

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

C.P. (I.B.)- 915 OF 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

ASREC (INDIA) LTD.

Registered address at: 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

Versus

M/s. Sai Akshar Graphics Private Limited

[CIN: U72200MH2006PTC159998]

Unit no. 220, Hiranandani Industrial Estate, 2nd Floor, Onkar, Industrial Premises Co-operative Society Ltd., LBS Marg, Kanjurmarg (West), Mumbai- 400 078

..... Corporate Debtor

Order Reserved On: 02.11.2022

Order Pronounced On: 16.12.2022

Coram:

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

Hon'ble K.K. Singh, Member (Technical)

Appearances (via Videoconferencing)

For the Petitioner: Mr. Manoj Kumar Mishra (Advocate).

For the Corporate Debtor/ Respondent: None Appeared.

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

Order

1. The above Company Petition is filed by ASREC (INDIA) LTD., hereinafter called as “**Petitioner**” seeking to initiate of Corporate Insolvency Resolution Process (“**CIRP**”) against M/s. Sai Akshar Graphics Private **Limited** hereinafter 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. 10,76,46,635.34/-
2. The Petitioner has enclosed the following documents which demonstrate the existence of debt:
 - a. Forwarding Letter from the Corporate Debtor dated 22.03.2019;
 - b. Demand notice under Section 13(2) of the SARFAESI Act dated 09.10.2020;
 - c. Assignment Agreement dated 25.03.2021;
 - d. Letter from Corporate Debtor dated 14.07.2022;
 - e. Record of Default with National e-Governance Services Limited.

Brief Facts

3. The Petitioner submits that, the Respondent had obtained wide-ranging credit facilities from Bharat Co-operative Bank (Mumbai) Limited (herein after referred as “The Bank”), a multistate Scheduled Bank with branch at Bhandup Village Road. The total amount sanctioned is as follows:

Sr. No.	Name of the Credit facility	Amount (in Rs.)
1	Cash Credit Limit (renewal)	1,70,00,000/-

2	Mortgage Loan	85,00,000/-
3	Term Loan	5,00,00,000/-
4	Term Loan	70,00,000/-
Total		8,25,00,000/-

4. The Petitioner submits that, the Respondent failed to repay all the dues owed towards Bharat Co-operative Bank (Mumbai) Limited, leading to the account of the Corporate Debtor classified as a Non-Performing Asset as on 09.09.2019. Consequently, the Bank issued a Demand Notice under Section 13 (2) of the SARFAESI Act, 2002 dated 09.10.2020 for Rs. 8,03,93,967/-. The Bank further issued a Notice under Section 13 (4) of the SARFAESI Act, dated 07.01.2021 in lieu of discharge of liabilities within 7 days of receipt of notice.
5. The Petitioner submits that, in consequence to the Corporate Debtor defaulting in the payment of the said dues, an Assignment Agreement dated 25.03.2021 was executed between the Bharat Co-operative Bank (Mumbai) Ltd. (as Assignor) and the Petitioner (as Assignee).
6. The Petitioner submits that in light of the above facts and circumstances, a total outstanding amount summing up to Rs. 10,76,46,635.34/- as on 19.08.2022 along with future interest from 19.08.2022 till the date of actual payment together with costs and expenses owed by the Corporate Debtor to the Petitioner.

Findings

7. The Corporate Debtor did not appear before this Bench even after receipt of notice for appearance and hence the Corporate Debtor was set **ex-parte** by an order dated 10.10.2022 of this Tribunal.

8. The above matter was finally listed for ex-parte arguments on 02.11.2022. Heard Mr. Manoj Kumar Mishra, the counsel appearing for the Financial Creditor and perused the material available on record.
9. The learned counsel appearing for the Financial Creditor invited the attention of this Tribunal to Part-IV of the petition whereunder claimed an amount of Rs. 10,76,46,635/- (Rupees Ten Crore Seventy-Six Lakhs Forty-Six Thousand Six Hundred and Thirty-Five Only) from the Corporate Debtor towards four credit facilities granted to the Corporate Debtor by the original lender Bharat Co-operative Bank Limited who assigned the debt to the present Financial Creditor under a Deed of Assignment dated 25.03.2021.
10. The learned counsel appearing for the Financial Creditor invited the attention of this tribunal to the NeSL certificate annexed at page-111 of the Company Petition whereunder the “debt and default” are clearly mentioned. He has also invited the attention of this tribunal to the various loan documents executed by the Corporate Debtor in favour of the original lender Bharat Co-operative Bank Limited in proof of sanction of the above credit facilities and also invited the attention to the Assignment Agreement dated 25.03.2021 executed by Bharat Co-operative Bank Limited assigning the above debt to ASREC (INDIA) LIMITED the present Financial Creditor herein. He has also invited the attention of this tribunal to the Statement of Accounts of the Corporate Debtor in respect of all the four loan facilities and also the demand notice dated 09.10.2020 got issued by the Original Lender Bharat Co-operative Bank Limited under Section 13(2) of NPA Act and prayed for admission of the above Company Petition.
11. After hearing the submissions of the learned counsel appearing for the Financial Creditor and upon perusing the above documents relied by the Financial Creditor this Bench is of the considered opinion that the “debt and default” in this case are proved and the above Company Petition

being filed on 26.08.2022 is well within three years from the date of default i.e. 09.09.2019 and is within limitation. The Financial Creditor has also proposed the name of IRP Mr. Ashish Vyas, having registration no. IBBI/IPA-001/IP-P-01520/2018-2019/12267 and thus the Company Petition satisfies all the legal requirements for its admission. Since the Corporate Debtor remained ex-parte the claim of the Financial Creditor remained unchallenged.

Accordingly, the above Company Petition is admitted by passing the following order:

ORDER

The above Company Petition No. 915 of 2022 is hereby **allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **M/s. Sai Akshar Graphics Private Limited.**

- a. This Bench hereby appoints **Mr. Ashish Vyas**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P-01520/2018-2019/12267 having Registered addressed at: B-1A Viceroy Court CHS, Thakur Village, Kandivali (East), Mumbai Suburban, Maharashtra-400101 having Email ID- ashishvyas2006@gmail.com as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- b. The Petitioner 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.
- c. 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.

- d. 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.
- e. 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.
- f. 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.
- g. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- h. During the CIRP period, the management of the corporate debtor will vest in the IRP. 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.

- i. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- j. Accordingly, C.P. No. 915 of 2022 is **admitted**.

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

SD/-

K.K. Singh
MEMBER (TECHNICAL)

SD/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)