# NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

## COURT III

16. C.P.(IB)-965(MB)/2022

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)
SMT ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **19.10.2022**

NAME OF THE PARTIES: KARMAVEER BHAURAO PATIL MULTI-STATE CO-OP CREDIT SOCIETY LIMITED

Vs.

SHRI SHIVSAGAR SUGAR AND AGRO PRODUCTS LIMITED.

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

Mr. Abhijit Atur, counsel for the Financial Creditor and Mr. Hemanth Rao, counsel for the Respondent are present through virtual hearing.

**C.P. 965/2022**

Heard the counsels appearing on both sides and the above Company Petition is admitted. Detail order would follow:

Sd/-
ANURADHA SANJAY BHATIA
Member (Technical)

Sd/-
H. V. SUBBA RAO
Member (Judicial)

//SGP//

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH COURT III**

**C.P. No. 965/IBC/MB/2022**

Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

*In the matter of*

**KARMAVEER BHAURAO PATIL MULTI-STATE CO-OP CREDIT SOCIETY LIMITED**
9th Lane, Radhabai Road, Near Bank of India, Jaysingpur, Shirol, Kolhapur, Maharashtra – 416101.
……**Financial Creditor**

**Vs**

**SHRI SHIVSAGAR SUGAR AND AGRO PRODUCTS LIMITED.**
(CIN: U15424PN1999PLC013411)
Having its Registered Office at: Flat No. 1, Shivsavali Apartments, Vishwas Housing Society, 100 FT Road, Sangli, Maharashtra 416416.
**…… Corporate Debtor**

**Order delivered on: 19.10.2022**

**Coram:**
Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

**For the Petitioner** : Mr. Abhijit Atur, Advocate
**For the Respondent** : Mr. Hemanth Rao, Advocate

1. The above Company Petition is filed by ***KARMAVEER BHAURAO PATIL MULTI-STATE CO-OP CREDIT SOCIETY LIMITED*** hereinafter called as Financial Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against ***SHRI SHIVSAGAR SUGAR AND AGRO PRODUCTS LIMITED*** called as Corporate Debtor by invoking the provisions of Section 7 Insolvency and Bankruptcy code (hereinafter called "Code" read with rule 4 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of an unresolved Financial Debt of Rs. 9,13,91,453/- (Rupees Nine Crores Thirteen Lakhs Ninety One Thousand Four Hundred and Fifty Three only)
2. **Brief history of the case are as follows**:
   i. The *KARMAVEER BHAURAO PATIL MULTI-STATE CO-OP CREDIT SOCIETY LIMITED* (Hereinafter called or referred to as the "Financial Creditor" or "FC") is a cooperative society incorporated under the provisions of the Maharashtra Co-operative Societies Act, 1960 on 04.04.2013, having its registered office situated at 9th Lane, Radhabai Road, Near Bank of India, Jaysingpur, Shirol, Kolhapur, Maharashtra – 416101.
   ii. The Corporate Debtor is a limited Company incorporated under the provisions of the Companies Act, 1956 on 11.03.1999 and having its registered office situated at Flat No. 1, Shivsavali Apartments, Vishwas Housing Society, 100 FT Road, Sangli, Maharashtra 416416. The Corporate Debtor is into the business of Manufacturing and sale of sugar, Molasses and bagasse.
   iii. Thereafter, the Corporate Debtor approached the Financial Creditor for financial assistance of Rs.

7,00,00,000 (Rupees Seven Crore Only) to the vehicle's owners of harvester and transport of sugarcane, who are undertaken to supply sugar cane to the Corporate Debtor from the farmers agriculture fields for the crushing season of 2013-14 and provided requisite guarantee as mentioned as per the deed of guarantee executed on 03.07.2013.

iv. Further, as per the terms mentioned in the deed of guarantee executed on 03.07.2013, the loan outstanding of transporter has to be repaid in 18 months, whereas neither vehicle's owners of harvester and transport of sugarcane "borrowers" nor guarantors of the loan were failed to repay the same.

v. Further, in spite of repeated reminders and notices from Financial Creditors, the borrowers are not repaid the said outstanding loan consequent to which the debt has been treated as default.

vi. The total amount of debt due by the Corporate Debtor to the Financial Creditor as on <u>24.05.2022</u> is amounting to Rs. 9,13,91,453/- (Rupees Nine Crore Thirteen Lakhs Ninety-One Thousand Four Hundred and Fifty-Three Only) which consisting of principal amount of Rs. 3,35,42,290/- (Rupees Three Crore Thirty-Five Lakh Forty-Two Thousand Two Hundred and Ninety Only) and Interest amount of Rs. 5,78,49,163/- (Rupees Five Crore Seventy-Eight Lakhs Forty-Nine Thousand One Hundred and Sixty-Three Only). Hence this petition.

3. The Corporate Debtor filed written submission admitting the liability and expresses his difficulties in para 9 of their written submission and requested this Bench to admit the above

Company Petition. Para 9 of the written submissions is as follows:

> *"...Para-9: The corporate debtor hereby signifies its willingness to admit the instant application and directions as to initiation of Corporate Insolvency Resolution Process of the Company as the Company has been facing many difficulties due to financial stress it is under..."*

4. During the course of hearing Mr. Hemant Rao, counsel appearing for the Corporate Debtor conceded in the open court that he has no objection for admission of the above Company Petition. In view of the above unconditional admission made by the Corporate Debtor, this Bench has no option except to admit the above Company Petition. The Financial Creditor also suggested the name of the IRP along with his consent letter in Form-2. Thus, the present company petition satisfies with all necessary legal requirements for admission. Accordingly, the above Company Petition is admitted by passing the following:

## ORDER

a. The above Company Petition No. (IB) 965 (MB)/2022 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against ***SHRI SHIVSAGAR SUGAR AND AGRO PRODUCTS LIMITED*** .
b. This Bench hereby appoints Mr. **Devika Sathyanarayana** (devika@sreedharancs.com) (Mobile No. 9620698482) Insolvency Professional, Registration No: IBBI/IPA-002/IP-N00651/2020-2021/13221 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Financial Creditor shall deposit an amount of Rs.5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only towards expenses and not towards fee till his fee is decided by COC.

a. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

b. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

c. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

d. That the order of moratorium shall have effect from the date of pronouncement 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 or passes an order for liquidation of corporate debtor under section 33, as the case may be.

e. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
f. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
g. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
h. Accordingly, this Petition is admitted.
i. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

| Sd/- | Sd/- |
|---|---|
| **ANURADHA SANJAY BHATIA**<br>**MEMBER (TECHNICAL)** | **H.V. SUBBA RAO**<br>**MEMBER (JUDICIAL)** |