

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

17. C.P.(IB)-1005(MB)/2022

CORAM: SMT. H.V.SUBBA RAO, MEMBER (J)  
SMT. ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **09.11.2022**

NAME OF THE PARTIES: ASREC (INDIA) LIMITED

Vs.

MUDHAI DAIRY PRIVATE LIMITED

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

Mr. Manoj Mishra, counsel appearing for the Financial Creditor is present through virtual hearing. None appeared for the Corporate Debtor.

**C.P. 1005/2022**

Counsel appearing for the Financial Creditor filed service affidavit along with postal receipt, track report whereunder notice sent to the Corporate Debtor was returned with an endorsement "Refused". However, notice sent through registry was delivered at the reception counter of the Corporate Debtor company. Notice on the Corporate Debtor is held sufficient. Hence, the Corporate Debtor is set ex-parte.

Heard the arguments of counsel appearing for the Financial Creditor and the above company petition is **admitted** detailed order follows:

Sd/-  
ANURADHA SANJAY BHATIA  
Member (Technical)

//SKS//

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

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

**C.P. No. 1005/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*

**M/s. ASREC (India) Limited.**

(CIN : U67100MH2003GOI43291)  
Registered Office:- Solitaire Corporate Park, Bldg. No. 2, Unit No. 201-202A & 200-202B, Gr. Floor, Andheri Ghatkopar Link Rd., Chakala, Andheri (East), Mumbai-400 093

**.....Financial Creditor**

**Vs**

**M/s. Mudhai Dairy Private Limited.**

(U01212PN2008PTC132796)  
Registered office at: Gat No. 544, Narayanwadi, Chandoli Road at Post Narayanwadi Taluka Karad, Satara, Maharashtra – 415539

**.....Corporate Debtor**

**Order dated : 09.11.2022**

**Coram: Hon'ble H.V. Subba Rao, Member (Judicial)  
Hon'ble Anuradha Sanjay Bhatia, Member (Technical)**

**Appearance:**

**For the Petitioner:** Mr. Manoj Mishra, Advocate

**Per: H.V. Subba Rao, Member (Judicial)**

1. This Company petition is filed by *M/s. ASREC (India) Limited* (hereinafter called “Financial Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *M/s. Mudhai Dairy 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 Insolvency and bankruptcy code (hereinafter called “Code”) 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 a sum of Rs. 15,91,92,402.33/- (Rupees Fifteen Crores Ninety one Lakhs Ninety Two Thousand Four Hundred Two and Paise Thirty Three Only) (Principal Amount Rs. 2,58,00,000/- Plus interest: Rs. 2,34,97,766/-).
3. **The brief facts of the Financial Creditor are as follows:-**
  - i. *M/s. Mudhai Dairy Private Limited, (hereinafter referred to as “the Corporate Debtor”)* with CIN : U01212PN2008PTC132796, had obtained wide-ranging credit facilities from Abhyudaya Co-operative Bank Limited, a Multi-State Scheduled Bank with Adm. Office at K.K. Tower, Abhyudaya Bank lane, Off. G.D. Ambedkar Marg, Parel Village, Mumbai-400 012, which totalled to an aggregate amount of Rs. 11,51,00,000/- (Rupees Eleven Crores Fifty One Lakhs Only), the details for which are given below:

<b>Sr. No</b>	<b>Loan Facilities sanctioned to the Corporate Debtor</b>	<b>Loan A/c.</b>	<b>Limit (In INR)</b>
1.	Cash Credit	CC/200020/Kamothe Branch	7,00,00,000/-
2.	Term Loan	ESCLN/500047/Kamothe Branch	2,51,00,000/-
3.	Term Loan	ESCLN/500051/Kamothe Branch	1,00,00,000/-
4.	Term Loan	STCL/400001/Kamothe Branch	1,00,00,000/-
	TOTAL SANCTIONED AMOUNT		11,51,00,000/-

- ii. The Corporate Debtor miserably failed and/or neglected to repay all the dues owed towards Abhyudaya Co-operative Bank Limited, leading to default as on 09.11.2019. That in consequences to the Corporate Debtor defaulting in the payment of the said dues, Abhyudaya Co-operative Bank Ltd. (as Assignor) executed an Assignment Agreement with ASREC (India) Ltd. as on 25.03.2021, (as Assignee and also in the capacity as Trustee of the ASREC-PS02/2020-2021Trust).
- iii. Subsequently, the petitioner issued a Demand Notice u/s. 13 (2) of the SARFAESI Act, 2002 bearing Ref. No. ASREC/SARFAESI/520/2020-21 dated 19.03.2021 Rs. 13,06,69,583.15 (Rupees Thirteen Crores Six Lakhs Sixty Nine Thousand Five Hundred Eighty Three and Paisa Fifteen Only).

