

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
SPECIAL BENCH, CHENNAI**

**IBA/622/2019**

*Under Section 7 r/w Rule 4 of the IBC, 2016*

**In the matter of M/s. The National Sewing Thread Company Limited**

**M/s. Alchemist Asset Reconstruction Company Limited**

**---Financial Creditor**

**V/s**

**M/s. The National Sewing Thread Company Limited**

**---Corporate Debtor**

**Order delivered on: 29.08.2019**

**Coram:**

**B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

For the Financial Creditor : *Shri. Anirudh Krishnan, Advocate*

*Shri. Ashwin Shanbhag, Advocate*

For the Corporate Debtor : *Shri. E. Om Prakash, Sr. Advocate*

*Shri. V. Raghuraman, Advocate*

*Shri. Ramesh, Advocate*

*For M/s. Ramalingam & Associates*

**ORDER**

**Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**Heard and dictated in Open Court on: 28.08.2019**

It is an Insolvency and Bankruptcy Application filed u/s 7 of the Insolvency and Bankruptcy Code, 2016 for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor

on the ground the Corporate Debtor defaulted in making repayment of ₹ 117,06,79,736.23 as on 28.02.2019.

2. The application discloses that this Corporate Debtor had originally availed the loan facilities on Indian Overseas Bank having granted credit facilities in the year 1992. Soon thereafter, these credit facilities were revised on 18.01.2001 sanctioning different credit facilities as reflected in the table below:

| <i>Nature of facility</i>   | <i>Limits (Rs. In Lakhs)</i> |
|---|------------------------------|
| CC (Hypn.)  | 70.00                        |
| IDDBP/IDUBD/Supply Bills on 90 days DA terms<br>Sub Limit CC (Book debts) | 200.00<br>50.00              |
| Letter of Credit (I/F) on 90 days DA<br>Sub Limit Inland LC – 50.00       | 135.00                       |

Again, these credit facilities were revised by Original Lender (Indian Overseas Bank) on 15.12.2003, which are as follows:

| <i>Nature of facility</i>   | <i>Limits (Rs. In Lakhs)</i> |
|---|------------------------------|
| CC (Hypn.)  | 55.00                        |
| IDDBP/IDUBD/Supply Bills on 90 days DA terms<br>Sub Limit CC (Book debts)                           | 275.00<br>60.00              |
| Letter of Credit (I/F) on 90 days DA terms upto 90 days for Inland LC/upto 180 days for Foreign LOC | 150.00                       |

3. Likewise, the credit facilities of the Corporate Debtor over a period of time were revised on 05.07.2004, 14.05.2005, 10.10.2006, 04.10.2007, 24.01.2008, 05.03.2008, 29.11.2008, 12.03.2010, 20.04.2010,

25.04.2012 and on 10.10.2013, in pursuance of the same, the Bank disbursed the amounts on 28.03.2014 as mentioned below:

| <i>Nature of facility</i>  | <i>Limits (Rs. In Lakhs)</i> |
|--|------------------------------|
| CC (Hypn.) Enhancement   | 900.00                       |
| IDDBP/IDUBD/Supply Bills on 90 days usance (Renewal)                     | 700.00                       |
| Secured Packing Credit against firm orders/LC for 90 days (Renewal)      | 100.00                       |
| FDDB/FDUBD/RDBF/RUBF under LC/NLC with usance upto 90 days (Enhancement) | 300.00                       |
| TLs 1 to 5 (Review/Renewal)  | 1029.00                      |
| Corporate Loan (Review/Renewal)  | 568.00                       |
| Term Loan (Fresh)  | 150.00                       |
| Letter of Credit (I/F) on DP/DA upto 180 days (Enhancement)              | 1800.00                      |
| Sub Limit : Buyers Credit (Fresh)  | (900.00)                     |
| <b>Total</b>   | <b>5547.00</b>               |
| Forward Purchase Contract (Renewal)                                      | 16.00                        |
| Forward Sale Contract (Renewal)  | 4.00                         |
| <b>Total</b>   | <b>20.00</b>                 |

Apart from this, the Bank, on 28.03.2014 sanctioned adhoc credit facilities as mentioned below:

| <i>Nature of facility</i>   | <i>Limits (Rs. In Lakhs)</i> |
|---|------------------------------|
| Adhoc Ccash Credit against Hypothecation of inventory and receivables | 225.00                       |
| Adhoc IDDBP/IDUBD/Supply Bills on 90 days suance                      | 175.00                       |
| Adhoc Secured Packing Credit against LC for 90 days                   | 25.00                        |
| Adhoc FDDB/FDUBD under LC with usance upto 90 days                    | 75.00                        |
| <b>Total</b>  | <b>500.00</b>                |

