

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL

PRESENT: HON'BLE SHRI BINOD KUMAR SINHA –MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 27.09.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 374/7/HDB/2019
NAME OF THE COMPANY	Neerajakshi Iron And Steel Pvt Ltd
NAME OF THE PETITIONER(S)	Corporation Bank
NAME OF THE RESPONDENT(S)	Neerajakshi Iron and Steels Pvt 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

Order pronounced in the open Court.

Vide separate order.


MEMBER TECHNICAL


MEMBER JUDICIAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.374/07/HDB/2019
U/s. 7 of the Insolvency & Bankruptcy Code, 2016,
Read with Rule 4 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016.

In the matter of:-

M/s. Neerjakshi Iron & Steel Pvt Ltd.

Between:-

Corporation Bank
D. No.3-6-285, Ground Floor,
Ameermahal Aparments,
Hyderguda Branch,
Hyderabad – 500 029.

...Petitioner/
Financial Creditor

And

M/s.Neerajakshi Iron & Steel Private Limited
Flat No.108, Sovereign Shelter,
Near Ganga Jamuna Hotel,
Lakidikapool, Hyderabad.

...Respondent/
Corporate Debtor

Date of Order: 27.09.2019

Coram: Shri. K. Anantha Padmanabha Swamy, Member Judicial.
Dr. Binod Kumar Sinha, Member Technical.

Parties/Counsels present:-

For the Petitioner/Financial Creditor:

Mr. V. Sethumadhava Rao, Counsel.

For the Respondent/Corporate Debtor:

Ex-parte.

Per: Dr. Binod Kumar Sinha, Member Technical

ORDER

1. Under consideration is a Company Petition, filed by Corporation Bank (hereinafter referred to as 'Financial Creditor') under section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IBC) read with Rule 4 of the Insolvency and Bankruptcy (Application to

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- Adjudicating Authority) Rules, 2016 against M/s. Neerajakshi Iron and Steel Private Limited (hereinafter referred to as 'Corporate Debtor').
2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
 3. The Petitioner/Financial Creditor, is a Public Sector Bank incorporated under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, having its Regd. Office at Post Box No.88, Mangladevi Temple Road, Manglaore, Karnataka State – 575 001, and branches all over the country and one such Branch is located at Hyderabad. The Respondent/Corporate Debtor is a Company incorporated under the Companies Act, 1956 having its registered office at Hyderabad, Telangana and is engaged in the business of manufacturing basic iron and steel. The authorised share capital of the Corporate Debtor is ₹90,000,000/- and paid up share capital is ₹86,490,000/- as per the MCA data.
 4. It is stated by the Financial Creditor that in the month of April 2011, the Corporate Debtor approached this Financial Creditor (Corporation Bank) and Vijaya Bank, Banjarahills Branch for availing loan facilities under consortium banking arrangements. It is submitted that Corporate Debtor proposed to avail the following loan facilities under the Consortium Banks subject to the terms and conditions mentioned in the loan documents.

Bank	Facility	₹ in Lakhs
Vijaya Bank	Term Loan	650.00
	Working Capital	100.00
Corporation Bank (Financial Creditor)	Terms Loan	625.00
	Working Capital	100.00
	Total	1475.00

5. It is stated that the Board of Directors of Corporate Debtor passed Resolution dated 05.04.2011 authorizing the Corporate Debtor to borrow

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the above loan facilities and delegated powers to execute the loan documents.

6. It is stated that the Corporate Debtor represented by its Authorized signatory executed the following loan documents on 09.05.2011 in favour of Consortium Bank's Bank.

- a) Facility Agreement
- b) Consortium agreement for working capital
- c) Joint Deed of Hypothecation.
- d) Declaration
- e) Declaration cum Third Party

7. It is stated that the Guarantors executed Guarantee deed dated 09.05.2011 in favour of Consortium Bank promising to repay ₹ 1475.00 Lakhs apart from interest and costs to Consortium Banks in case of default in repayment of the same by Corporate Debtor.

8. It is stated that with intent to secure for repayment of the money that was due or may due from time to time or at any time from Corporate Debtor to the Consortium Banks, the Corporate Debtor deposited with the Consortium Banks Regd. Document No.1358 of 2007, 1355 of 2007, 1444 of 2007, 1356 of 2007, 1373 of 2007, 1321 of 2007, 1416 of 2007, 1366 of 2007, 1374 of 2007, 1357 of 2007, 1367 of 2007 and 2385 of 2009 relating to properties fully described in the schedule as security for repayment of the credit facility advanced to the corporate debtor.

9. It is stated that Form No.8 was filed with RoC and Charge Certificate dated 11.10.2013 for ₹ 18.75 Crores issued by the RoC.

10. It is stated that meanwhile, the Corporate Debtor had again approached the Consortium Banks in the month of August 2013 for renewal of the existing Working Capital facility and fresh Working Capital Facility of ₹ 200.00 Lakhs from Vijaya Bank and ₹ 200.00 Lakhs from this Financial Creditor. The Consortium Banks sanctioned the said additional limit

subject to the terms and conditions mentioned in the sanction letter dated 03.08.2013.

