

**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**MUMBAI BENCH**

**CP 1003 (IB)/MB/2019**

Under Section 7 of the I&B Code, 2016

In the matter of

**Allahabad Bank**

...Financial Creditor/ Applicant

v/s

**Suman Agritech Limited**

...Corporate Debtor

**Order Dated 27<sup>th</sup> August 2019**

**Coram:** Hon'ble Member (Judicial) Mr V.P. Singh

Hon'ble Member (Technical) Mr Rajesh Sharma

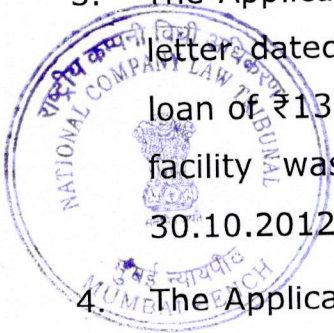
**For the Petitioner:** Adv. P.S. Thakre

**For the Respondent:** Adv. Prachi Wazalwar

*Per V.P. Singh, Member (Judicial)*

**ORDER**

1. This is an application being CP 1003/2019 filed by Allahabad Bank, Financial Creditor or Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against Suman Agritech Limited, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**). The Petition is filed on 11.03.2019.
2. This application is filed by Mr Rajesh Kumar, Assistant General Manager of the applicant Bank who is duly authorised to do the same.
3. The Applicant has extended a loan of ₹64.5 crore, vide its sanction letter dated 16.08.2010, to the Corporate Debtor out of the total loan of ₹137.5 crore extended by the consortium of Banks. The said facility was eventually renewed several times on 13.03.2012, 30.10.2012, 28.03.2014, 22.10.2014 and 21.04.2015.
4. The Applicant submits that as on 31.01.2019, the total outstanding amount in default is ₹56,89,34,000/-. The account of the Corporate Debtor was declared Non-Performing Asset (NPA) on 30.09.2016. Further, the date of default is mentioned as 30.09.2016. The applicant has filed a notice under section 13 (2) of SARFAESI Act whereby it has recalled an outstanding amount of ₹43,97,81,963/-



including interest as on 22.12.2016 to show that default has occurred.

5. The Applicant has submitted on record the, the Consumer Credit Information Report (CIBIL) dated 05.01.2019 that reflects the overdue amounts by the Corporate Debtor. The Applicant has also annexed to the Application the certificate under The Banker's Book of Evidence Act, 1891 dated 21.02.2019 and Bank Account Statement of the Corporate Debtor for the period 01.04.2017 to 12.02.2019 that show a debit amount of ₹10,40,08,975. The documents filed by the applicant shows that an amount of more than ₹1,00,000/- is due from the corporate debtor.
6. The Corporate Debtor has objected to the admission of the present application on the technical ground that the applicant is not authorised to file the present application.
7. However, on perusal of the documents submitted on record, there is a debt due and payable by the Corporate Debtor to the Applicant. The outstanding amount that is in default is more than ₹1,00,000/-.
8. In the present case where the debt and default of more than ₹1,00,000/- is established and the application is complete in all respects and further in the light of the Judgment of the Hon'ble NCLAT in **Palogix Infrastructure Private Limited vs ICICI Bank Limited, Company Appeal (AT) (Insol) No. 30 of 2017 dated 20.09.2017** and also pursuant to the notification issued by Ministry of Corporate Affairs dated 27.02.2019, the objection of the Corporate Debtor regarding the insufficient authorisation of the Assistant General Manager of the applicant Bank to file the present application is not tenable.
9. The Applicant has proposed the name of Mr Navin Khandelwal, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P00703/2017-18/11301] as **Interim Resolution Professional**, to carry out the functions as mentioned under I&B Code. In Form 2 annexed to the Application, the proposed IRP has declared that there are no disciplinary proceedings pending against him.



10. The Application under sub-section (2) of Section 7 of I&B Code, 2016 filed by the financial creditor for initiation of CIRP in prescribed Form No1, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 is complete. The existing financial debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the petition filed under section 7 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

**ORDER**

This petition filed under Section 7 of I&B Code, 2016, filed by **Allahabad Bank**, Financial Creditor or Applicant, against **Suman Agritech Limited**, Corporate Debtor for initiating corporate insolvency resolution process is at this moment **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

- 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 possession of the corporate debtor.




- II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code 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 the date of this order 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 I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.
- VI. That this Bench at this moment appoints Mr Navin Khandelwal, a registered insolvency professional having Registration Number [IBBI/IPA-001/IP-P00703/2017-18/11301] as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.
11. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-  
**RAJESH SHARMA**  
Member (Technical)

Sd/-  
**V.P. SINGH**  
Member (Judicial)

**Certified True Copy**  
Copy Issued "free of cost"  
On 13/09/2019

  
Assistant Registrar  
National Company Law Tribunal Mumbai Bench

