

IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA

Coram : (1) Shri Madan B. Gosavi, Hon'ble Member (J)  
(2) Shri Virendra Kumar Gupta, Hon'ble Member(T)

CP (IB) No. 14/KB/2019

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process 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;

-And-

In the matter of:

United Bank of India, having its Head office at 11, Hemanta Basu Sarani, 9<sup>th</sup> floor, (formerly known as 16, Old Court House Street), Kolkata- 700 001;

... Applicant/Financial Creditor

-Versus-

In the matter of:

Arin Minerals Private Ltd., (earlier registered and known as M/s. Manju Cement Company Pvt. Ltd.) having its registered office at 33, Chittaranjan Avenue, Room No.201, 2<sup>nd</sup> floor, Kolkata- 700 012 CIN: U85100WB2008PTC129015;

... Respondent/Corporate Debtor

Counsel appeared:

- |                                |                          |
|--------------------------------|--------------------------|
| 1. Ms. Lipika Ghosh, Advocate  | ] For Financial Creditor |
| 2. Mr. Subhankar Nag, Advocate | ]                        |

Date of Pronouncement of Order: 18.10.2019

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## ORDER

Per Shri M. B. Gosavi, Member(J):

**United Bank of India-** the Financial Creditor filed this application under section 7 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **Arin Minerals Private Ltd.** – Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor as the Corporate Debtor committed default in paying the financial debt of Rs.6,62,36,261/-.

2. The Financial Creditor stated that initially in the year 2004, it has granted and disbursed loan and cash creditor facility of Rs.16.88 lakhs to the corporate debtor. The loan is enhanced from time to time and lastly on 13.03.2015. Overall limit was granted of sum of Rs.787.13 lakhs upon restructuring of the loan. The corporate debtor did not pay the instalment of loan. Hence, on 31.12.2016, the loan account was declared NPA. Thereafter, the bank sent the corporate debtor notice under section 13(3) of SARFAESI Act and filed the proceeding for recovery of loan in DRT, Kolkata. It is pending. This proceeding is filed on 24.12.2018 to start CIRP of the Corporate Debtor because the corporate debtor committed default in paying the above loan amount.

3. Notice of this application was duly served on the corporate debtor. One Advocate, Mrs. Priti Jain appeared in the matter and filed vakalatnama on 09.07.2019. Corporate Debtor was directed to file affidavit-in-reply but in spite of several opportunities, the corporate debtor did not file reply. Hence, we directed the financial creditor to serve notice again and even publish notice in newspaper. Accordingly, it was published but none appeared for and on behalf of the corporate debtor. Hence, on 02.08.2019, the matter was ordered to proceed ex

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parte against the corporate debtor. When matter was heard on 29.08.2019, Ld. Advocate for the corporate debtor made a statement that corporate debtor does not wish to file any affidavit-in-reply. Be that as it may, matter proceeded ex parte against the corporate debtor.

5. It is seen from the evidence on record that the Financial Creditor granted and disbursed in favour of the corporate debtor various term loan and cash credit facilities. The corporate debtor did not repay the loan amount of default of Rs.6,62,36,261/- as on 30.11.2018. It is also seen from the record that corporate debtor's loan account declared NPA on 31.12.2016. So, on that day, the financial creditor got right to sue the corporate debtor. This proceedings is filed on 24.12.2018. It is filed well within a period of three years, as per Article 137 of Law of Limitation.

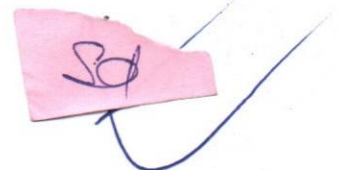
6. Corporate Debtor did not dispute that amount of Rs.6,62,36,211/-, which is being due and payable by it to the financial creditor and the corporate debtor committed default in paying the amount. These are only two facts that are being considered while admitting the corporate debtor in CIRP under section 7 of I & B Code.

7. Financial Creditor suggested name of Sri Jogesh Kumar Poddar, of J.K.Poddar & Co., F.M. Circle, O.T. Road, Balasore-756 001 having registration no. IBBI/IPA-001/IP-P00505/2017-2018/10906 and email Id. [jkp\\_ca@rediffmail.com](mailto:jkp_ca@rediffmail.com) for appointment as the IRP. Proposed IRP has submitted written communication dated 09.12.2018, wherein he has declared that there is no disciplinary enquiry pending against him. The application is defect-free. Hence, we admit the corporate debtor in CIRP by the following order.



## ORDER

- (i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process in respect of **Arin Minerals Private Ltd.** Moratorium order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.
  
- (ii) The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
  
- (iii) Moratorium under Sec.104 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:
  - a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 (54 of 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.

iv) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

v) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.

vii) Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Sec.31 or passes an order for liquidation of corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

viii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the resolution professional upon receipt of the copy of this order.

(ix) As per proposal given by the Financial Creditor, Sri Jogesh Kumar Poddar, of J.K.Poddar & Co., F.M. Circle, O.T. Road, Balasore-756 001 having registration no. IBBI/IPA-001/IP-P00505/2017-2018/10906 and email



Id. [jqp\\_ca@rediffmail.com](mailto:jkp_ca@rediffmail.com) is appointed as the Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.

x) The Financial Creditor to pay to IRP a sum of Rs.1,00,000/- as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment.

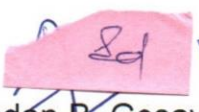
xi) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016

xii) Registry is hereby directed under section 7(7) of the I&B Code, 2016 to communicate the order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post and also by email.

Let the certified copy of the order be issued upon compliance with requisite formalities

List the matter on **02.12.2019** for filing progress report.

  
(Virendra Kumar Gupta)  
Member (T)

  
(Madan B. Gosavi)  
Member (J)

*Signed on this, the 18<sup>th</sup> day of October, 2019.*