

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

CP (IB)/ 251(MB) 2023

Under section 7 of the Insolvency and
Bankruptcy Code, 2016

In the matter of

Standard Chartered Bank Limited

[Identification number: F00489]

... Applicant/Financial Creditors

Versus

Sun-power Metals Private Limited

[CIN: U51909MH2014PTC252236]

... Respondent/Corporate Debtor

Order Pronounced on: 02.01.2024

Coram:

Hon'ble Member (Judicial): Sh. Justice V. G. Bisht (Retd.)

Hon'ble Member (Technical): Sh. Prabhat Kumar

Appearances:

For the Financial Creditor : Mr. Navin Arora, Advocate

For the Corporate Debtor : None

ORDER

Per: Prabhat Kumar, Hon'ble Member (Technical)

1. This Company Petition is filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (**IBC**) by **Standard Chartered Bank Limited** ("hereinafter referred to as Applicant"), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Sun-power Metalics Private Limited** ("hereinafter referred to as Respondent").
2. The Corporate Debtor is a Private Limited company incorporated on 18.01.2014 under Companies Act, 1956 with the Registrar of Companies, Maharashtra, Mumbai. Its registered office being situated at Office no.810, Tandice 69, Govindnagar, Andheri-Kurla Road, Near Darpan Tele. Exchange, Andheri-E Mumbai-400093. Therefore, this Bench has jurisdiction to deal with this Petition. The Authorised capital of the Corporate Debtor is Rs. 17,00,00,000/- whereas the paid up capital is Rs. 16,77,54,016/-.
3. The Corporate Debtor is a company involved in other wholesale in a variety of goods without any particular specialization
4. The present Application was filed before this Adjudicating Authority on the ground that the Respondent had availed financial facility from the Financial Creditor in 2019 for loan against property. The Creditor also disbursed a total loan amount of Rs. 9,30,00,000/- (Rupees Nine Crore Thirty Lakhs only) which the Corporate Debtor failed to repay and therefore the Corporate Debtor's account had become NPA on 01.12.2021. Hence, the present Application has been filed to initiate Corporate Insolvency Resolution Process of the Corporate Debtor for a default amount of Rs. 8,87,14,300.46/- (Rupees Eight Crore Eighty-Seven Lakhs Fourteen Thousand Three hundred and Forty Six paise only)

5. The date of Default is stated to be 02.12.2021 whereas the particulars of debt of the Applicant is detailed as under:

Agreement Date by way of which the amount was disbursed	Loan amount disbursed	Loan Account no.
06.11.2021	Rs. 9,30,00,000/- (Rupees Nine Crore Thirty Lakhs only)	52143708

The Creditor disbursed loan against property for the purpose of purchase of commercial property for which the Corporate Debtor created mortgage on the property located at Office no.3A-02, 3rd Floor, Kaledonia, Sahar Road, Off. Western Express Highway, Anderi (East), Mumbai 400069. Amount claimed is Rs. 8,87,14,300.46/- (Rupees Eight Crore Eighty-Seven Lakhs Fourteen Thousand Three hundred and Forty-Six paise only) as on 02.12.2021. The details of loan accounts are given below:

Loan amount disbursed	Loan account no.	Outstanding amount
Rs. 9,30,00,000/- (Rupees Nine Crore Thirty Lakhs only)	52143708	Rs. 8,87,14,300.46/- (Rupees Eight Crore Eighty-Seven Lakhs Fourteen Thousand Three hundred and Forty-Six paise)

		only) as on 02.12.2021
Total Amount Claimed		Rs. 8,87,14,300.46/- (Rupees Eight Crore Eighty- Seven Lakhs Fourteen Thousand Three hundred and Forty-Six paise only)

6. The Corporate Debtor despite having been given final opportunity, did not appear and has failed to file reply as well. Corporate Debtor was represented on 24.07.2023 and was allowed 2 weeks time to file reply at the request of the counsel. However, thereafter the Corporate Debtor was neither represented nor appeared on 05.09.2023, 09.10.2023 and 10.11.2023. Vide order dated 09.10.2023 last opportunity was granted to the Corporate Debtor to appear in the matter. Hence the present matter is decided on the materials available on record.
7. The application made by the Financial Creditors is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable and the default is in excess of minimum amount stipulated under section 4(1) of the IBC. Therefore, the debt and default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.

8. The Financial Creditor has proposed the name of CA Rajan Garg, Registration No. IBBI/IPA-001/IP-P02397/2021-22/13624, as the Interim Resolution Professional of the Corporate Debtor. He has filed his written communication in Form 2 as required under rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
9. It is, accordingly, hereby ordered as follows: -
 - (a) The petition bearing CP (IB) 251/(MB) 2023 filed by Standard Chartered Bank Limited, the Financial Creditor, under section 7 of the IBC read with rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Sunpower Metalics Private Limited [CIN: U51909MH2014PTC252236]**, the Corporate Debtor, is admitted.
 - (b) There shall be a moratorium under section 14 of the IBC, in regard to the following:
 - (i) 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;
 - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - (iii) 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 (SARFAESI) Act, 2002;

- (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (c) Notwithstanding the above, during the period of moratorium: -
- (i) 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;
 - (ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) CA Rajan Garg, Registration No. IBBI/IPA-001/IP-P02397/2021-22/13624, having registered address at Flat no.202, Wing B, 2nd Floor, Safal Twins, Block Punjabwadi, Sion Trombay Road, Deonar, Mumbai Suburban, Maharashtra - 400088 and correspondence address at Suite no.5, 8th floor, 207, Embassy Centre, Jamnalal Bajaj Marg,

Nariman Point, Mumbai, Maharashtra – 400021 is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions issued/as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.

- (g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (h) The Financial Creditor shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (i) The Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (j) IRP is directed to send a copy of this Order to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to

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the Registry of this Court **within seven days** from the date
of receipt of a copy of this order.

Sd/-

Prabhat Kumar
Member (Technical)

MK

Sd/-

Justice V. G. Bisht (Retd.)
Member (Judicial)