

IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.303
C.P.(IB)/52(MP)2021

Proceedings under Section 7 IBC

IN THE MATTER OF:

Canara Bank

.....Applicant

V/s

Barmendra Agrotech Pvt Ltd

.....Respondent

Order delivered on 14/10/2022

Coram:

Dr. Madan B. Gosavi, Hon'ble Member(J)

Kaushalendra Kumar Singh Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-Sd-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

-Sd-

**DR. MADAN B. GOSAVI
MEMBER (JUDICIAL)**

Braj Mohan

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH

CP(IB) 52/2021

*[An application filed under Section 7 of the Insolvency and Bankruptcy Code,
2016]*

In the Matter of:

Canara Bank

A body corporate established under
The Banking Companies (Acquisition and
Transfer of undertakings) Act, 1970,
Having its registered office at:
112, J C Road,
Banglore

A Branch amongst others at Bhopal,
Specialized Asset Recovery Mangement
Branch, B-3 & B-4, Tilak Nagar,
Bawadiya Kalam, Bhopal,
Madhya Pradesh- 462026

.....Applicant/Financial Creditor

Versus

Barmendra Agrotech Private Limited

CIN: U24211MP2006PTC018387

A private limited company incorporated
Under the provisions of the Companies
Act, 1956

Having its registered address at:
Kila, P.O. Unchehra,
Dist. Satna,
Madhya Pradesh (485661)

.....Respondent/Corporate Debtor

Order Reserved On: 30.09.2022
Order Pronounced On: 14.10.2022

Coram: Dr. Madan B. Gosavi, Member (J)
Kaushalendra Kumar Singh, Member (T)

Appearance:

For Applicant: Ld. Adv. Mrs. Raina Birla
For Respondent: None

ORDER

1. This application is filed by Mr. Siddharth Shrivastava being chief manager of the Canara Bank (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“**the IB Code**”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (“**AA Rules**”) to initiate Corporate Insolvency Resolution Process (“**CIRP**”) against M/s Barmendra Agrotech Private Limited (Corporate Debtor). The default amount stated by applicants is Rs. 62,85,03,633/-.

2. The corporate debtor is a private limited company incorporated under the provisions of the Companies Act, 1956, having CIN No. U24211MP2006PTC018387, its registered address is at Kila, P. O. Unchehra, dist. Satna, Madhya Pradesh- 485661.

3. The averments made by the financial creditors in their application and presented/argued by the leaned counsel for the applicants are summarized hereunder:

(i) At request of the corporate debtor the bank sanctioned the term loan vide letter dated 30.11.2013 of Rs 25,72,00,000/- and cash credit on 18.05.2015 of Rs 4,17,00,000/- for erection of controlled atmospheric cold storage with a capacity of 2500 MT for storing fruits and vegetables.

(ii) For security the corporate debtor has mortgaged all immovables assets by deposit of title deeds and hypothecation of movable assets which included machinery, furniture and fixtures of the company.

(iii) The corporate debtor has utilized the term loan and cash credit for business requirements and has also agreed to pay interest at 11.45% for term loan and 12.95% for cash credit. However, the corporate debtor has failed to adhere to the terms and conditions of

the loan agreement and made defaults and accordingly the abovementioned account has been classified as Non-Performing Assets (NPA) on 01.01.2016. Notice under section 13(2) of SARFAESI Act, 2002 was served upon the respondent on 25.07.2018.

(iv) The corporate debtor have defaulted in repayment of dues, the same has been recorded in the balance sheet of corporate debtor for financial year 2019-2020.

4. The corporate debtor neither replied to the present petition nor was present during the entire proceedings before this Tribunal. Even after giving several opportunities to the corporate debtor, the corporate debtor did not appeared before this Tribunal. Hence, by the order dated 01.07.2022 this tribunal decided to proceed ex-parte.

5. The financial creditor has proposed to appoint Mr. Laxman Digambar Pawar having registration no. IBBI/IPA-003/IP-N00015/2017-18/10104 as interim resolution professional.

6. We have heard the learned counsel for the financial creditor and perused the material on record. It is noted that the corporate debtor has availed the term loan and cash credit from the financial creditor and the same was sanctioned by the financial creditor. However, as stated by the financial creditor the account of the corporate debtor was declared as NPA on 01.01.2016, accordingly, limitation period ends on 31.12.2018. But the corporate debtor in its financial statements of year 2019-2020 clearly mentioned that it has defaulted on the repayment of principal and interest on term loan as well as cash credit limit taken from Canara Bank and both the accounts has been declared as NPA as on 31.03.2018. This admission of the corporate debtor in its financial statement of year 2019-2020 extends the period of limitation. Hence, this present petition is well within the limitation period. The amount of due claimed to be in default meets the threshold limit. Accordingly, we pass the following order:

ORDER

- (i) Corporate Debtor M/s Barmendra Agrrotech Pricate Limited is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.
- (ii) We appoint Mr. Laxman Digambar Pawar, registration no. IBBI/IPA-003/IP-N00015/2017-18/10104 under section 13(1) (c) of the IB Code as IRP.
- (iii) That the Moratorium under Section 14 of the Code shall come to effect from the date of this order till the completion of 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.
- (iv) That the Adjudicating Authority hereby prohibits the institution of suits or continuation of pending suit or proceedings against the corporate debtor including execution of any judgment, decree or order in any Court of law and further prohibits a Tribunals, Arbitration Panels or other Authority(s), transferring, encumbering, alienating or disposing (of by the corporate debtor) any of corporate debtor 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 SARFAESI 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.
- (v) Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to pronouncement of this order such proceedings are expected to be dealt with in accordance with law i.e. Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.

(vi) That the supply of essential goods or services to corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the Moratorium, period. The corporate debtor to provide effective assistance to the IRP as and when he takes charge of assets and management of the corporate debtor.

(vii) The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.

(viii) The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with corporate debtor, its Promoter or any other person associated with management of the corporate debtor are under legal obligation as per Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the corporate debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

(ix) The IRP shall be under duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.

(x) We direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. 1,00,000/- as fees & expenses till the COC decides about his fees / expenses.

(xi) The Registry is directed to communicate this order to the financial creditor, corporate debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days and

upload the same on website immediately after pronouncement of the order.

(xii) The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.

(xiii) This Application CP(IB) 52 of 2021 is allowed and disposed of.

-Sd-

Kaushalendra Kumar Singh
Member (Technical)

-Sd-

Dr. Madan B. Gosavi
Member (Judicial)

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