

DRP

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

IBA/829/2019

Under Section 7 r/w rule 4 of the IBC, 2016

In the matter of M/s. Ramana Sekhar Steels Limited

M/s. Stressed Assets Stabilization Fund (SASF)

---Financial Creditor

V/s

M/s. Ramana Sekhar Steels Limited

---Corporate Debtor

Order delivered on: 05.10.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor : *Shri. S. Sathiyarayanan, Advocate*
Shri. KMC Arunmogan, Advocate
For M/s. Wise & Worth

For the Corporate Debtor : **None-Present** on the date of hearing

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in Open Court on: 03.10.2019

It is an Insolvency and Bankruptcy Application (IBA) filed u/s 7 of the Insolvency and Bankruptcy Code, 2016 by Financial Creditor namely, M/s. Stressed Assets Stabilization Fund ("SASF") for initiation of Corporate Resolution Insolvency Process ("CIRP")



against the Corporate Debtor namely, M/s. Ramana Sekhar Steels Limited on the ground the Corporate Debtor has defaulted in repaying ₹244,53,32,014 as on 01.11.2018

2. On perusal of this application, it appears that the Corporate Debtor on 12.03.1997 availed financial assistance of ₹500 lakhs from IDBI by executing Loan Agreement, Deed of Hypothecation and Guarantee Agreement dated 12.03.1997. In pursuance thereof, in between 1997 and 1998, IDBI disbursed sanctioned amount to the Corporate Debtor in various tranches. To create an equitable mortgage on 25.03.1999, the Corporate Debtor deposited the title deeds of the immovable property with IDBI, subsequent thereto, the Corporate Debtor on 27.11.1999 executed an Agreement for Pledge of Shares of 20.68 lakhs shares at a face value of ₹10 per share. The Applicant also filed a Trust Deed dated 24.09.2004 reflecting setting up of a Special Purpose Vehicle in the form of a Trust for the purpose of acquiring the stressed assets of IDBI for administering and managing the stressed assets with a view to recover amounts and for the purpose of Stressed Assets Stabilization Fund (SASF) for IDBI. In



furtherance of it, IDBI, on 30.09.2004, transferred this asset in favour of this applicant vide Transfer Deed dated 30.09.2004. On 13.04.2010, at request of the Corporate Debtor, OTS scheme was sanctioned but whereas the Corporate Debtor, having failed to comply with the OTS terms, the applicant, on 02.12.2016, rejected the OTS offer made by this Corporate Debtor. When the Corporate Debtor has failed to comply with the OTS Agreement dated 13.04.2010 and thereafter the applicant having rejected various OTS offers subsequently come from the Corporate Debtor, finally the applicant, on 06.01.2017, called upon the Corporate Debtor demanding it to repay the amount outstanding by sending recall notice to it. This Applicant has also sent notice the Guarantor invoking the Guarantee Deed executed on 12.03.1997 by the Directors of the company, following which, the Applicant has sent another Notice dated 09.02.2017 under Section 13(2) SARFAESI Act, 2002 to the Corporate Debtor.

3. For there being no whisper in between 2012 to 2016 with regard to the Corporate Debtor acknowledging the debt, the applicant has filed financial statements of 2012-2013, 2013-2014, 2014-



2015, 2015-2016 and 2016-2017 reflecting entry of this liability in the long term borrowings to say that the Corporate Debtor has all through been acknowledging this liability in the books of the Corporate Debtor.

4. To substantiate his argument the liability is within limitation, the Applicant has relied upon Para-8 of the case between *IDBI Bank Limited vs. The Jeypore Sugar Company Limited*(CP/1307/IB/2018) in the order dated 19.02.2019 admitting the company petition which is also as follows:

“ To fortify this argument, the Creditor Bank counsel relied upon a ratio decided in between Bajansingh Samra vs. Wimpy International Limited (CD) 2011 DHC 2070 Para 7); Shahi Exports Private Limited and another vs. CMD Buildtech Private Limited (CD) 2014 DHC 128 Para 13) holding that admission of debt either in a Balance Sheet or in the form of letter duly signed by the Respondent would amount to an acknowledgement extending period of limitation under Section 18(1) of the Limitation Act, 1963”.

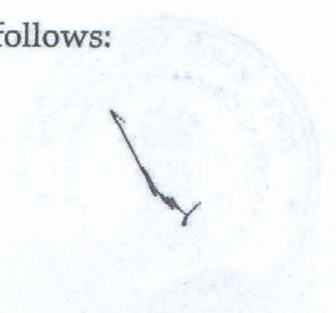
5. As to the Corporate Debtor's presence, the applicant has placed material constituting notice served upon the Corporate



Debtor and also NCLT Registry sending notice to the Corporate Debtor reflecting confirmation of receipt of notice. The applicant counsel has stated that this Corporate Debtor, at its volition, has not been appearing before this Bench despite service was effected against the Corporate Debtor.

6. On looking at the material placed before this Bench and the financial statements reflecting this liability in the long term borrowings in the books of the corporate debtor, it is apparent on record that the Corporate Debtor has availed the loan as mentioned in the application and defaulted in repaying the same despite the Applicant has demanded the Corporate Debtor to repay the same. As to limitation aspect is concerned, the Applicant has placed material reflecting that Corporate Debtor acknowledging this debt from time to time until before filing this case.

7. In view of the same, we are of the considered opinion that the applicant has proved existence of debt and default whereby we admit this IBA/829/2019 by appointing Mrs. Usha Balasubramanian as Interim Resolution Professional (IRP) directions as follows:



I. That Moratorium is hereby declared prohibiting all of the following actions, 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 Securitization 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.

II. That Supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.



III. That the provisions of sub-section (1) of Section 14 of IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

IV. That the order of moratorium shall have effect from 03.10.2019 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, as the case may be.

V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of IBC.

VI. That this Bench hereby appoints Mrs. Usha Balasubramanian, having Registration Number [IBBI/IPA-002/IP-N00180/2017-18/10451], Flat No. 6B, 1st Floor, Pushpavanam Apartment, No. 43/18, 3rd Main Road, Gandhi Nagar, Adyar, Chennai-600020, Email:



ushabala.ip@gmail.com, Mobile No: 9962003282 as Interim Resolution Professional to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

8. Accordingly, this Petition is **admitted**.
9. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by way of email.

-Sd-
(S. VIJAYARAGHAVAN),
Member (Technical)

-Sd-
(B. S.V. PRAKASH KUMAR)
Member (Judicial)

KNP/TJS



Certified to be True Copy

N. SRIRAMASUBRAMANIAN
ASSISTANT REGISTRAR
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