

NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATHI BENCH

PRESENT: HON'BLE JANAB MOHAMMED AJMAL - MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 30.10.2019 AT 10.30 AM

TRANSFER PETITION NO.	TCP(IB) NO. 101/7/AMR/TP/2019
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 320/7/HDB/2019
NAME OF THE COMPANY	RVR Marine Products Ltd
NAME OF THE PETITIONER(S)	IDBI Bank Ltd
NAME OF THE RESPONDENT(S)	RVR Marine Products Ltd
UNDER SECTION	7 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**ORDER**

No representation for either side. Orders pronounced vide separate sheets. The Petition is admitted.

*MJ*  
30/10  
MEMBER JUDICIAL

GS

NCLT Amaravati Bench  
TCP (IB) No. 101/7/AMR/2019  
[CP (IB) No. 320/7/HDB/2019]

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH AT HYDERABAD**

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**TCP (IB) No. 101/7/AMR/2019  
CP (IB) No. 320/7/HDB/2019**

**In the matter of M/s RVR MARINE PRODUCTS LIMITED**

**&**

*In the matter of a petition 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*

Between

**M/s IDBI Bank Limited,**  
NMG Department,  
D. Num 5-9-89/1 and 2,  
Chapel Road,  
P.B. Num 370,  
Hyderabad – 500 029  
Represented by its General Manager

...

**Petitioner**

and

M/s. RVR Marine Products Ltd,  
Rep. by its Managing Director,  
D No: 26-8-6,  
Balusumudi,  
Bhimavaram – 534 202,  
West Godavari District,  
Andhra Pradesh.

...

**Respondent**

**Date of Order: 30.10.2019**

*M. J. S. S.*  
*30/10/19*

**C O R A M**

**Hon'ble Janab Mohammed Ajmal, Member Judicial**

**Appearance:**

**For the Petitioner** : Sri Trivikram Chitturu, Advocate  
**For Respondent** : Sri B.V. Satish Kumar,  
Practicing Company Secretary (PCS)

**ORDER**

This is an Application, under Section 7 of the Insolvency and Bankruptcy Code (the Code for short) seeking Corporate Insolvency Resolution Process (CIRP) against the Respondent Company alleging default in payment of a Financial Debt.

2. The brief facts leading to the Petition may be stated as follows:

The Respondent Company (CIN- U05004AP2002PTC38514) incorporated on 15.02.2002 carried on business *inter alia* of rearing, culturing and processing etc of marine products and sea food etc. Its Registered Office is at Bhimavaram in the district of West Godavari, Andhra Pradesh. It availed a working capital loan of Rs. 100,00,00,000/- (Rupees One Hundred Crores) from the Petitioner. The loan was secured by immovable property and agreement of guarantee vide Loan-cum-Hypothecation Agreement dated 22.03.2010. The Respondent having failed to repay the loan the account was classified as Non-Performing Asset (NPA) on 01.04.2014. The Petitioner moved OA No. 812/2015 on the file of the Debt Recovery Tribunal-I (DRT-I) Hyderabad on 22.07.2015 for recovery of the outstanding dues of Rs. 94,85,05,505.23/- (Rupees Ninety Four Crores Eighty Five Lakhs Five Thousand Five Hundred and Five and Paise Twenty Three only) against the Respondent Company and its promoters and

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others. The learned DRT-I Hyderabad vide order dated 25.01.2017 allowed the Application ex parte with costs and authorised the petitioner to proceed against the defendants as per law. A default in payment of the financial debt having occurred the petitioner came up with the present petition on 23.04.2019 with the prayers afore mentioned.

