

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II**

CP No. (IB) 446/ MB/ 2020

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

In the matter of

State Bank of India

Having its Registered Office at: State
Bank Bhavan, Madame Cama Road,
Nariman Point, Mumbai- 400 021.

..... **Financial Creditor**

Vs.

**Vindhyavasini Steel Corporation
Private Limited**

Having its Registered Office at: Flat No.
101, OG-III, Oberoi Garden, Thakur
Village, Off Western Express Highway,
Kandivali (E), Mumbai- 400 101.

..... **Corporate Debtor**

Order delivered on:- 20.01.2023

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)
Hon'ble Member (Technical) : Shri Shyam Babu Gautam

Appearances:

For the Financial Creditor : Mr. Arjun Sathees, Advocate
For the Corporate Debtor : None present

ORDER

Per: Justice P.N. Deshmukh, Member Judicial

1. This Company Petition is filed by *State Bank of India* (hereinafter called “Financial Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Vindhyavasini Steel Corporation Private Limited* (hereinafter called “Corporate Debtor”) alleging that the Corporate Debtor committed default in making payment to the Financial Creditor. This Petition has been filed by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called “IBC”) read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The present Petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of an **aggregate amount of Rs. 297,87,00,000/-** (Rupees Two Hundred Ninety-Seven Crores and Eighty-Seven Lakhs Only) as on 31st May 2013 including the **Principal amount of Rs. 106,21,00,000/-** (Rupees One Hundred Six Crores and Twenty-One Lakhs Only) and **interest** and other charges totalling to **Rs. 191,66,00,000/-** (Rupees One Hundred Ninety-One Crores and Sixty-Six Lakhs Only) as on 30th November 2019 forming part of the Financial Debt.
3. The Corporate Debtor is a part of the Vindhyavasini Group and is primarily involved in the business of manufacturing steel products including but not limited to TMT bars, Wiring rod,

Structural Steels etc. They approached the Financial Creditor with a request to grant certain financial facilities on 18th May 2011 pursuant to which the Financial Creditor sanctioned the same vide Letter of Arrangement dated 29th June 2011 providing for Overall limits of the total Loan sanctioned. The Financial Creditor and the Corporate Debtor entered into the following Agreements:

Name of the Agreement	Date
Letter of Arrangement	29 th June 2011
Letter regarding grant of individual limits within the Overall limit	30 th June 2011
Deed of Guarantee for Overall Limits	30 th June 2011
Agreement of Hypothecation of Goods and Assets	30 th June 2011
Memorandum of Deposit for Creation of further charge for the Term Loan Overall limit	13 th July 2011
Letter of Confirmation for Creation of Mortgage by Deposit of Title Deeds	14 th July 2011 14 th June 2012

Copies of all the abovementioned Agreements and relevant documents have been duly attached to this Petition.

4. Subsequently, the Loan was disbursed and the Principal amount due as on 31st May 2013 was Rs. 106.21 Crores as illustrated by the following schedule:

Account No.	Facility	Limit (in Crores)	Principal outstanding (in Crores)
3146005821 8	Cash Facility	63.00	73.18
3181097307 0	Term Loan	36.00	33.03
	TOTAL	99.00	106.21

5. The Financial Creditor submits that the Corporate Debtor failed to maintain financial discipline and defaulted in repayment of principal, interest and other monies on **31st December 2012** and owing to continuous defaults thereafter, the account of the Corporate Debtor was declared as a Non-Performing Asset (**NPA**) on **31st March 2013**. Pursuant to this, the Financial Creditor issued a Notice under Section 13(2) of SARFAESI Act, 2002 dated **2nd July 2013** and **Legal Notice dated 20th May 2014** to the Corporate Debtor. Yet, the Loan remained unpaid and the total outstanding amount as on 30th November 2019 is as follows:

Facility	Principal	Interest	Other charges	Total
Cash Credit	73.18	56.07	9.27	138.52
Term Loan	33.03	122.05	0.09 +4.18	159.35
Total	106.21	178.12	13.54	297.87

