

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI K ANANTHA PADMNABHA SWAMY- MEMBER JUDICIAL

PRESENT: HON'BLE SHRI BINOD KUMAR SINHA -MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 01.08.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 562/7/HDB/2018
NAME OF THE COMPANY	Sri Lakshmikantha Spinners Ltd
NAME OF THE PETITIONER(S)	State Bank Of India
NAME OF THE RESPONDENT(S)	Sri Lakshmikantha Spinners Ltd
UNDER SECTION	7 OF IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
S. Keshava Rao	Adv	9912113366	Keshava
G.P. Yash	Adv		Yash

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
S. Nageswaraiah	Adv	9704772200 Nageswaraiah	S. Nageswaraiah

ORDER

Order pronounced in open court. CP admitted and IRP appointed vide separated order.



MEMBER TECHNICAL



MEMBER JUDICIAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP(IB)No.562/7/HDB/201
Under Section 7 of the Insolvency and Bankruptcy
Code, 2016, Read with Rule 4 of the Insolvency and
Bankruptcy (Application to Adjudicating Authority)
Rules, 2016.

In the matter of:-

State Bank of India
Registered Office is situated at:
State Bank Bhavan, Madame Cama Road,
Nariman Point, Mumbai,
Maharashtra – 400021.

...Petitioner/Financial Creditor

Vs

M/s.Sri Lakshmikantha Spinners Ltd.
Registered Office is situated at:
HIG No.314, Phase-VI,
Kukatpally, Housing Board Colony,
Hyderabad, TG – 500072.

...Respondent/Corporate Debtor

Order pronounced on: 01.08.2019

**Coram: Hon'ble MEMBER (JUDICIAL) K. ANANTHA PADMANABHA SWAMY
Hon'ble MEMBER (TECHNICAL) Dr. BINOD KUMAR SINHA**

Parties/Counsel Present:

For the Petitioner/Financial Creditor:
Mr.G.P.Yash Vardhan, Advocate
Mr.Anil Kumar, Advocate

For the Respondent/Corporate Debtor:
Mr.S.Rajagopalan, Advocate
Mr.K.Pavan Kumar, Advocate

**Per: K.ANANTHA PADMANABHA SWAMY,
MEMBER (JUDICIAL)**

ORDER

1. The present petition is filed by 'State Bank of India' (hereinafter referred to as 'Financial Creditor') under section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IBC) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 against M/s. Sri Lakshmikantha Spinners Ltd.(hereinafter referred to as 'Corporate Debtor').
2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
3. The learned counsel appearing for Petitioner/Financial Creditor stated that credit facilities has been sanctioned to the Corporate Debtor by the Financial Creditor and erstwhile State Bank of Hyderabad (erstwhile SBH) (Now merged with SBI).
4. It is stated that the Corporate Debtor has executed various loan/security documents for availing Financial Assistance from the Financial Creditor and erstwhile SBH. Thereafter, at the request of Corporate Debtor, the Financial Creditor and erstwhile SBH has renewed the limits/facilities from time to time and also enhanced the existing limits as well as sanctioned the new limits in the form of term loans, cash credit, letters of credit (LCs)/ Bank Guarantee (BG) limits etc., to meet the business requirements of Corporate Debtor.

5. It is stated that the Corporate Debtor approached the Financial Creditor and erstwhile SBH, in the year 2015 for restructuring its existing loan facilities. Upon the said request of Corporate Debtor, the existing loans of the Corporate Debtor have been restructured through its Arrangement Letter, dt.23.03.2015 of Financial Creditor and Arrangement Letter, dt.26.03.2015 of the erstwhile SBH. The details of the loan facilities restructured/sanctioned by the said Banks are mentioned hereunder;

Total Debt Granted & Disbursed by State Bank of India

Nature of facility by SBI	Debt Granted Rs. In Crores	Debt Disbursed Rs. In Crores
Term Loan 1	5.18	5.18
Term Loan 2	-	-
Term Loan 3	37.34	37.34
Fund Based WC CC	28.71	28.71
FITL	9.34	9.34
Total Fund Based	80.57	80.57
EPCG BG	0.36	0.36
Total NFB	0.36	0.36
Total Exposure	80.93	80.93

Total Debt Granted & Disbursed by erstwhile State Bank of Hyderabad

Nature of facility by SBH	Debt Granted Rs. In crores	Debt Disbursed Rs. in crores
Term Loan 1	2.24	2.24
Term Loan 2	0.58	0.58
Term Loan 3	24.36	24.36

Fund Based WC CC	19.14	19.14
FITL	6.09	6.09
Total Fund Based Exposure	52.41	52.41
Nature of facility by SBI & SBH	Dates of disbursement SBI	Dates of disbursement by erstwhile SBH
Term Loan 1	23.03.2007	19.04.2007
Term Loan 2	---	26.10.2009
Term Loan 3	24.09.2011	27.09.2011
Fund Based Cash Credit (CC)	---	---
EPC/FBD as sub limit of CC	---	---
FITL	27.03.2015	26.03.2015
EPCG BG	---	---

