

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

CP No. (IB) 1083/ MB/ 2022

Under Section 7 of the Insolvency and
Bankruptcy Code, 2016 read with Rule 4
of the Insolvency and Bankruptcy
(Application to Adjudicating Authority)
Rules, 2016

In the matter of

Indian Overseas Bank

Having Registered Office at: Asset
Recovery Management Branch (ARM
Branch), 915/2, Aryabhushan Bhavan,
1st Floor, F.C. Road, Deccan
Gymkhana, Pune- 411 004,
Maharashtra

..... **Financial Creditor**

Vs.

M/s. Utopian Sugars Limited

(CIN: U15421PN2010PLC135737)

Having its Registered Office at: GAT
No. 64, Karad Road, Near Govt
Warehouse, Isabavi, Pandharpur, 413
304, Maharashtra

..... **Corporate Debtor**

Order delivered on:- 16.12.2022

Coram:

Hon'ble Member (Judicial) : Justice P. N. Deshmukh (Retd.)
Hon'ble Member (Technical) : Shri Shyam Babu Gautam

Appearances:

For the Financial Creditor : Advocate Rohit Gupta
For the Corporate Debtor : None

ORDER

Per: Justice P.N. Deshmukh, Member Judicial

1. This Company Petition is filed by *Indian Overseas Bank* (hereinafter called “Financial Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *M/s. Utopian Sugars 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 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called “IBC”) 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 an **aggregate amount of Rs. 23,16,19,975/-** (Rupees Twenty-Three Crores Sixteen Lakhs Nineteen Thousand Nine Hundred and Seventy-Five only) including the outstanding **Principal amount of Rs. 17,81,96,000/-** (Rupees Seventeen Crores Eighty-One Lakhs Ninety-Six Thousand Only) and **interest amounting to Rs. 5,34,23,975/-** (Rupees Five Crores Thirty-Four Lakhs Twenty-Three Thousand Nine Hundred and Seventy-Five Only) forming part of the Financial Debt.
3. The Corporate Debtor approached the Financial Creditor and other certain banks and requested them to provide term loans amounting to a combined total of Rs. 136,00,00,000/- (Rupees

One Hundred and Thirty-Six Crore only) for setting up an Integrated Sugar and Congregation Power Project at Solapur, Maharashtra by way of consortium arrangement. The Financial Creditor sanctioned a Term Loan Facility amounting to Rs. 39,00,00,000/- (Rupees Thirty-Nine Crores Only) vide **Sanction Letter dated 17th October 2014** which was accepted by the Corporate Debtor vide Credit Sanction Advice dated 18th October 2014.

4. Subsequently, a Term Loan Consortium was formed and Punjab National Bank was appointed as the Lead Bank of the Consortium. The details of the Consortium members are as follows:

Sr. No.	Name of Bank	Date of Sanction	Amount sanctioned
1.	Canara Bank	08.07.2014	27 Crores
2.	Indian Overseas Bank	18.10.2014	39 Crores
3.	Union Bank of India	21.01.2015	30 Crores
4.	Punjab National Bank (Lead bank)	11.03.2015	40 Crores
	Total		136 Crores

Pursuant to this, the loans were disbursed by the Financial Creditor on **6th February 2016** which was repayable in 28 quarterly instalments after 12 months from 1st January 2015 i.e.

commencing from the quarter January-March 2016. Copies of the relevant agreements have been duly annexed to this Petition.

5. The Financial Creditor submits that the Corporate Debtor committed defaults in making timely repayments since 2019 and was subsequently declared as **Non-Performing Asset (NPA) on 31st March 2021**. Previously, the Corporate Debtor had issued **Confirmation of Balance and Security on 9th October 2020** with respect to the outstanding amount due as on 30th September 2020. In view of the continued defaults, the Financial Creditor issued **Demand Notice dated 23rd June 2021** and recalled the entire facility, declared default on the part of the Corporate Debtor, terminated the loan and granted 60 days to repay the entire amount. Since the Corporate Debtor failed to repay the amount by **23rd August 2021**, the Financial Creditor issued a Legal Notice dated 18th May 2022. Since no payments were received, the Financial Creditor filed this Petition on **6th October 2022**. The calculation of the total claim has been tabulated as below:

Loan Type	Term Loan I	Term Loan II	Total
Total Debt granted	20,01,00,000	18,99,00,000	39,00,00,000
Principal Outstanding	9,14,38,999	8,67,57,000	17,81,96,000
Interest Outstanding	2,74,52,672	2,59,71,302	5,34,23,975
Total outstanding	11,88,91,672	11,27,28,302	23,16,19,975

6. The Corporate Debtor has neither replied to the Demand Notice and the Legal Notice addressed by the Financial Creditor nor has filed a Reply to this Petition. Also, the Corporate Debtor has not appeared before this Tribunal on any occasion.

FINDINGS

7. We have heard the submissions of the Counsel appearing for the Financial Creditor. Having perused various records and Order sheets, we note that the Corporate Debtor failed to appear before this Tribunal on multiple occasions despite notice. It is noted that the date of default is 23rd August 2021 and this Petition is not barred by limitation. The Financial Statements attached to this Petition clearly demonstrate the total amount of loan disbursed to the Corporate Debtor. It is also evident that the Corporate Debtor committed several defaults in repayments and did not reply to the Notices and reminders issued by the Financial Creditor. Meanwhile, the admission of the Corporate Debtor's liability to repay the said loan is well evidenced by the "Confirmation of Balance and Security" dated 9th October 2020.
8. The Financial Creditor has thus successfully demonstrated and proved the debt and default in this case. Therefore, this Bench is of the view that that this Petition satisfies all the necessary requirements for **admission** under Section 7 of the Code.
9. For the foregoing reasons, the instant Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

- a. **The above Company Petition No. (IB) -1083 (MB)/2022 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. Utopian Sugars Limited.
- b. This Bench hereby appoints **Mr. Ritesh R Mahajan**, Insolvency Professional, Registration No: IBBI/IPA-002/IP-N00048/2017-18/10132 as the Interim Resolution Professional having address at B-203, Devgiri, Ganeshmala, Sinhgad Road, Pune-411 030, Maharashtra and e-mail address as risteshmahajancs@gmail.com to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Financial Creditor shall deposit an amount of Rs.2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- 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 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 concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

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

Sd/-

SHYAM BABU GAUTAM

(MEMBER TECHNICAL)

Sd/-

JUSTICE P. N. DESHMUKH

(MEMBER JUDICIAL)

AN
16.12.2022