Sl No. 107

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH

C.P. (IB) No.135/BB/2018
U/s 7 of the IBC, 2016
R/w Rule 4 of I&B (AAA) Rules, 2016

IN THE MATTER OF:

M/s. Ugro Capital Limited
(In place of 'Asia Pragati Capfin Pvt. Ltd.'
Formerly known as Zwirn Pragati Capfin Pvt. Ltd.)
Regd. Off: Equinox Business Park,
Tower 3, 4th Floor,
LBS Road, Kurla (West),
Mumbai- 400 001. - Petitioner/Financial Creditor

Versus

M/s. Bangalore Dehydration and
Drying Equipment Co. Pvt. Ltd. (BDDE)
Regd. Off: No.15, 1st Phase, Peenya,
Bangalore- 560 081. - Respondent/Corporate Guarantor/Corporate Debtor

Date of Order: 27th January, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels Present:

For the Petitioner : Mr. Abhijit Atur a/w Ms. Akhila M.S.

For the Respondent : Mr. Jojo Jose

ORDER

Per: Rajeswara Rao Vittanala, Member (J)

1. C.P. (IB) No.135/BB/2018 is filed by M/s. Ugro Capital Limited *(in place of M/s. Asia Pragati Capfin Private Limited (formerly known as M/s.*

Zwirn Pragati Capfin Private Limited)) (hereinafter referred to as 'Petitioner/Financial Creditor') under Section 7 of the IBC, 2016 read with Rule 4 of the I&B (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Bangalore Dehydration and Drying Equipment Company Pvt. Ltd. (hereinafter referred to as 'Respondent/ Corporate Guarantor/Corporate Debtor') on the ground that it has committed default for a total outstanding amount of Rs.25,81,85,297/- (Rupees Twenty Five Crores Eighty One Lakhs Eighty Five Thousand Two Hundred and Ninety Seven Only) while the total amount of debt granted was Rs.4,00,00,000/- (Rupees Four Crores Only), which has been disbursed as under:

i. Principal Amount of Rs.1,50,00,000/- (Rupees One Crores Fifty Lakhs Only) disbursed on 24th March, 2008.
ii. Principal Amount of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs Only) disbursed on 31st March, 2008.
iii. Principal Amount of Rs.50,00,000/- (Rupees Fifty Lakhs Only) disbursed on 16th June, 2008.
iv. Principal Amount of Rs.50,00,000/- (Rupees Fifty Lakhs Only) disbursed on 17th June, 2008.

2. Heard Mr. Abhijit Atur, learned Counsel for the Petitioner. We have carefully perused the pleadings of the party and the extant provision of the Code and the Rules made thereunder.

3. After considering the matter, the Adjudicating Authority, by an Order dated 05.07.2019 dismissed the Company Petition by inter alia observing that the Order would not come in the way of the Petitioner to prosecute the review pending before the Hon'ble High Court of Delhi and other civil remedies available to it under any other law.

4. Aggrieved by the said Order dated 05.07.2019, M/s. Ugro Capital Limited (in place of M/s. Asia Pragati Capfin Pvt. Ltd.) has preferred Company Appeal (AT) (Insolvency) No.984 of 2019 before the Hon'ble NCLAT, New Delhi, and the Hon'ble NCLAT, after considering the matter, allowed the Appeal by an Order dated 22.01.2020 by setting aside the Order of this Adjudicating Authority with a direction to admit the case.

5. In pursuant to the above Order of the Hon'ble NCLAT, the case is listed for hearing on 24.01.2020 and today i.e. 27.01.2020 to give opportunity to the parties. However, none appears for the Respondent even though Appellate Tribunal directed the parties to be present today.

6. The Petitioner has suggested Ms. Ramanathan Bhuvaneshwari bearing Regn. No. IBBI/IPA-002/IP-N00306/2017-18/10864 as the IRP, who has given her written consent in Affidavit (Form-2) dated 27.01.2020 by inter alia declaring that she is currently qualified to practice as Insolvency Professional and that there are no disciplinary proceedings pending against her with the Board of ICSI-IPA and affirmed that she is eligible to be appointed as an Interim Resolution Professional in respect of the Corporate Debtor herein. Ms. Ramanathan Bhuvaneshwari, who is also present today declared that she is willing to accept the assignment, provided the Adjudicating Authority nominates her. Therefore, she is prima facie eligible to be appointed as IRP in respect of the Corporate Debtor.

7. In view of the above, by exercising powers conferred on the Adjudicating Authority, under Section 7(5)(a) and other extant provisions of the Code, and Order dated 22nd January, 2020 passed in Company Appeal (AT) (Insolvency) No.984 of 2019 by Hon'ble NCLAT, New Delhi, Company Petition bearing C.P. (IB) No.135/BB/2018 is hereby admitted by

initiating CIRP in respect of the Corporate Debtor with the following consequential directions:

(1) We hereby appointed **Ms. Ramanathan Bhuvaneshwari with Registration No.IBBI/IPA-002/IP-N00306/2017-18/10864** as the Interim Resolution Professional (IRP) to conduct the Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor namely **M/s. Bangalore Dehydration and Drying Equipment Company Private Limited** and to carry out the functions as mentioned under the I&B Code, 2016 and the Rules framed by the IBBI from time to time.

(2) The following moratorium is declared prohibiting all of the following, namely:

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 of 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 right 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

vi. The provisions of sub-section (1) shall not apply to such transaction as may be notified by the Central Government in consultation with any financial regulator, a surety in a contract of guarantee to a corporate debtor.

vii. The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process.

(3) The IRP is directed to follow all extant provisions of the IBC, 2016 and the Rules including fees rules as framed by the IBBI from time to time.

(4) The Board of Directors and all the staff of the Corporate Debtor are hereby directed to extend full co-operation to the IRP, in carrying out her functions as such, under the Code and Rules made by the IBBI.

(5) The IRP is directed to file her progress reports to the Tribunal from time to time about the steps taken in pursuant to the CIRP. The IRP is further directed to take expeditious steps so as to complete the process of CIRP within the stipulated time.

(6) Post the case for report of the IRP on **03rd March, 2020.**

ASHUTOSH CHANDRA
MEMBER, TECHNICAL

RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

Krishna

CERTIFIED TO BE TRUE COPY OF THE ORIGINAL
for Deputy/Asst. Registrar
National Company Law Tribunal
Bengaluru Bench
30/01.
Rajeshwari. M