



SL. No.111

NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH  
COURT HALL NO: II

(Video Conference)

CORAM: DR.VENKATA RAMAKRISHNA BADARINATH NANDULA – HON'BLE MEMBER (J)  
CORAM: SHRI VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
HYDERABAD BENCH, HELD ON 19.10.2022 AT 02:30 PM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition IB/10/2022
NAME OF THE COMPANY	Feno Plast Limited
NAME OF THE PETITIONER(S)	The Canara Bank
NAME OF THE RESPONDENT(S)	Feno Plast Limited
UNDER SECTION	7 of IBC

**ORDER**

Order pronounced vide separate Sheets.

In the result, Petition is allowed. Corporate Debtor is admitted into CIR Process.

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MEMBER (T)

Satya Priya

*-sdh*  
MEMBER (J)

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

C.P. (IB) No.10/7/HDB/2022  
Under section 7 of the IB Code, 2016  
r/w Rule 4 of the Insolvency and Bankruptcy  
(Application Adjudicating Authority) Rules, 2016.

In the matter of  
**M/S FENOPLAST LIMITED**

**Between:**

M/S Canara Bank Limited,  
R.P. Road Branch, D. No. 5-2-69/3,  
Kandala Plaza, Bible House,  
Secunderabad – 500003.

...Applicant/Financial Creditor

**A N D**

M/S Fenoplast Limited,  
306/308, Chenoy Trade Centre,  
Parklane, Secunderabad, Telangana.

...Respondent/Corporate Debtor

**Date of Order: 19.10.2022**

**Coram:**

**Dr. Venkata Ramakrishna Badarinath Nandula, Member, Judicial  
Sri Veera Brahma Rao Arekapudi, Member, Technical**

**Counsel present:**

For the Financial Creditor: Mr. Manav Gecil Thomas, counsel

For the Corporate Debtor: Mr. Y. Suryanarayana and  
Mrs. L. Madhavi Latha, counsels

**Per : Bench**

**ORDER**

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1. Under consideration is an Application filed by Canara Bank Limited, through its authorized representative (hereinafter referred to as "Financial Creditor"), under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code, 2016"), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP"), against M/S Fenoplast Limited (hereinafter referred to as "Corporate Debtor"), alleging default of a debt over Rupees One Crore by the Financial Creditor.
2. The Applicant extensively traced the history of the debt, since its inception in the year 1989, with its development over the decades. It may not be necessary to set out all the facts in detail and recounting facts in a nutshell, imperative for appreciating this order, would suffice. Brief facts of the case, as submitted by the Financial Creditor, are as follows:
  - a) The Applicant is a banking company, incorporated under the Companies Act, 1956, having its registered office at Bengaluru, Karnataka. On 14.02.1989, the Corporate Debtor was sanctioned an OCC facility of Rs. 25,00,000/-, by a consortium of banks, originally consisting of the Applicant, the Syndicate Bank and the Lakshmi Vilas Bank (collectively referred to as "the Consortium").
  - b) Thereafter, the credit facilities were enhanced from time to time, with loan agreements executed and, charges and securities created accordingly. The documents relating to the acknowledgement of debt were being executed from time to time, thereby keeping the debt alive. The latest acknowledgement of debt was on 15.02.2020.
  - c) The following table encapsulates the debt, as the credit facility was being enhanced from time to time:

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Agreement Dated	Canara Bank (Applicant)	Syndicate Bank
08.06.1994	Rs. 4,70,00,000/-	Rs. 2,00,00,000/-
06.10.1995	Rs. 7,60,00,000/-	Rs. 3,15,00,000/-
22.05.1998	Rs.8,10,00,000/-	Rs. 3,38,00,000/-
19.02.2002	Rs. 10,20,00,000/-	Rs. 4,25,00,000/-
30.12.2002	Rs. 11,40,00,000/-	Rs. 4,25,00,000/-
24.12.2003	Rs.13,77,50,000/-	Rs.6,12,50,000/-
02.03.2006	Rs. 14,04,00,000/-	Rs. 7,00,00,000/-
23.01.2007	Rs. 14,04,00,000/-	Rs. 9,00,00,000/-
28.07.2008	Rs. 21,02,00,000/-	Rs. 13,25,00,000/-
13.01.2010	Rs. 26,04,00,000/-	Rs. 6,06,00,000/-
11.06.2011	Rs.30,00,00,000/-	Rs. 15,00,00,000/-
06.03.2013	Rs.30,00,00,000/-	Rs. 20,00,00,000/-
12.06.2015	Rs. Rs.35,00,00,000/-	Rs.30,00,00,000/-
28.10.2016	Rs.36,00,00,000/-	Rs.32,00,00,000/-
05.03.2019	Rs.36,00,00,000/-	Rs.32,00,00,000/-

- d) After multiple changes in the composition of the consortium, over time, the Applicant, the Syndicate Bank and the State Bank of India, currently form the consortium. Subsequently, the Syndicate Bank merged with the Applicant.
- e) The Corporate Debtor failed to pay the instalments as per the repayment schedule, consequent to which, the account of the Corporate Debtor was classified as a 'non-performing asset' (NPA), on 22.03.2020. However, in view of the guidelines on moratorium, that were issued by the Reserve Bank of India, the Corporate Debtor was removed from the classification of NPA.

