

IN THE NATIONAL COMPANY LAW TRIBUNAL  
CUTTACK BENCH  
CUTTACK

TP No. 38/CTB/2019  
IN  
CP (IB) No. 1289/KB/2018

CORAM: 1. Ms. Sucharitha R. Member (J)  
2. Shri Satya Ranjan Prasad, Member (T)

**In the matter of:**

An application for initiation of Corporate Insolvency Resolution Process 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.

-And-

**In the Matter of:**

**Bank of India**, a body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertaking Act, 1970) having its Head Office at Star House-1, C-5, G-Block, BandraKurla Complex, Bandra East, Mumbai, Maharashtra; and having its office at Bank of India Bhubaneswar Zonal Office, Star House, Jaydev Vihar, Nayapalli, Bhubaneswar, Odisha-751015 and also at Branch Office at Ranihat Branch, Bajrakabati Road, Cuttack, Odisha-751015.

..... **Applicant/ Financial Creditor**

-Versus-

**In the Matter of:**

**M/s Maa Durga Flour Mills Private. Limited.** a Company incorporated under the Provisions of the Companies Act, 1956, having its Registered Office at Kairapari, Kotsahi, (Tangi) Cuttack, Odisha-754022.

..... **Respondent/ Corporate Debtor**

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**Counsels appeared for the petitioner:**

1. Keshab Chandra Satapathy] Advocates for the Financial Creditor.

**Counsels appeared for the respondent**

1. Durga Prasad Dhal

**Date of pronouncement of Order: 4<sup>th</sup> day of September, 2019.**

**ORDER**

**Per: Ms. Sucharitha R. Member (J)**

1. This application is filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity IBC Code, 2016) by Bank of India/ Financial Creditor against the Corporate Debtor i.e. **Maa Durga Rice Product Private Limited-** to start Corporate Insolvency Resolution Process as the Corporate Debtor has committed default in paying. The Financial debt of sum of Rs. 20,30,32,000.00 (Rupees Twenty Crores Thirty Lacs Thirty-Two Thousand) as on 8<sup>th</sup> August, 2018. This application was originally filed before NCLT Kolkata Bench Renumbered is **CP (IB) No. 1323/KB/2018** after Constitution of this Bench the matter has been transferred and re-numbered as **TP No. 38/CTB/2019**.



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2. The applicant/ Financial Creditor states that the Corporate Debtor availed financial facilities over all limited of Rs. 19,20,00,000.00 (Rupees Nineteen Crores Twenty Lacs), comprised of the cash credit limit of Rs. 18,00,00,000.00 (Rupees Eighteen Crores) and term loan of Rs. 1,20,00,000.00 (Rupees One Crore Twenty Lacs). From the Applicant/ Financial Creditor. The Corporate Debtor executed various documents in favour of the applicant, thereby agreed to adhere to the terms and conditions of the loan. The Corporate Debtor has been enjoying the credit facilities with application since 25/02/2011.

3. The Loan was enhanced/renewed, time and again. However, the Corporate Debtor defaulted in repayment of the loan amount, hence the loan account was classified as Non-Performing Asset on 31/03/2014. The Applicant/Financial Creditor submits that in spite of repeated reminders the corporate Debtor failed to repay the loan. Hence, the Applicant approached this Tribunal for commencement of Corporate Insolvency Resolution Process against the Corporate Debtor.

4. This application has been executed by one Mr. Nitendranath Bagchi, Chief Manager, Bank of India, Bhubaneswar Zonal Office, Star House,

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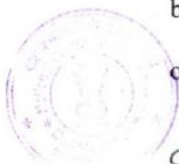


1/ID, Jaydev Vihar, Nayapalli, Bhubaneswar, Odisha-751015, on behalf of the applicant.

5. The Respondent/Corporate Debtor availed the entire of loan, however, did not repay the loan and committed default in repayment of the financial debt. Hence, this proceeding is filed to start Corporate Insolvency Resolution Process of the Corporate Debtor.