11. It is stated that the Board of Directors of Corporate Debtor passed Resolution dated 16.08.2013 authorising the Corporate Debtor to borrow the above loan facilities and delegated powers to execute the loan documents.
12. It is stated that Corporate Debtor represented by its Authorized signatory executed the following loan documents for renewal/fresh Credit Facilities on 22.08.2013 in favour of Consortium Banks.
 - a) Working Capital Consortium Agreement
 - b) Joint Deed of Hypothecation
 - c) Declaration
 - d) Undertaking from the Borrower.
13. It is stated that the Corporate Debtor failed to repay the dues in accordance with the agreed terms of inter-se agreement for consortium working capital and Term Loan advance to the Corporate Debtor dated 09.05.2011 and as such the Financial Creditor was constrained to classify the account as Non-Performing Asset (NPA) as per the prudential norms prescribed by the Reserve Bank of India. It is submitted that in order to recover the moneys advanced to the Corporate Debtor, the Financial Creditor has filed O.A No.1331/2016 before the Hon'ble Debt Recovery Tribunal and the same was allowed on 12.10.2018.
14. It is further stated that the Financial Creditor issued notice of default to the Corporate Debtor dated 25.03.2019. The Corporate Debtor evaded to receive the said notice and got it returned with endorsement 'left'.
15. The matter was posted for hearing on various dates viz., 11.06.2019, 01.07.2019, 18.07.2019, 08.08.2019, & 26.08.2019 but the Corporate Debtor failed to appear. Before proceeding with the matter, it is necessary to mention herein that a final chance was given to the Respondent for

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appearance before this Adjudicating Authority. Therefore, this Adjudicating Authority on 01.07.2019, directed the counsel for Petitioner/Financial Creditor to issue newspaper publication by way of notice regarding intimation of next date of hearing to the Corporate Debtor and the same was carried out by the Petitioner in Telangana Today (English) and Mana Telangana (Telugu) on 10.07.2019 edition in the region where the Registered Office of the Corporate Debtor is located and filed the proof of the same.

16. During the hearing on 18.07.2019, one Mr. Sunil, Director of the Corporate Debtor appeared and prayed time for engaging a counsel and giving reply. Considering his request, matter was adjourned to 08.08.2019. But no representation was made on behalf of Corporate Debtor on 08.08.2019.
17. In view of the above and having satisfied with the proof of service of notice and since there was no representation, Respondent/Corporate Debtor was proceeded *ex-parte* on 08.08.2019.
18. Heard submissions of the learned counsel for the Petitioner/Financial Creditor and perused the record.
19. After hearing submissions of the learned counsel for the Petitioner/Financial Creditor and having perused the records, this Adjudicating Authority is satisfied with the proof placed by the Petitioner that default has occurred in respect of financial debt which the Corporate Debtor was liable to pay to the Petitioner. The Petitioner has also placed on record proof of sending notices and paper publication. The Petitioner has complied with all the requirements as stipulated under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, this Adjudicating Authority is inclined to admit the instant petition.

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20. The instant petition is admitted and this Adjudicating Authority order the commencement of the Corporate Insolvency Resolution Process which shall be completed in accordance with the time lines prescribed in section 12 of the IB Code, 2016, reckoning from the day this order is passed.
21. This Adjudicating Authority hereby Appoint Mr. Sridhar Venkatraya Sundararaja, as IRP as proposed by the Financial Creditor. There is no disciplinary proceedings pending against the IRP as evidenced from Form-2 and his name is reflected in IBBI website. The IRP is directed to take charge of the Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the Insolvency and Bankruptcy Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.
22. The moratorium is hereby declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purpose referred to in Section 14 of the I & B Code, 2016. It is hereby ordered to prohibit all of the following, namely:-
- 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);*

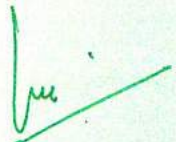
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d) *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*

23. However, the supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provision of Sub-section (1) of Section 14 shall also not apply to such transactions, as notified by the Central Government.
24. The IRP shall comply with the provisions of Sections 13 (2), 15, 17, & 18 of the Code. The directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor is expected to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his function under Section 20 of the I & B Code, 2016.
25. The Financial Creditor and the Registry are directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I & B Code, 2016.
26. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
27. The detailed address of the IRP is as follows:-
- Mr. **Sridhar Venkatraya Sundararaja**,
Insolvency Professional
(IBBI/IPA-002/IP-N00146/2017-18/10382)
Regus, 1st floor, Phoenix Tech Tower, Plot No,14/46,
Survey No.1 (part), IDA-Uppal Village and Mandal,
Uppal Notified Industrial Area Service Society,
Hyderabad – 500 039, Telangana.
Email ID:Sridharema@gmail.com
28. The present Petition bearing CP (IB) No.374/7/HDB/2019 is hereby admitted.


27.09.19
Dr. BINOD KUMAR SINHA
MEMBER TECHNICAL
Rk


K. ANANTHA PADMANABHA SWAMY
MEMBER JUDICIAL