



NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

21. I.A. 995/2023
IN
C.P.(IB)-1254(MB)/2022

CORAM: SHRI H.V. SUBBA RAO, MEMBER (J)
MS. MADHU SINHA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **10.04.2023**

NAME OF THE PARTIES: Bank of India

V/s.

Sushitex Industries Private Limited

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Adv. Kunal Kanungo, Adv. Tanushree Sogani and Adv. Atishay Jain appearing for the Corporate Debtor and Mr. Ravindranath Menon, counsel appearing for the Financial Creditor are present.

I.A.995/2023

The above application is filed by the Corporate Debtor for condoning the delay in filing the affidavit in reply and also for taking the reply on record. After hearing both sides, the above application is **allowed** taking the reply on record in order to give fair opportunity to the Corporate Debtor in the interests of justice.

C.P. 1254/2022

Heard both sides and the above Company Petition is admitted. Detailed order would follow:

Sd/-
MADHU SINHA
Member (Technical)
//RKS//

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



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

C.P. No. 1254/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

Bank of India

Having registered office at: Star House- 5,
G-Block, Bandra Kurla Complex, Bandra
(E), Mumabi- 400051

.....Financial Creditor

Vs

M/s Sushitex Industries Private Limited.

(CIN: U17291MH2010PTC205365)

Registered office at: Unit No. 1-1, 1st Floor,
Roop Industrial Premises Co-Operative
Society Ltd, Andheri-Kurla Road, Sakinaka,
Andheri (East), Mumabi- 400072

.....Corporate Debtor

Order dated: 10.04.2023

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble MS. Madhu Sinha, Member (Technical)

For the Financial Creditor: Mr. Ravindranath Menon, Advocate

For the Corporate Debtor: Adv. Kunal Kanungo, Adv. Tanushree

Sogani and Adv. Atishay Jain



1. The above Company Petition is filed by *Bank of India* hereinafter called as Financial Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against *M/s Sushitex Industries Private 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. 30,48,23,962.64/-.
2. The Corporate Debtor availed credit facilities of Rs. 24.80 crore in the year 2010 from the Applicant. The said facilities were renewed from time to time and lastly on 26th September 2018. The Corporate Debtor executed various documents in favour of the applicant for securing the above credit facilities.
3. Upon the failure of the Corporate Debtor to make repayments, by the Financial Creditor was constrained to classify the account of the Corporate Debtor as NPA on 31st July 2019. Thereafter, a Demand Notice dated 06th August 2019 under Section 13(2) of the SARFAESI Act was issued to the Corporate Debtor, calling upon the Corporate Debtor to replay the outstanding amount of Rs. 32.64 crore as on 06th August 2019. However, the Corporate Debtor failed neglected to make payment the outstanding dues. Therefore, the Applicant took possession of the secured assets of the Corporate Debtor on 19.06.2020 and 20.06.2020.
4. The Corporate Debtor filed affidavit in reply of Mr. Harish Arya with usual denials opposing the admission of the above Company Petition.
5. Heard Mr. Ravindranath Menon, counsel appearing for the Financial Creditor and Mr. Kunal Kanungo, counsel



appearing for the Corporate Debtor. Counsel appearing for the Corporate Debtor on instructions fairly submitted across the bar that even though the Corporate Debtor has filed formal reply opposing the above Company Petition, they are not seriously opposing the existence of the “debt” and “default” in repayment.

6. In view of the above unconditional admission made by the Corporate Debtor, this Bench has no option except to admit the Company Petition. The Financial Creditor has also suggested the name of proposed Interim Resolution Professional in part-3 of the Petition along with his consent letter in Form-2. Thus, the present company Petition satisfies all the necessary requirements for admission. Accordingly, the above Company Petition is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) 1254 (MB)/2022 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Sushitex Industries Pvt. Ltd.
- b. This Bench hereby appoints **Mr. Kamal Gurnani** (kamalgurnaniip@gmail.com) Insolvency Professional, Registration No: IBBI/IPA-001/IP-P-01463/2018-2019/12338 having registered office at: Flat No. 1301, Building No.23 E Palazzio CHS Limited Mahada Hsg Society, Powai Mumbai- 400076 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.
- 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 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.
 - 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 Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, this Petition is admitted.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

MADHU SINHA
MEMBER (TECHNICAL)

Sd/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)