

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

CP (IB) 2392/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Stressed Assets Stabilisation Fund,

3<sup>rd</sup> Floor, IDBI Towers, WTC Complex,  
Cuffe Parade, Mumbai- 400005

... Petitioner

Vs.

Adya Oils and Chemicals Limited,

2001, 2<sup>nd</sup> Floor, Sai Sadan, 37<sup>th</sup> Road,  
Bandra (West), Mumbai- 400050

... Corporate Debtor

Order delivered on: 16.09.2019

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (J)  
Hon'ble Shri V. Nallasenapathy, Member (T)

For the Petitioner: Adv. Girin N. Pandit

For the Corporate Debtor: Adv. Minesh K. Shah

*Per: V. Nallasenapathy, Member (T)*

ORDER

1. Stressed Assets Stabilisation Fund in the capacity of Assignee from IDBI Bank (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process against Adya Oils And Chemicals Limited (hereinafter called the 'Corporate Debtor') on the ground that the Corporate Debtor committed default to the extent of ₹135,38,74,846/-, as provided under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereafter called the 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The Petition reveals that IDBI Bank had granted a term loan of ₹7,00,00,000/- vide a Loan Agreement dated 22.12.1998 to the Corporate Debtor. The Corporate Debtor failed and neglected to pay the instalments of principal and interest, which fell due on different dates in respect of the Loan. Therefore, IDBI called upon the Corporate Debtor to repay its outstanding dues vide letter dated 06.11.2003 issued to the Corporate Debtor.

3. Subsequently, the Central Government set up a Special Purpose vehicle in the form of Trust by the name 'Stressed Asset Stabilisation Fund (SASF)' vide Trust Deed dated 04.09.2004 with the object of acquiring the Stressed Assets of the IDBI Bank for the purpose of recovering the amount due thereunder. Further, the central Government by notification dated 29.09.2004 has also notified SASF as financial institution under Section 2 (h) (ii) of the Recovery of debts due to Banks and Financial Institution Act, 1993. The IDBI Bank, vide a Transfer deed dated 30.09.2004, unconditionally and irrevocably, sold, assigned and transferred the loan/facility sanctioned by IDBI Bank, including the loan granted to the Corporate debtor herein, to the Petitioner with an intent that the Petitioner shall be full and absolute legal owner to receive the amounts payable to the IDBI Bank.
4. The Petitioner enclosed the following documents in support of the Term Loan granted by the IDBI Bank to the Corporate Debtor:
  - (a) Loan Agreement dated 22.12.1998 between the Corporate Debtor and IDBI Bank;
  - (b) Deed of Hypothecation dated 22.12.1998 between the Corporate Debtor and IDBI Bank;
  - (c) Guarantee Agreement dated 22.12.1998 between the guarantor and IDBI Bank;
  - (d) Agreement for Pledge of Shares dated 23.10.2000 between the Corporate Debtor and IDBI Bank;
  - (e) Memorandum of Entry No. 481 dated 13.12.2001 for creating mortgage of the Corporate Debtor's properties.
5. The Petitioner enclosed the Financial Statements of the Corporate Debtor for the years ended 2014-2015, Statement of Account of the Petitioner till 01.05.2019 and summary statement of outstanding amount with interest calculations for the Term Loan wherein it was found that the total outstanding amount of ₹135,38,74,846/- is pending as on 01.05.2019 with interest at the contractual rate from 01.05.2019 till payment or realisation against the Loan, which show that the Corporate Debtor has defaulted in paying the total outstanding dues.
6. The IDBI Bank issued recall notice dated 06.11.2003 and notice for invoking guarantee dated 10.12.2003 upon the Corporate Debtor demanding total outstanding dues which are annexed to the Petition. The Petitioner issued notice u/s 13(2) of SARFAESI Act dated 22.10.2012 and notice for invoking of the security by Pledge of Shares dated 31.05.2019. The Petitioner has also annexed the correspondence dated 11.12.2017, 09.05.2018 and 31.05.2018

between the Petitioner and Corporate debtor to further show the default of Corporate Debtor.

7. The Petitioner further submits that the copy of the Petition sent to the branch office of the Corporate Debtor was served and affidavit of service to that effect was filed. Subsequently, the petitioner informed the date of hearing to the Corporate Debtor and filed proof of service. Even though the Counsel for the Corporate Debtor was directed to file reply on or before 29.08.2019, the Corporate Debtor chosen not to file reply. When the matter was listed on 30.08.2019, both the parties were heard, and matter was reserved for order.
8. The Corporate Debtor neither filed reply nor raised any objections regarding the factual aspect of granting of loan, default in repayment, assignment of loan to the Petitioner including pledging of shares. In view of the overwhelming of evidence of occurrence of default due to non-payment of monies due under the loan agreement, this Petition is admitted.
9. This Adjudicating Authority thus appoints the Interim Resolution Professional as suggested by the Petitioner and there being no disciplinary proceedings pending against the proposed resolution professional, therefore the Application under sub-section (2) of Section 7 is taken as complete, accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:
  - I. (a) 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;
  - (b) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - (c) 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);
  - (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- II. 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.

- III. 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.
- IV. That the order of moratorium shall have effect from 16.09.2019 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.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- VI. That this Bench hereby appoints, Ms. Rekha Kantilal Shah, having her address at 201, Leela Apartment, J. K. Paradise & Rajanand Complex, off Eksar Road, Borivali (West), Mumbai – 400092, having Registration No. IBBI/IPA-001/IP-P00776/2017-18/11349 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.
10. Accordingly, this Petition is admitted.
11. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional immediately.

SD/-

V. Nallasenapathy

Member (T)

SD/-

Suchitra Kanuparthi

Member (J)