6. Corporate Debtor was served the Notice of this application. Corporate Debtor has filed it's reply to this application. The Corporate Debtor states that the loan was availed and, however, the Corporate Debtor had approached the applicant's bank for enhancement of the loan, which was denied by the applicant bank. Hence, he could not run the business successfully. Therefore, there are heavy debts on the Corporate Debtor. The Corporate Debtor states that the due to cyclone in 2012 & 2019 the corporate Debtor suffered heavy losses. The Corporate Debtor also states that they were few talks of one-time settlement of the loans however it did not materialize.

7. We have gone through the record in proceedings and pleadings of both the parties. The consideration under Section 7 of IBC is whether Bank of India/Financial Creditor can start Corporate Insolvency Resolution



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Process of the Corporate Debtor. It is not a dispute that the Financial Creditor has granted and disposed financial assistance to the tune of Rs. 19,20,00,000,00 (Rupees Nineteen Crore Twenty Lac). It is also not a dispute that Corporate Debtor did not repay the loan. It is also not a defence of the Corporate Debtor, that they did not receive any financial assistance from the applicant. The defense has appeared from the pleadings of the Corporate Debtor states that they were not given enhancement of the loan/the settlement talks with the bank also failed. Hence, they were unable to repay the loan amount.

8. The applicant/Financial Creditor has suggested the Name of Mr. Sambhulal Agarwal Address: Sambhu & Associates, 2<sup>nd</sup> Floor, Bazaar Kolkata Building Nayapara, Sambalpur- 768001. There is nothing on record to say that any disciplinary proceedings against the proposed Insolvency Resolution Process. This application is defect free. Hence, we ADMIT this application by following Order.

### **ORDER**

- i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate

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Insolvency Resolution Process against the Corporate Debtor, M/s **Maa Durga Flour Mills Private Limited** is hereby admitted.

- ii) I declare a moratorium and public announcement in accordance with Sections 13 and 15 of the Insolvency & Bankruptcy Code, 2016.
- iii) Moratorium is declared for the purpose referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The Interim Resolution Professional shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and calls for the submission of claims under Section 15. The public announcement referred to in Clause (b) of sub-Section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following.
  - 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 Pane, or other Authority.
  - b) Transferring, encumbering, alienating or disposing off 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



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including an action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 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.
- v) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.
- vi) The provisions of sub-Section (1) shall not apply to such transactions may be notified by the Central Government in consultation with any Financial Sector Regulator.
- vii) The order of moratorium shall have effect from the date of admission till the completion of the Corporate Insolvency Resolution Process.
- viii) Provided that where at any time during the Corporate Insolvency Resolution Process period, if the 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, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

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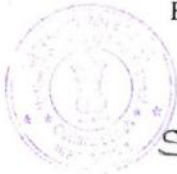


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- ix) Necessary public announcement as per Section 15 of the Insolvency & Bankruptcy Code, 2016 may be made.
- x) **Mr. Sambhulal Agarwal having Registration No. IBBI/IPA-001/IP-P00387/2017-18/10698 and email Id: sambhulalagarwal@gmail.com, sambhuandassociates@gmail.com** is appointed as a Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a Resolution Plan.
- xi) The Resolution Professional should convene a meeting of the Committee of Creditors and submit the Resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within **105 days** from the insolvency commencement date. The Interim Resolution Professional is directed to produce **Form -2** and written communication within one week from the date of the receipt of the order.
- xii) Registry is hereby directed under Section (7) of the Insolvency & Bankruptcy Code, 2016 to communicate the order to the Financial



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Creditor, the Corporate Debtor and to the IRP by Speed Post as well as through e-mail.

Interim Resolution Professional to file 1<sup>st</sup> Progress Report on **14/10/2019.**

List the matter on **14/10/2019.**

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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**Shri Satya Ranjan Prasad  
Member (T)**

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**Ms. Sucharitha R.  
Member(J)**

*Signed on this, the 4<sup>th</sup> day of September, 2019.*

*Kaushal-Steno*



**Court Officer  
National Company Law Tribunal  
Cuttack Bench**

