IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Through web-based video conferencing platform)

C.P. (IB)No.89/BB/2022
U/s.7 of the IBC, 2016
R/w Rule 4 of the I&B (AAA) Rules, 2016

In the matter of:
State Bank Of India,
Stressed Assets Management Group Branch
65.ST.Marks Road,LHO Campus,
Bengaluru-560001 - Petitioner/Financial Creditor

And

M/s. OPTO Circuits (India) Limited,
No. 83, Electronics City,
Bangalore South,
Bengaluru, 560100 - Respondent /Corporate Debtor

Order Delivered on : 22nd ,November, 2022

Coram: 1. Hon'ble Shri Kishore Vemulapalli, Member (Judicial)
2. Hon'ble ShriManoj Kumar Dubey, Member (Technical)

Parties/Counsels Present:

For the Petitioner : Shri.SreenathV.K,Adv.

For the Respondent : Shri.SamarthSreedhar,Adv.

ORDER

Per:Manoj Kumar Dubey, Member (Technical)

1. C.P.(IB) No.89/BB/2022 is filed by **State Bank of India** ('Petitioner/Financial Creditor') U/s 7 of the Insolvency and Bankruptcy Code, 2016, R/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, on 21.03.2022 by *inter alia* seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of **M/s. Opto Circuits (India) Limited,** on the ground that it has committed default for total amount of Rs.427,65,42,340/- (Four Hundred and Twenty –Seven Crores, Sixty

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Five Lakhs Forty Two Thousand Three Hundred and Forty only) which includes interest levied from time to time.

2. Brief facts of the case, as mentioned in the Company Petition, which are relevant to the issue in question, are as follows:
    1. The Industrial Financial Branch of the Petitioner had sanctioned certain credit facilities to the Corporate debtor for carrying out its business activities under various sanction letters issued from time to time as follows:-
        a) Sanction letter dated 12.03.2004
        b) Sanction letter dated 19.01.2005
        c) Sanction letter dated 24.11.2005
        d) Sanction letter dated 18.04.2006
        e) Sanction letter dated 02.04.2008
        f) Sanction letter dated 27.11.2009
        g) Sanction letter dated 31.03.2011
        h) Sanction letter dated 09.06.2012
        i) Sanction letter dated 16.08.2012
    2. The Corporate debtor in consideration of the facilities granted hypothecated its current assets situated in Bangalore and Vishakhapatnam units on paripasu charge basis with Standard Chartered Bank,InduInd Bank and DBS Bank. The Corporate debtor has also hypothecated its fixed assets with Financial Creditor.
    3. It is stated that the corporate creditor has mortgaged its property by deposit of title deed in respect of its property situated at plot no.83, Electronic City, Hosur Road, Bangalore as collateral security.
    4. The Respondent agreed to repay the credit facilities sanctioned by the Financial Creditor as per the terms and conditions contained in the Sanction Letters. It is stated that the Corporate Debtor had also issued balance confirmation letters to the Financial Creditor acknowledging its liability to pay the loan outstanding.

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5. It is submitted that, the Corporate Debtor defaulted in making payment of instalments towards repayment of the credit facilities and the account of the Corporate Debtor was declared as NPA on 28.06.2013 which is also mentioned as the date of default in NeSLreport. On 05.07.2013, the Financial Creditor issued demand notice under SARFAESI Act.
6. It is stated that, the Corporate Debtor failed to regularize the loan account despite demand notice and therefore filed OA No.1491/2015 before Hon'ble Debt Recovery Tribunal, Karnataka at Bangalore in 2015. On 27.08.2016, Hon'ble Debt Recovery Tribunal allowed the OA No.1491/2015 and held that the Financial Creditor is entitled to recover Rs.204,22,17,872/- together with costs, expenses and future interest at 11.90% p.a.compounded with monthly rests from 13.07.2015 till realization. On 10.10.2016, Recovery Certificate was issued by the Debts Recovery Tribunal, Karnataka. Subsequently, the Corporate Debtor made part payments on 01.07.2016, 16.07.2016, 01.09.2016, 29.09.2016, 05.10.2016, 02.01.2017 ,10.10.2017,13.04.2018,10.05,2018,31.07.2018,31.01.2019,05.03.2019, 15.03.2019, and 29.05.2020;settlement offer letters dated12.03.2018,30.10.2018,20.12.2018,10.01.2019,28.05.2020 were issued by the Corporate Debtor. Part payments were made and settlement offer letters were issued within the period of limitation, which extends the period of limitation as per Section 18 and 19 of the Limitation Act.However, last day of partpayment of Rs. 90,00,000/-was made on 29.05.2020 which is reflected in the Bank account; and also accompanied with forwarding letter (Compromise Settlement Offer) dated 28.05.2020 from the Corporate Debtor to the Financial Creditor; of which a copy has been furnished as Annexure 51 of the Petition. Hence this petition has been filed within the limitation.

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7. It is submitted that no objection or reply was filed by the Corporate Debtor.

3. Heard Shri SreenathV.K , Learned Counsel for the Petitioner and Shri Samarth Sreedhar, Learned Counsel for the respondent. We have persued the pleadings on record.

4. Orders were reserved in the instant CP (IB) No.89 of 2022 on 31.10.2022.However, it is noticed that, in CP (IB) No.199 of 2018 filed by ICICI Bank Limited under section 7 r/w Rule 4 of IBC, 2016 against the same Corporate Debtor i.e., Opto Circuits (India) Limited ;CIRP was initiated vide order dated 16.11.2022. Therefore, the instant CP is disposed of by granting liberty to the Petitioner to prefer its claim before the IRP appointed in CP (IB) No.199/BB/2018 in accordance with the Code and Regulations made there under.Accordingly, C.P (IB) NO.89/BB/2022 is disposed of.

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MANOJ KUMAR DUBEY
MEMBER (TECHNICAL)

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KISHORE VEMULAPALLI
MEMBER(JUDICIAL)