6. It is stated that the Financial Creditor has preferred an Original Application No.3431 of 2017 (O.A.), before the Debt Recovery Tribunal-II, at Hyderabad (DRT) by filing all the material documents executed by and between Corporate Debtor and Financial Creditor. It is further submitted that, inspite of receipt of the notice in the O.A., neither the Corporate Debtor nor other Defendants therein have appeared before the Debt Recovery Tribunal-II, at Hyderabad and on 01.11.2017 DRT has set the Corporate Debtor and the other Defendants therein ex-parte and proceeded with the O.A. It is stated that the Debt Recovery Tribunal-II, at Hyderabad after considering the material evidence filed by the Financial Creditor and erstwhile SBH, DRT has passed an Order on 09.02.2018 directing the Corporate Debtor to pay amounts. It is stated that the total amount in default is Rs.165,64,99,722.21/- as on date of filing the Petition.
7. It is further stated that the Financial Creditor has also filed Statement of Account of the Corporate Debtor at Page No.20-43




along with the Certificate under the Bankers Book of Evidence at Page No.55-81 evidencing the amount that is payable and claimed to be in default by the Corporate Debtor.

8. In support of his contention, the learned counsel for the Petitioner filed the following documents:-

- Statement of Account
- Charge Certificates
- Order dated 09.02.2018 in O.A. No.3431/2017 passed by the Debt Recovery Tribunal – II Hyderabad.
- Certificate under The Bankers Book of Evidence Act 1891.

9. Although, the present Application U/s.7 of IBC was filed on 13.07.2018, but the matter was first listed for hearing on 08.10.2018. On that day this Adjudicating Authority directed the Petitioner to send notice to the Respondent for appearance and the matter was adjourned to 08.11.2018.

10. During the hearing held on 08.11.2018, counsel for the Petitioner stated that notice sent to the Respondent returned unserved and endorsed as 'Insufficient Address'. This Adjudicating Authority directed him to send notice to the correct address of the Respondent and adjourned the matter to 03.12.2018.

11. During the hearing held on 03.12.2018, counsel for the Petitioner stated that notice sent to the Respondent was not delivered. This Adjudicating Authority directed him to send another notice and adjourned the matter to 02.01.2019.



12. During the hearing held on 02.01.2019, counsel for the Respondent appeared only for the first time and filed vakalat and prayed time for filing counter and the matter was adjourned to 30.01.2019 and subsequently to 06.02.2019 for filing counter.
13. During the hearing held on 06.02.2019, counsel representing both sides stated that a proposal for settling the issue by paying Rs.46 crores by Corporate Debtor was rejected. Counsel for the Respondent stated that they were making another fresh proposal for consideration by Financial Creditor and prayed to grant sometime, and in view of this an opportunity was granted for submitting the outcome of the discussions between the parties and the matter was adjourned to 21.02.2019.
14. During the hearing held on 21.02.2019, at request of Respondent's counsel time was granted for filing counter and the matter was adjourned to 05.03.2019.
15. During the hearing held on 05.03.2019, Respondent's counsel stated that they were approaching bank Authorities for settling the matter with a scheme of OTS and in this regard they prayed some time to submit the outcome of further discussions. Counsel for the Petitioner stated that there is no information as stated by the Respondents. At request of both counsels, time was enlarged for submitting the outcome of the discussions and the matter was adjourned to 27.03.2019.
16. During the hearing held on 27.03.2019, counsel or the Financial Creditor stated that there is no approach by the Respondent by



placing any proposals for settlement. Counsel for the Respondent stated that they had a meeting with ARC (Edelweiss) who has accepted to take up the issue in relation to the claims by this Petitioner and others. Respondent has fixed meeting on 04.04.2019 with ARC (Edelweiss) along with Financial Creditors for discussions and submitting the concrete proposals. Respondent was directed to furnish the proof of discussions to the Petitioner and the matter was adjourned to 12.04.2019 for submitting the outcome of the discussions.

17. During the hearing held on 12.04.2019, ccounsel for the SBI reported ready to make submissions. Counsel for the Respondent submitted that they made fresh proposals for settling the issue with the Bankers with the support of Edelweiss ARC Company and in proof of it, he filed a letter and prayed time for submitting the outcome of the discussions with the Bankers. Considering the request, time was enlarged. Respondent was directed to file counter with a direction to furnish a copy thereof to the other side before next date of hearing and the matter was adjourned to 23.04.2019.

