor on 31.03.2021 on continuous default in repayment of the instalment/interest/principal debt in loan account. Accordingly, the Applicant Company presented OTS/Compromise proposal to PNB on 16.08.2021 offering an amount of Rs. 2.31 Crore in total which was not accepted by the bank.

6. Recovery proceedings were initiated by the Financial Creditor due to non-payment of debt by the Applicant Company. Accordingly notice under Section 13(2) of SARFAESI Act, 2002 were issued to the Corporate Applicant on 28.09.2021 to repay the debt within 60 days from the receipt of such notice. Upon continuous default in repayment, the Financial Creditor took possession of the immovable property vide possession notice dated 24.12.2021. An auction sale notice was published in the newspaper on 06.01.2022 to sale all the secured assets mortgaged in respect of the said loan account for which auction was proposed to be held on 15.02.2022.
7. The Company is not a going concern as the business operations of the Applicant Company have stopped since 2020-21. Hence, the Corporate Applicant has filed this Application. The Applicant has filed copy of its Financial Statements for the year 2019-20 and 2020-21 and provisional Financial Statements of the Financial Year 2021-22 vide Diary No. 1078/2022 dated 11.04.2022.
8. As per the Application, the Corporate Applicant has a total of One (1) Financial Creditor and Forty-Nine (49) Operational Creditors. The amount



of debt is Rs. 5,25,66,600/- against the Financial Creditor and Rs. 3,47,76,183.35/- against the Operational Creditor amounting to a total of Rs. 8,73,42,783.35/-.

9. In order to prove the said default, the Corporate Debtor has placed on record the copy of the notice issued under section 13(2) of the SARFAESI Act, 2002 dated 28.09.2021 along with the possession notice dated 24.12.2021 as well as Sale Notice dated 06.01.2022.
10. The Corporate Applicant was directed to file affidavit of service along with postal slips and tracking reports vide Order dated 08.02.2022. The Corporate Applicant filed Affidavit of Service vide Diary No. 465/2022 dated 17.02.2022. The office of the Registrar of Companies has filed its representation vide Diary No. 2084/2022 dated 13.07.2022 stating that the Corporate Applicant has not filed Financial Statements from the year 2019-2020. The Department of Income tax filed its representation vide Diary No. 1096/2022 dated 12.04.2022 stating that it has no objection to the CIRP of the Corporate Applicant provided this Adjudicatory Authority secures the interest of revenue to the extent that the Company is liable to pay income tax demands as and when arising.
11. The Financial Creditor has also filed its representation before this Authority vide Diary No. 2174/2022 dated 21.07.2022 wherein it has submitted that the Financial Creditor took symbolic possession of the mortgaged properties and put it up for auction, which has failed. Further a recovery suit is pending



before DRT, Jaipur titled as '*PNB vs. P P Agro & ors.*' Wherein the bank has prayed for recovery of Rs. 5,74,57,271/- from the defendants, hence the present application has been filed to stop the proceedings pending before the DRT. We have taken the aforementioned representations on record.

12. There is no dispute that the Company has admittedly defaulted in payment of its debt which was over the minimum applicable amount under Section 4 of the Code and therefore is entitled to file the present Application in terms of sub-section (1) of Section 10 of the Code.
13. In compliance of the requirements of Section 10(3)(a) of the Code read with Annex-V of Form 6 of the Rules, the Applicant Company has filed copies of audited financial statements of the Corporate Debtor for the financial years 2019-20 to 2020-21 and provisional statement of the Corporate Applicant for Year 2021-2022.
14. Further in compliance with Section 10(3)(b) of the Code the Applicant had has proposed the name of Mr. Shyam Sundar Maheshwari as the Interim Resolution Professional ('IRP') whereas during the course of proceedings, the Applicant preferred an IA bearing *IA(IBC)No.297/JPR/2022* wherein the Applicant sought to change the name of the proposed IRP to Mr. Kamal Kumar Jain holding IP Registration No. *IBBI/IPA-001/IP-P00092/2017-18/10192*. The Applicant Company has obtained written communication in Form-2 from the Insolvency Professional for appointment as an IRP. In Form-2 filed along with the Application, it has been affirmed by the



proposed IRP that he is a registered Insolvency Professional and qualified to practice as an Insolvency Professional. Further, it has been affirmed/confirmed that no disciplinary proceedings are pending against the proposed IRP. The said Form-2 is annexed at Page No. 8 of Diary No. 1988/2022 dated 07.07.2022.

15. It is noted that the Applicant did not make any submissions with respect to Section 11 of the Code. Therefore, the Applicant is directed to file a Compliance Affidavit within 7 days affirming that the Corporate Applicant is not disqualified in terms of provisions of Section 11 of the Code to file and maintain the Application under Section 10 of the Code. The affidavit shall further confirm that no CIRP has ever been initiated nor any liquidation order or winding-up order has been made against the Applicant Company.
16. In view of the above, it is clear that a default has occurred and the present Application under Section 10 is complete and that the Applicant is not ineligible under Section 11 of the Code. Further, it is evident that the requirements prescribed under sub-section 3(a) and (b) of Section 10 of the Code have also been complied with.
17. The Insolvency and Bankruptcy Code, 2016 is a complete Code in itself. The provisions of the Code are to be mandatorily followed. Adherence to the statutory requirements has to be in toto. Section 10(4)(a) of the Code mandates the Adjudicating Authority to admit the application if it is complete. When the language of the Code is clear and explicit the



Adjudicating Authority must give effect to it, whatever may be the consequences.

18. In view of the foregoing, we are satisfied that the present Application is complete and that the Applicant Corporate Debtor has committed a default. Therefore, as the Application is complete the present petition is admitted under section 10(4)(a) of the Code. The corporate insolvency resolution process shall commence from the date of this order under sub-section 5 of Section 10 of the Code.
19. A moratorium in terms of Section 14 of the Code is being issued prohibiting the following:
- *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 the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*



- *Recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*

20. It is further directed that:

- *The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.*
- *The provisions of sub-section (1) of section 14 of the Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.*

21. Mr. Kamal Kumar Jain holding IP Registration No. *IBBI/IPA-001/IP-P00092/2017-18/10192* is appointed as Interim Resolution Professional, who shall take statutorily prescribed steps inter-alia as envisaged under Section 15, 17 and 18 of the Code. Since the tenure of the IRP under section 16(5) shall normally not exceed 30 days from the date of his appointment; the IRP is directed to submit his report at the earliest. The Applicant shall deposit a sum of Rs. 2,00,000/- (Rupees Two Lakh Only) to the bank account of the abovementioned IRP within 10 days from the pronouncement of this order.

22. The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process as per sub-section (4) of Section 14 of the Code.



23. The Interim Application bearing *IA(IBC) No. 297/JPR/2022* seeking change in consent of proposed IRP is allowed and disposed off accordingly. Moreover, Interim Application bearing number *IA(IBC) No. 76/JPR/2022* seeking ad-interim moratorium stands disposed off in terms of the aforementioned directions.
24. Let a copy of this order be supplied to the Applicant as well as the Interim Resolution Professional to carry out the CIRP at the earliest. A copy of this order shall also be communicated to IBBI for its records.

DEEP  
CHANDRA  
JOSHI  
**(DEEP CHANDRA JOSHI)**  
**JUDICIAL MEMBER**

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by DEEP  
CHANDRA JOSHI  
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PRASANTA  
KUMAR  
MOHANTY  
**(PRASANTA KUMAR MOHANTY)**  
**TECHNICAL MEMBER**

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PRASANTA KUMAR  
MOHANTY  
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