4. In consideration of the facilities availed by the Corporate Debtor created charge over piece and parcel of site and building thereon situated at Venugopal Pillai Street, Chidambaram Town, Chidambaram Taluk, Cuddalore District bearing Door No.11, Patta No.53 comprised in Municipal Ward No.4, Block No.5 T.S. No.491 having an extent of 21,703 sq.ft. in the name of the Lender Bank and also another piece and parcel of the site and building thereon situated at Venugopal Pillai Street, Chidambaram Town, Chidambaram Taluk, Cuddalore District bearing Door No.11, Patta No.53 comprised in Municipal Ward No.4, Block No.5 T.S. No.493 having an extent of 42,575 sq.ft in the name of the lender Bank. Besides this, it has also given another property as security namely mill godown property situated within the Chidambaram Registration District, Chidambaram Sub-Registration, Vasaputhur village and taluk and having total extent of 6.00 acres in the name of the Corporate Debtor. Over and above the securities provided by the Corporate Debtor, it has also executed Hypothecation Deed creating charge over the inventory, book debts, outstandings, money

receivables, claims and bills, stocks in all forms such as material work in progress etc.

5. This Applicant has further stated that the estimated value of the total secured assets is of ₹70 crores as on the date of filing this present petition. This applicant has also provided certificate of registration of charges with RoC and filed Form-8. The Financial Creditor further says that this Corporate Debtor defaulted in repaying the loan amount and various loan facilities provided to the Corporate Debtor. The present Financial Creditor acquired the secured loan of the Corporate Debtor from the original lender vide Assignment Deed dated 24.03.2017 and in pursuant thereto, the Original Lender has given its consent on 24.03.2017 under Section 5(5) of SARFAESI Act in favour of Financial Creditor for filing the application seeking substitution at the place of Original Lender in all the pending legal proceedings arising out of the financial assets and taking all incidental steps for the same.

6. To prove that the said financial assets were assigned to this Financial Creditor, it has filed Assignment Deed dated 24.03.2017

and also consent letter dated 24.03.2017. Apart from the revival letters and availing of loans at various points of time, the Corporate Debtor on 02.06.2017 acknowledged the debt owed to pay to this Financial Creditor. Subsequent thereto, this Corporate Debtor, on 13<sup>th</sup> July, 2017, proposed for a one-time-settlement making an offer to pay ₹ 27 crores over a period of 10 years with quarterly instalments with first 2 years as a '*holiday period*'. Looking at the amount offered and time for repayment spreading to 10 years, the Financial Creditor herein rejected the offer put forward by this Corporate Debtor.

7. As to legal proceedings against this Corporate Debtor, it is evident on record, that the Original Lender initiated DRT proceedings on 15.07.2016 by filing OA 6/2017 before the Hon'ble DRT-III, Chennai (and transferred to Hon'ble DRT-I, Chennai) seeking a direction against this Corporate Debtor and its Directors to pay a sum of ₹ 86,17,19,461.42 together with interest at the rate of 12.5% per annum to the Applicant Bank and also to pass a decree against the defendants for realisation of the amount due to the

Applicant. According to the petitioner's counsel, this proceeding is still pending before the Hon'ble DRT-I, Chennai.

8. Over and above the material placed before this Bench, the Financial Creditor has also placed the balance sheet of the Corporate Debtor company as on 31.03.2017 reflecting this liability as entry under long term borrowings revealing that this debt originally borrowed from Indian Overseas Bank and thereafter assigned in favour of this Financial Creditor in terms of Section 5(5) of the SARFAESI Act along with all rights, titles and interest of Indian Overseas Bank. Besides this, it is also reflected that this Corporate Debtor provided security of its various lands towards the loan availed by the Corporate Debtor from the Original Lender i.e. Indian Overseas Bank.

9. As against the material the petitioner placed before this Bench, the Corporate Debtor counsel has admitted the claim of the Applicant against the Corporate Debtor.

10. After having gone through the documentation reflecting the Corporate Debtor availing the credit facilities in respect of loan

amounts from the Original Lender, thereafter the Bank declaring this loan as NPA on 14.09.2014, since there being regular correspondence between the Corporate Debtor and the Original Lender reflecting acknowledgement of this debt from time to time, this Bench is satisfied that this claim is within the time prescribed under the Limitation act. As the applicant has placed material reflecting existence of debt as well as default, I am of the considered opinion that the Financial Creditor established "*existence of debt as well as existence of default*".

11. In view thereof, I hereby admit this application by appointing Mr. V. Duraisamy as Interim Resolution Professional (IRP) with directions as follows:

- I. That Moratorium is hereby declared prohibiting all of the following actions, namely,
  - 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 the possession of the corporate debtor.
- II. That 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 of IBC 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 **28.08.2019** till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of IBC or

passes an order for liquidation of corporate debtor under section 33 of IBC, 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 IBC.

VI. That this Bench hereby appoints **Mr. V. Duraisamy**, having **Registration Number [IBBI/IPA-002/IP-N00609/2018-19/11862]** **22G, Vishal Villa Apartment, Periyar Nagar, Karur**, **E-Mail: [karurdurai.samy@gmail.com](mailto:karurdurai.samy@gmail.com)**, as Interim Resolution Professional to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

12. Accordingly, this Petition is admitted.

13. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by way of email or whatsapp.

-Sd-

**(B. S.V. PRAKASH KUMAR)**  
**Member (Judicial)**