18. During the hearing held on 23.04.2019, counsel for the Respondent stated that they had discussion with the ARC and the same were informed to the officials of the SBI Mumbai Branch and also to the officials of the SBI Khairtabad Branch (Hyderabad) and at request of Respondent's counsel time was granted for settling the matter. Failing which, Respondent was directed to file counter and make submissions and the matter was adjourned to 14.05.2019. Subsequently, the matter was further adjourned to 06.06.2019,



26.06.2019, 05.07.2019, 16.07.2019 & 29.07.2019 on request of the Respondent for settling the matter with the help of Edelweiss ARC and for filing counter.

19. During the hearing held on 29.07.2019, this Adjudicating Authority perused the order passed by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No. 718/2019, dated 16.07.2019. Petitioner's counsel stated that the Respondents have not approached for settling the issue as stated earlier. He reported ready to make submissions. Heard submissions made by counsel for Petitioner/Financial Creditor and prayed time for filing written submissions. Respondent's counsel also prayed time for filing written submissions and the matter was adjourned to 30.07.2019.

20. During the hearing held on 30.07.2019, Counsel for the Petitioner and Respondent filed written submissions.

21. Counsel for the Respondent in its written submissions inter-alia stated as under:-

- a. It is stated that the Corporate Debtor had been engaging with M/s Edelweiss Asset reconstruction Company (ARC) for debt restructuring and also for resolution strategy to unlock the maximum value of the assets held by the Respondent/Corporate Debtor for deriving maximum value for the benefit of all the stake holders including the Applicant/Financial Creditor and that the Edelweiss Asset Reconstruction Company has been holding talks with State Bank of India Officials at SARG Mumbai (Nodal



Agency for resolution of debts in excess of Rs.100 Crore) since 11.06.2019 to resolve the Debt under ARC assignment Model.

- b. It is further stated that the Respondent/Corporate Debtor is confident that Expression of Interest given by Edelweiss Asset Reconstruction Company to State Bank of India, SARG Mumbai will be accepted and confirmed by State Bank of India, SARG Mumbai on or before third week of August 2019.

22. Reiterating above, Counsel for the CD inter-alia prayed to reject the present Application on the following grounds:-

- i. Non submission of Documents pertaining to the loan agreement/Financial Contracts reflecting all amendments as of date.
- ii. Appeal pending before Honourable Debt Recovery Appellate Tribunal, Kolkatta.
- iii. Conflicting dates on date of default and non-performing asset.
- iv. Abuse of Code.
- v. Incorrect accounts statements(Principal amount).
- vi. Principle of repose.
- vii. Forum shopping.
- viii. Doctrine of election.

23. Heard both sides and perused the records.

24. It is the case of the Financial Creditor that, it has granted and disbursed the debt to the Corporate Debtor on various occasions and the Corporate Debtor has defaulted in repayment of the same and as on date of filing of the present Petition, the total amount in default by the Corporate Debtor is Rs.165,64,99,722.21/-.




However, on perusal of the entire record it is observed that nowhere the Corporate Debtor denied the debt amount and default of the same. The reasons stated by the Corporate Debtor do not form any valid ground for rejection of the instant Petition. Further the Petitioner/Financial Creditor has established clearly that the default in repayment of loan amount committed by the Corporate Debtor is genuine and is supported by the documentary evidence placed before this Adjudicating Authority. In these circumstances, having satisfied with the submissions put forth by the learned counsel for the Petitioner/Financial Creditor and since the Financial Creditor has fulfilled all the requirement of law and has also proposed the name of IRP after obtaining the written consent in Form-2, and in view of the above, this Adjudicating Authority is inclined to admit the petition.

25. Accordingly, instant petition is admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

26. This Adjudicating Authority hereby appoint Mr. Chinnam Poorna Chandra Rao, as IRP as proposed by the Financial Creditor. There is no disciplinary proceedings pending against the IRP as evidenced from Form-2 and his name is reflected in IBBI website. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the Insolvency and Bankruptcy Code, 2016 within three days from the



date the copy of this order is received, and call for submission of claims in the manner as prescribed.

27. We declare the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process for the purposes referred to in Section 14 of the I&B Code, 2016. We order to prohibit all of the following, 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 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.

28. The supply of essential goods or services to the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.



29. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.
30. The Petitioner/FC as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
31. The Registry is also directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
32. The address details of the IRP are as follows:-
Mr.Chinnam Poorna Chandra Rao,
Address: Plot No.101,
TVS Mahathi Apartments, Lanco Hills Road,
Opp: Sampoorna Super Market,
Behind SR DIGI School, Manikonda,
Hyderabad- 500 089 (T.S.)
Email: chinnam.poorna@gmail.com
Registration No. IBBI/IPA-003/IP-N000119/2017-2018/11298
33. The present Petition is hereby admitted.

Dr.BINOD KUMAR SINHA
MEMBER (TECHNICAL)

K.ANANTHA PADMANABAHA SWAMY
MEMBER (JUDICIAL)