- iv. Further, the petitioner issued a possession Notice u/sec. 13 (4) of the SARFAESI Act, 2002 bearing Ref. No. ASREC/SARFAESI /1172/2021-2022 dated 14.07.2021.
  - v. In light of the above facts and circumstances, a total outstanding amount summing up Rs. 15,91,92,402.33/- (Rupees Fifteen Crores Ninety One Lakhs Ninety Two Thousand Four Hundred Two and Paise Thirty Three Only) as on 25.08.2022 along with future interest from 25.08.2022 till the date of actual payment/realization together with costs and expenses is owed by the Corporate Debtor to ASREC (India) Limited qua financial creditor/petitioner.
  - vi. The Petitioner states that this petition is within the time limit as specified under the Limitation Act, 1963.
  - vii. The Petitioner further states that the Hon'ble NCLT, Mumbai is the appropriate jurisdiction for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor, as the registered office of the Corporate Debtor is located in the State of Maharashtra.
  - viii. The Petitioner qua Financial Creditor seeking initiation of CIRP process for the recovery of the said amount summing up to Rs. 15,91,92,402.33/- (Rupees Fifteen Crores Ninety One Lakhs Ninety Two Thousand Four Hundred Two and Paise Thirty Three Only) as on 25.08.2022 along with future interest from 25.08.2022 till the date of actual payment/realization together with costs and expenses, therefore humbly approaches this Hon'ble Tribunal.
4. The matter was listed on today's board for appearance of the Corporate Debtor. Counsel appearing for the Financial Creditor filed service affidavit dated 11.10.2022 along with postal receipt,

track report whereunder notice sent to the Corporate Debtor was returned with an endorsement “Refused” which is a deemed service as per law. However, notice sent through registry was delivered at the “reception counter” of the Corporate Debtor company. As the Corporate Debtor did not appear today, the Corporate Debtor was set ex-parte.

5. Heard the counsel appearing for the Financial Creditor and perused the documents submitted by him. He invited the attention of this Bench to the sanction letter dated 01.08.2019 issued by Abhyudaya Cooperative Bank Ltd. which was annexed as Annexure-B at page nos. 95-98 to the petition which was duly signed by the Corporate Debtor. He further invited the attention of this Bench to the letter of acceptance dated 25.02.2019 whereunder the corporate debtor acknowledged the cash credit limit of Rs. 700.00 lakhs and term loan of Rs. 251.00 Lakhs. He further invited the attention of this bench to the declaration dated 09.08.2019 by the Corporate Debtor acknowledging the receipt of total sanctioned amount aggregating to Rs. 11,51,00,000/-. He further invited the attention of this Bench to the Demand Notice dated 19.03.2021 issued under Section 13(2) of the SARFAESI Act, 2002 demanding a sum of Rs. 13,06,69,583.15/- from Corporate Debtor. He has also invited the attention of this Bench to the Assignment Agreement dated 26.08.2020 executed by the Abhyudaya Co-operative Bank Ltd assigning the debt in favour of *M/s. ASREC (India) Limited* who is the Financial Creditor herein.
6. After hearing the submissions and upon perusing the material available on record, this bench satisfied with regard to the existence of “debt” and “default” committed by the Corporate Debtor. The revised facilities were sanctioned on 01.08.2019 and the Company Petition being on 23.09.2022 is well within

limitation. 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. Since the Corporate Debtor remained ex-parte even without filing any reply, the claim of the financial creditor remained unchallenged. Thus, this Company Petition satisfies all the necessary legal requirements for admission. Accordingly, the same is admitted by passing the following:

**ORDER**

- (a) The above Company Petition No. (IB) -1005(MB)/2022 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. Mudhai Dairy Private Limited.
- (b) This Bench hereby appoints **Mr. Ashish Vyas** (ashishvyas2006@gmail.com), Insolvency Professional, Registration No: IBBI/IPA-001/IP-P-01520/2018-2019/12267 having office at B-1A Viceroy Court CHS, Thakur Village, Kandivali (East), Mumbai Suburban, Maharashtra-400101 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 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favor of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount 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.

Accordingly, this Petition is allowed.

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

Sd/-

**ANURADHA SANJAY BHATIA**  
**Member (Technical)**

Sd/-

**H V SUBBA RAO**  
**Member (Judicial)**