

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

Coram : (1) Shri Madan B. Gosavi, Hon'ble Member (J)
(2) Shri Virendra Kumar Gupta, Hon'ble Member(T)

CP (IB) No. 1440/KB/2018

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:

Dena Bank, having its registered address at Dena Corporate Centre, C-10, G-Block, Bandra Kurla Complex, Bandra (E), Mumbai- 400 051 and at Dena Bank, Asset Recovery Branch, 109/D, Sir Ashutosh Mukherjee Road, Bhowanipur, Kolkata-700025;
..... Financial Creditor

-Versus-

In the matter of:

M/s. Kharkia Steels Private Ltd. a company within the meaning of the Companies Act, 2013 having its registered office and principal place of business at 3A, Hare Street, Kolkata- 700 001;
CIN: U27109WB2006PTC107052;

... Corporate Debtor

Counsel appeared:

- | | |
|---------------------------------------|--------------------------|
| 1. Ms. Mandeep Kaur, Advocate |] For Financial Creditor |
| 2. Mr. Gopal Pahari, Advocate |] |
| 1. Mr. Debdatta Chakraborty, Advocate |] For Corporate Debtor |





Date of Pronouncement of Order: 20.09.2019

ORDER

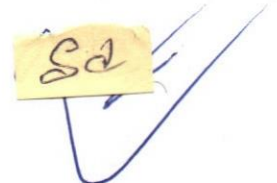
Per Shri M. B. Gosavi, Member(J):

Dena Bank, a Government of India Undertaking – the Financial Creditor filed this application under section 7 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **M/s. Kharkia Steels Private Ltd.** – Corporate Debtor to start Corporate Insolvency Resolution Process (in short, “CIRP”) of the Corporate Debtor as the Corporate Debtor committed default in paying the financial debt of Rs.40,26,43,478/-.

2. By Working Capital agreement dated 17.02.2009, Consortium of the Bank including Dena Bank granted and disbursed various term loans to the corporate debtor. Term loan agreement was extended from time to time the corporate debtor committed default in paying the loan. Bank by notice dated 11.10.2018 called upon the corporate debtor to clear off the entire outstanding. In respect of receipt of notice, corporate debtor failed and neglected to pay the debt. Its account was declared as NPA on 31.03.2018. The bank filed this petition to start CIRP of the corporate debtor.

3. The bank suggested the name of one Mr. Uday Narayan Mitra (Mob. No.9433532994) C/o- LSI Resolution Pvt. Ltd., Sagar Trade Cube, 104, S.P. Mukherjee Road, Kolkata- 700 026 having registration no. IBBI/IPA-001/IP-P00793/2017-18/11360 and Email id: udaynarayanmitrayahoo.co.uk as the proposed IRP and the proposed IRP has given consent dated 01.10.2018 in Form-2 stating that no disciplinary proceeding is pending against him.





4. Corporate Debtor is served with the notice of this proceeding twice. Ld. Advocate, Mr. Debdatta Chakraborty appeared on behalf of the corporate debtor, on the basis of resolution passed by the corporate debtor dated 03.12.2018. However, corporate debtor did not file affidavit-in-reply. None appeared for the corporate debtor when the matter was taken up for hearing on 19.08.2019. It was adjourned for some clarifications from the financial creditor on 05.09.2019. On 05.09.2019, Ld. Advocate, Mr. Debdatta Chakraborty appeared for the corporate debtor but he did not make any submissions. Matter thereby was heard ex parte against the corporate debtor.

5. We perused the records. Financial Creditor has produced all relevant documents and evidence to prove the existence of debt against the corporate debtor and its default in paying the debt. These are only two facts, this Adjudicating Authority has to look into, while admitting the corporate debtor in CIRP under section 7 of IBC.

6. Financial Creditor suggested the name of the IRP and it is seen from the record that no disciplinary proceeding is pending against the proposed IRP. The application is defect-free. Hence, we admit the same and pass the following order:

ORDER

- (i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Resolution Process in respect of Kharkia Steels Private Ltd. Moratorium order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.

Sd

Sd

- (ii) The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- (iii) Moratorium under Sec.104 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 judgement, 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 (54 of 2002);
 - d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

Sd/

Sd/

- iv) 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.
- v) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.
- vii) 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 Sec.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.
- viii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the resolution professional upon receipt of the copy of this order.
- (ix) Mr. Uday Narayan Mitra having registration no. IBBI/IPA-001/IP-P00793/2017-18/11360 is appointed as the Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.
- x) The Financial Creditor to pay to IRP a sum of Rs.50,000/- as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment.

Sd


Sd


xi) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016

xii) Registry is hereby directed under section 7(7) of the I&B Code, 2016 to communicate the order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post and also by email.

Let the certified copy of the order be issued upon compliance with requisite formalities

List the matter on **30.10.2019** for filing progress report.


(Virendra Kumar Gupta)
Member (T)


(Madan B. Gosavi)
Member (J)

Signed on this, the 20th day of September, 2019.