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- f) The account of the Corporate Debtor was classified as a NPA on 30.03.2021, on account of the non-payment of interest on working capital, which resulted in the dues increasing from the month of December, 2020.
- g) Thereafter, on 08.04.2021, proceedings under the SARFAESI Act were initiated against the Corporate Debtor and symbolic possession of the properties of the Corporate Debtor was taken, on 14.06.2021.
- h) That the total outstanding liability of the Corporate Debtor amounts to Rs. 55,61,32,955.75/-, which includes interest at 19.60% (MCLR of one year at 7.35% + a spread of 7% + a penal interest at 5.255, computed upto 30.11.2021).

Reiterating the above, learned counsel for the Financial Creditor, prayed that the instant Application be admitted.

3. The right of the Corporate Debtor, to file a counter to the Application, has been forfeited, vide order dated 16.03.2022. It is pertinent to mention here the circumstances that led to the said forfeiture. The learned counsel for the Corporate Debtor appeared on 01.02.2022, after notice was issued and two weeks' time was granted to enable filing of counter. However, on 16.02.2022, the learned counsel vehemently submitted that the entire amount claimed in the petition will be paid to the Applicant and requested for three weeks. Four weeks were granted and it was made clear that no further time will be allowed for filing of counter. On 16.03.2022, no action towards settling the debts was taken and neither was the counter filed. Hence, the order forfeiting the right of the Corporate Debtor to file a counter.
4. We have heard the learned counsel appearing for the parties and perused the record.
5. The Financial Creditor, in its written submissions, has attached the banker's book of evidence, dated, 06.05.2022, accompanied by the certificate under Section 2(8)(B), read with Section 2A of the

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Bankers' Book Evidence Act, 1891, at Page No. 116. It has been certified, vide the said certificate, that the due from account of the Corporate Debtor for the facilities availed vide Canara Bank Account No. 0617256000366 is Rs. 25,56,40,214.06/-. The due from account of the Corporate Debtor vide Canara Bank Account No. 4929710000011 is verified to be Rs. 1,77,94,803.79/-. The due from account of the Corporate Debtor vide E-Syndicate Bank Account No. 30341250000200 is verified to be Rs. 28,26,97,937.90/-.

6. The records of default held with the information utility, dated 15.03.2022, has been obtained from the National E-Governance Services Limited and is titled "Record of Default for Party M/S Fenoplast Limited (Debtor)". The record bearing Unique Debt Identifier: AAACC6106G\_30341250000200, attached at Page No. 122, shows the default amount as Rs. 29,29,92,298.95/-. The record bearing Unique Debt Identifier: AAACC6106G\_4929710000011, attached at Page No. 142, shows the default amount as Rs. 1,84,92,617.79/-. The record bearing Unique Debt Identifier: AAACC6106G\_0617256000366, attached at Page No. 130, shows the default amount as Rs. 25,91,04,927.52/-.
7. In view of the above, we are of the view that in the instant case there is a financial debt and there has been a default committed by the Corporate Debtor in repayment of the same. This Adjudicating Authority is satisfied that the Financial Creditor has proved its case by producing evidence that default has occurred, for which the Corporate Debtor is liable to pay. The Application is also filed well within the period of limitation.
8. It is pertinent to note that the Hon'ble Supreme Court of India, in the case of *Innoventive Industries Ltd v. ICICI Bank & Anr.*, (2018) 1 SCC 407, held as under:

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*“.....The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under subsection (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.”*

9. The Financial Creditor has also fulfilled all the stipulations as required under the provisions of the Code, 2016, for the purpose of initiating the Corporate Insolvency Resolution Process. In these circumstances, this Adjudicating Authority is inclined to admit the instant Application.
10. Accordingly, the Application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process, which shall ordinarily be completed within the timelines stipulated in the Code, 2016 (as amended), reckoning from the date on which this order is passed.
11. The Financial Creditor has proposed the name of Ms. Kalpana G, as the Interim Resolution Professional (IRP). Accordingly, this Adjudicating Authority appoints Ms. Kalpana G, bearing Registration No.: IBBI/IPA-001/IPP00756/2017-18/11288, E-mail ID: kalpanagonugunta1@gmail.com, as the Interim Resolution Professional. The IRP is directed to file Authorization for Assignment within three days from the date of this order.
12. The IRP is directed to take charge of the management of the Corporate Debtor, immediately. He is also directed to cause public announcement as prescribed under Section 15 of the Code, 2016,

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within three days from the date of receipt of this order, and call for submissions of claim in the manner as prescribed.

13. We direct the Financial Creditor/Petitioner to pay a sum of Rs.2,00,000/- towards the advance fee of the IRP and expenses towards the CIRP, which shall be ratified later on by the Committee of Creditors.
14. Moratorium is, hereby, declared and shall have effect from the date of this order till the completion of the CIRP, for the purposes referred to in Section 14 of the Code, 2016. It is hereby ordered that all of the following are prohibited:
  - 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 or 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 rights 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);*
  - iv. *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*
  - v. *Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*
15. The supply of essential goods or services to the Corporate Debtor shall not be terminated, suspended or interrupted during the moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the Corporate

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Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.

16. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code, 2016. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the Code, 2016.
17. The Financial Creditor as well as the Registry are directed to send the copy of this Order to the IRP, to enable him to take charge of the assets etc. of the Corporate Debtor, and comply with this order as per the provisions of the Code, 2016.
18. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
19. The Registry shall also communicate this Order to the Registrar of Companies, Hyderabad, for updating the status of the Corporate Debtor in the website of the Ministry of Corporate Affairs.
20. Accordingly, this Petition is admitted.

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**Veera Brahma Rao Arekapudi**  
Member Technical

**Dr. Venkata Ramakrishna Badarinath Nandula**  
Member Judicial