



SL. No.1

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

(Video Conference)-Virtual Hearing

**CORAM: DR.VENKATA RAMAKRISHNA BADARINATH NANDULA – HON’BLE MEMBER (J)
CORAM: SHRI SATYA RANJAN PRASAD - HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 09.01.2023 AT 04:00 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition IB/242/2021
NAME OF THE COMPANY	Talwar Cars Pvt Ltd
NAME OF THE PETITIONER(S)	R K Mining Pvt Ltd
NAME OF THE RESPONDENT(S)	Talwar Cars Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

Orders in **CP(IB) 242/7/2021** pronounced, recorded vide separate sheets. In the result, this application is **allowed** and CIRP is hereby ordered against the Corporate Debtor as per the terms mentioned in the Order.

Sd/-

MEMBER (T)

Syamala

Sd/-

MEMBER (J)



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

C.P. (IB) No. 242/7/HDB/2021
Under Section 7 of IB Code, 2016

Between:

M/s. R K Mining Private Limited,
1-2-49/15, Nizampet Road,
Hydernagar, Kukatpally,
Hyderabad – 500072.

...Applicant/ Financial Creditor

A N D

M/s. Talwar Cars Private Limited,
Talwar Towers, #7-2-31/A,
B-31, Industrial Estate,
Sanath Nagar, Hyderabad – 500018.

...Respondent/ Corporate Debtor

Date of order: 09.01.2023

Coram:

Dr. Venkata Ramakrishna Badarinath Nandula, Member (Judicial)

Sri Satya Ranjan Prasad, Member (Technical)

Appearance:

For the Financial Creditor : Mr. G. Bhupesh, Advocate

For the Corporate Debtor : Mr. P. Rishi Krishna, Advocate
Mr. Saketh Talwar, Party-in-person



[Per : Bench]

ORDER

1. Under consideration is an Application filed by M/s. R K Mining Private Limited (hereinafter referred to as the “Applicant”), 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. Talwar Cars Private Limited (hereinafter referred to as “Corporate Debtor”), alleging default of a financial debt over Rupees One Crore by the Corporate Debtor.

2. Brief facts of the case, as submitted by the Applicant, are as follows:
 - a) Under loan agreements, dated 22.09.2017 and 25.01.2018, the Applicant advanced a business loan of Rs. 4,50,00,000/- (Rupees Four Crores Fifty Lakhs Only) carrying an interest of 15% p.a., to the Corporate Debtor, who was in need of financial assistance for its business purpose. The same was due for repayment on 25.01.2020.
 - b) The Corporate Debtor repaid a part of the accrued interest and principal amount from time-to-time, but failed to pay the total outstanding amount of Rs.1,34,71,741/- towards principal and accrued interest.
 - c) On 10.06.2020, the Corporate Debtor made a payment of Rs.2,76,110/- and thereafter, in spite of several reminders, the Corporate Debtor has failed to repay the outstanding loan amount on the due date i.e.,



25.01.2020, as per the Loan Agreement. Hence, the Corporate Debtor is liable to pay a sum of Rs.1,34,71,741/- towards principal and interest.

Since the Corporate Debtor had failed to repay the outstanding amounts, the Applicant has preferred the instant Application and thus, the learned counsel for the Applicant prayed that the Application be allowed.

3. The Corporate Debtor though engaged a Counsel did not choose to file any Counter. On 01.12.2022, the Managing Director of the Corporate Debtor appeared and admitted to the debt in question.
4. Therefore, the point that arises for our consideration is:

Whether there exists a debt of a sum over Rupees One Crore due and payable by the Corporate Debtor? If so, whether the Corporate Debtor has defaulted in repayment of the same?

5. We have heard Mr. G. Bhupesh, Learned Counsel for the Applicant and Mr. Saket Talwar, the Managing Director of the Corporate Debtor, who appeared in person, and perused the record.
6. At the outset, it is pertinent to state that pursuant to the notice of this Tribunal to the Corporate Debtor on the above application on 16.09.2021, Mr. Saketh Talwar, the Managing Director of the Corporate Debtor appeared in person physically before the Adjudicating Authority and submitted that he had availed the loan from the Applicant, however, presently it is not possible for him to discharge the said debt in view of his



present financial condition and prayed the Adjudicating Authority to pass appropriate orders in the Company Petition. The Order dated 01.12.2022 is as follows:

“Mr. Saket Talwar submitted that he is the Managing Director of the Company. A photo copy of the Aadhar Card has also been submitted in proof of his identity. Thus, the identity of the representative of the Corporate Debtor is established.

Mr. Saket Talwar submits that it is a fact that the Corporate Debtor availed the financial facilities from the Financial Creditor and also defaulted, in repayment of the same. According to him, payment of the debt at this stage is not possible, as the Corporate Debtor has no funds and prayed this Tribunal to pass appropriate orders”.

7. We have perused the record placed before us by the Financial Creditor. The Loan Agreements dated 22.09.2017 and 25.01.2018, the execution of which is not denied by the Corporate Debtor, disclose that the Corporate Debtor has availed credit facilities of a sum over Rs.1,00,00,000/- above.
8. The Books of Accounts of the Financial Creditor and the confirmation of Accounts by the Corporate Debtor above clearly establishes the debt as claimed by the Financial Creditor. That apart, as already stated the Managing Director of the Corporate Debtor himself in clear and categorical terms had stated before this Tribunal that the Corporate Debtor is not in a position to repay the said loan. Thus, the debt and default stand established firmly.
9. The point is answered accordingly.



10. Therefore, as both the debt and default since stand admitted in clear, crystal and categorical terms, we find no reason to reject this application. We, therefore, hereby admit this application.

11. The Applicant 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. Further, we found due compliance of the requirements in terms of Section 7(3) of the Code, 2016, by the Applicant, and this Adjudicating Authority in terms of its power under Section 7 (4) ascertained the existence of debt and default, as alleged on the part of the Corporate Debtor from the record placed by the Applicant, under sub-section (3) of Section 7 of the Code, 2016. We are fully satisfied that the present Application under sub-section (2) of Section 7 of the Code, 2016, is complete in all aspects and that there are no disciplinary proceedings pending against the proposed resolution professional. In these circumstances, this Adjudicating Authority is inclined to admit the instant Application.

12. 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.

13. The Applicant has proposed the name of Mr. Gonugunta Madhusudan Rao, as the Interim Resolution Professional (hereinafter referred to as the



"IRP"). Accordingly, this Adjudicating Authority appoints Mr. Gonugunta Madhusudan Rao, bearing Registration No.: IBBI/IPA-002/IP-N00025/2016-2017/10053, R/o 7-1-285, Flat No. 103, Sri Sai Swapna Sampada Apartments, Balkampet, Sanjeev Reddy Nagar, Hyderabad – 500038, E-mail ID: madhucs1@gmail.com, Ph.: 9177715558, as the Interim Resolution Professional. The IRP is directed to file Authorization for Assignment within three days from the date of this order.

14. 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, within three days from the date of receipt of this order, and call for submissions of claim in the manner as prescribed.
15. We direct the Applicant to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs only) towards the advance fee of the IRP and expenses towards the CIRP, which shall be ratified later on by the Committee of Creditors.
16. 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.*
17. 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 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.

18. 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.
19. The Applicant 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.
20. The Registry is directed to communicate this Order to the Applicant and the Corporate Debtor.
21. 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.
22. Accordingly, this Petition CP 242/7/HDB/2021 is allowed and stands disposed of.

Sd/-

(Satya Ranjan Prasad)
Member (Technical)

Sd/-

(Dr. N.V. Ramakrishna Badarinath)
Member (Judicial)