6. The Financial Creditor further submits that the Corporate Debtor has acknowledged and admitted their liability towards the debt outstanding and payable to the Financial Creditor during the Limitation period multiple times as evidenced by way of Balance Sheet as on 31st March 2016 and 31st March 2017. Moreover, the Corporate Debtor approached the Financial Creditor with a **Compromise Proposal for Rs.250 Crores vide Letter dated 16th May 2019** to settle the loan account of the Corporate Debtor and the other accounts of the Vindhyavasini Group and issued a Cheque of Rs. 25 Crores as upfront payment but after due consideration, it came to be rejected by the Financial Creditor. A copy of the said Letter has been placed before this Bench. Subsequently, this Petition was filed on **9th January 2020**.

7. The Corporate Debtor filed a **Reply to this Petition dated 19th February 2021** and contends that this Petition has been filed after the expiry of the limitation period as the limitation period expired on 31st March 2016 which is 3 years after 31st March 2013, the date of NPA. Based on this ground, the Corporate Debtor prays for dismissal of the present Petition.

FINDINGS

8. We have heard the submissions of the Counsel appearing for the Financial Creditor and the Counsel appearing for Corporate Debtor. On perusal of the Petition and the documents annexed, it is evident that the Corporate Debtor had availed the said loan facilities from the Financial Creditor and had subsequently committed default in repaying the same. We note that the Corporate Debtor has admitted their liability to repay in the Compromise Letter dated **16th May 2019** in the following words:

“4. Justification for the proposal:Vindhyavasini Steel Corporation Pvt. Ltd.....is suffering huge loses and finding hardship to repay loan, we had prospective Buyers/Bussiness partners who are interested in the properties/Bussiness of the above mention companies which required NOC from Bank to Materialized the Deal and will repay the same loan.

6. ...I/ WE understand and agree that the above offer of ours/ mine is subject to approval of the competent authority of your Bank. Also that in cvase of our/ failure to comply with the terms of acceptance of this offer as per Bank’s discretion the Bank will be liberty to initiate/ continue the legal or other recovery remedies against us/ me, for recovery of total dues with interest and incidental charges what so ever. I/ WE are agreeable for a consent decree in this regard. The Bank has all rights to reject this proposal without assigning any reason.”

9. In view of the said admission, the limitation period, in effect, stands extended from the date of such admission i.e. from 16th March 2019 onwards until 16th May 2022. Since this Petition was filed on **9th January 2020**, it is filed within the limitation period. Therefore, we are of the opinion that the Financial Creditor has satisfactorily established the existence of debt of Principal Loan Amount of **Rs. 106,21,00,000/-** and default of the outstanding dues aggregating to **Rs. 297,87,00,000/-** including interest.
10. The Financial Creditor has thus successfully demonstrated and proved the debt and default in this case. It is noted that the Corporate Debtor admits the said outstanding debt. Therefore, this Bench is of the view that that this Petition satisfies all the necessary requirements for **admission** under Section 7 of the Code.
11. For the foregoing reasons, the instant Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:
- a. **The above Company Petition No. (IB) -446 (MB)/2020 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Vindhyavasini Steel Corporation Private Limited.**
 - b. This Bench hereby appoints **Mr. Naren Sheth**, Insolvency Professional, Registration No: **IBBI/IPA-001/IP-P00133/2017-18/10275** as the

Interim Resolution Professional having address at 1014, Prasad Chambers, Tata Road No. 1, Opera House, Charni Road, Mumbai- 400 004 to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

- c. The Financial Creditor shall deposit an amount of Rs.2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- d. 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 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.
- e. 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.

- f. 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.
- g. 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.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. 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.
- j. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to the IRP immediately.

Sd/-

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

Sd/-

JUSTICE P. N. DESHMUKH
(MEMBER JUDICIAL)

Anusha
20.01.2023