

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

CP(IB)No.2156/NCLT/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Canara Bank

...Financial Creditor/ Petitioner
v/s

KGS Sugar & Infra Corporation Limited

...Corporate Debtor

Order Dated 10th October 2019

Coram: Hon'ble Member (Judicial) : Mr V.P. Singh
Hon'ble Member (Technical): Mr Rajesh Sharma

For the Petitioner : Adv.Darshit Dave, Adv.Nishit Dhruva.

For the Respondent: None Present.

Per: Rajesh Sharma, Member (Technical)

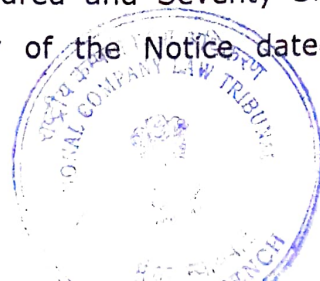
ORDER

1. This is an Application being CP 2156(IB)/MB/2019 filed by **Canara Bank**, the Financial Creditor or Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **KGS Sugar Infra Corporation Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**). The Application claiming a total default of ₹2,64,03,54,938/- (Rupees Two Hundred Sixty Four Crore Three Lakh Fifty Four Thousand Nine Hundred and Thirty Eight only) including interest 31.03.2019.
2. The particulars of the amount claimed is as provided below:

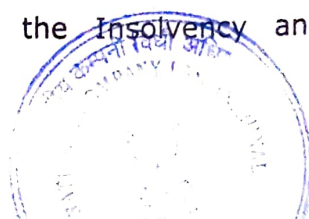
Sl No.	Particulars	As on 31.03.2019 (in ₹)
1.	Principal Amount	193,08,98,709.25
2.	Uncharged Interest Amount	67,44,70,569.80
3.	Penal Interest	240,25,369.10
4.	Total	264,03,54,938.00



3. This Application is filed by Mr. Rajneesh Kumar, Chief Manager of the Applicant Bank being duly authorised by Letter of Authority dated 06.06.2019 which is annexed to the Application.
4. The Applicant issued sanction letter dated 22.12.2011 sanctioning BG on ST basis for Rupees 1 Crore only. Further extended financial assistance to the Corporate Debtor vide Sanction Letter dated 23.03.2012 sanctioning Term Loan of ₹50.38 Crore, subsequently vide sanction Letter dated 24.03.2014 Term Loan II for ₹47.80 Crore and Term loan III for ₹34.20 Crore and OCC/OD for ₹73.61 Crore.
5. The Applicant submits that by Renewal with Enhancement Letter dated 21.03.2017, OCC/OD for ₹25.78 Crore was granted.
6. It is submitted by the Applicant that the Corporate Debtor defaulted in making payment on 24.01.2017 and the Corporate Debtor was declared an NPA on 24.04.2017.
7. The Applicant has annexed the abovementioned sanction letters dated 22.12.2011, 23.02.2012, 24.03.2014, 20.03.2017 and to the Application evidencing the Financial assistance provided. Further, the workings for computation of amount and days of default has been filed with the Application.
8. The Applicant has annexed copy of latest Commercial Credit Information Report dated 24.05.2019 reflecting the Corporate Debtor's account as sub-standard and a default of 797 days.
9. The Statement of Accounts of the Corporate Debtor for the period 15.03.2012 to 31.03.2019 along with the Bank Certificate dated 04.06.2019 as per the Bankers Book Evidence Act, 1891 is annexed to the Application.
10. The Applicant declared the Corporate Debtor's account as NPA on 22.04.2017 and issued Notice dated 18.01.2018 under section 13(2) of the SARFAESI Act, 2002 demanding payment of 350,29,73,276/- (Rupees Three Hundred Fifty Crore Twenty Nine Lakh Seventy Three Thousand Two Hundred and Seventy Six Only) along with further interest. Copy of the Notice dated 18.01.2018 is annexed to the Application.



11. The Corporate Debtor issued Revival Letter dated 06.12.2017 acknowledging the Loans, the security created in favour of the Applicant and in terms of section 18 of the Limitation Act, 1963.
12. The Corporate Debtor has duly served Court Notice and copy of Petition on 12.06.2019. The Corporate Debtor in its Reply has not denied the fact that it has availed loan facilities from the Applicant, the Corporate Debtor states that due to the delay in sanction or release of the WC limit by the consortium banks of which the Applicant is a member, the Corporate Debtor has accrued huge loss.
13. We have perused the records and heard the parties.
14. On the perusal of the Sanction Letters, Bank Statement of Accounts of the Corporate Debtor and the Bank Certificate dated 04.06.2019, establishes the Loan granted by the Applicant. The copy of registration of charge dated 05.04.2019 issued by the ROC with respect to primary securities, the Commercial Credit Information Report dated 24.05.2019, Notice dated 18.01.2018 under section 13(2) of the SARFAESI Act, 2002, the Revival Letter dated 06.12.2017 issued by the Corporate Debtor to the Applicant establish the default of the Financial debt, the date of default is the date of declaration of the Corporate Debtor's account as NPA. The Revival Letter issued by the Corporate Debtor also acts as acknowledgement of debt under section 18 of the Limitation Act. The Application is filed well within limitation.
15. The Applicant has proposed the name of **Mr Balady Shekhar Shetty**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-002/IP-N00213/2017-18/10665]** as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code, and given his declaration; no disciplinary proceedings are pending against him.
16. The Application under Section 7 of I&B Code, 2016 is complete. The existing financial debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the petition filed under section 7 of the Insolvency and

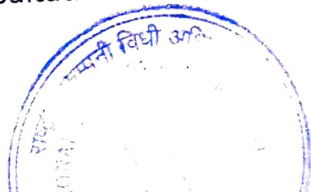


Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This petition filed under Section 7 of I&B Code, 2016, filed by **Canara Bank**, Financial Creditor / Petitioner, against **KGS Sugar & Infra Corporation Limited**, Corporate Debtor for initiating corporate insolvency resolution process is admitted. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
 - 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 - d) the recovery of any property by an owner or lessor where such property is occupied by or in 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 the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code 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 the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.
- VI. That this Bench appoints **Mr. Balady Shekhar Shetty**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-002/IP-N00213/2017-18/10665]** as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
17. The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated registrar is to be submitted today.**


Sd/-
RAJESH SHARMA
Member (Technical)

10th October 2019



Sd/-
V.P. SINGH
Member (Judicial)

Certified True Copy
Copy Issued "free of cost"
On 4/11/19


Assistant Registrar
National Company Law Tribunal Mumbai Bench