3. The Respondent in reply to the notice issued to him contested the claim by filing a counter. It is submitted that the Petitioner suppressed material facts while making the application. The order dated 15.02.2018 of the Debt Recovery Appellate Tribunal (DRAT), Kolkata where under the Respondent has been paying Rs. 5,00,000/- (Rupees Five Lakhs only) per month to the petitioner. Besides the petitioner has also received approximately Rs. 25,00,00,000/- (Rupees Twenty Five Crores) from Export Credit Guarantee Corporation (ECGC). The petitioner has already taken physical possession of the Respondent's factory under the Securitisation and Reconstruction of Financial Assets and Enforcements of Security Interest Act 2002 and had put the factory for sale. The Petition under section 7 of the Code therefore is not maintainable. It is further submitted that the Respondent has been one of the Top-10 exporters in the country during 2010. It had availed the credit facilities from the petitioner and had been making repayments till 2012. During 2012-13, however it faced several problems in the form of rejection of export consignments, spread of 'While spot disease severely affecting marine products which in turn affected the financial planning standing of the company. It had approached the petitioner repeatedly for one time settlement and paid around Rs. 70,00,00,000/- (Rupees Seventy Crores) towards interest and Bank charges. The Respondent is also in the process of scouting new buyers for the assets of the company. Under the circumstances the present petition deserves to be dismissed. The Application was transferred from NCLT, Hyderabad Bench to this Tribunal upon its establishment.

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4. There is no dispute that the Respondent has availed working capital loan of Rs. 100 Crores from the petitioner. The default has since been quantified by the order dated 25.01.2017 of the learned DRT-I Hyderabad in OA No. 812/2015. The order of the Debt Recovery Appellate Tribunal (DRAT) filed along with the Counter relates IA No. 283 of 2017 in SA No. 81/2017 of DRT, Visakhapatnam. There is no material that the order of DRAT, Kolkata relates to OA No.812/2015 of DRT-I Hyderabad. Admittedly there had been a default. The circumstances and the constraints under which the Respondent could not repay the financial debt need not be taken as a defence in a proceeding under the Code nor it can be considered by this Authority. The Respondent has been approaching the Petitioner for settlement. So long as settlement is not reported this Authority cannot keep the proceeding pending. From the material available on record it is clear that the financial debt crystallised by the order dated 25.01.2017 of DRT-I Hyderabad is due and payable to the Petitioner. There has been a default in payment of such financial debt. The Petition accordingly deserves to be admitted. The Petitioner has suggested the name of Mr. Raghu Babu Gunturu as the Interim Resolution Professional (IRP) and also furnished his written consent in Form-2. The Respondent Company is already under stress. The proposed IRP is from Hyderabad while the Registered Office and the Factory of the Respondent is in West Godavari district, Andhra Pradesh. The Appointment of IRP from Hyderabad would accordingly be not cost effective as far as the company is concerned. Mr. Rajesh Chhaparia, (IP Regn No.IBBI/IPA-001/IP-P00474/2017-18/10817, B-3 Magadha Empire 8-6-42/7, 2<sup>nd</sup> Floor, Pedawaltair, Visakhapatam, Andhra Pradesh-530 017, E-mail ID: [rajesh\\_chhaparia@yahoo.co.in](mailto:rajesh_chhaparia@yahoo.co.in). Mobile No. 9652184801, is accordingly appointed as the Interim Resolution Professional (IRP). No disciplinary proceedings is pending or contemplated against him. Hence ordered.

**ORDER**

- i. The Company Petition be and the same is admitted on contest.

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- ii. The Corporate Insolvency Resolution Process of the respondent shall commence from this date and shall be completed within 180 days hence.
- iii. Mr. Rajesh Chhaparia, (IP Regn No. IBBI/PA-001/IP-P00474/2017-18/10817, B-3 Magadha Empire 8-6-42/7, 2<sup>nd</sup> Floor, Pedawaltair, Visakhapatam, Andhra Pradesh-530 017, E-mail ID: [rajesh\\_chhaparia@yahoo.co.in](mailto:rajesh_chhaparia@yahoo.co.in). Mobile No. 9652184801, is accordingly appointed as the Interim Resolution Professional (IRP). No disciplinary proceedings is pending or contemplated against him. The Registry is directed to obtain his consent in Form-2 forthwith.
- iv. The IRP is directed to take charge of the Respondent/Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made there under.
- v. Moratorium in respect of the respondent is hereby declared under Section 14 of the Code.
- vi. The Directors, Promoters or any other person(s) associated with the management of Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under section 19 for effectively discharging his functions under the Code.
- vii. The Registry is directed to communicate the order to the Petitioner/Operational Creditor and the Respondent/Corporate Debtor forthwith.
- viii. The petitioner/OC and the Registry are also directed to send the copy of this order to IRP for necessary compliance.

  
(MOHAMMED AJMAL)  
MEMBER JUDICIAL