

**NATIONAL COMPANY LAW TRIBUNAL  
AMARAVATI BENCH  
(Video Conference)**

**PRESENT: PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 03.11.2021 AT 10.30  
AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 27/7/AMR/2020
NAME OF THE COMPANY	Prathyusha Resources & Infra Pvt ltd
NAME OF THE PETITIONER(S)	State bank Of India
NAME OF THE RESPONDENT(S)	Prathyusha Resources & Infra Pvt ltd
UNDER SECTION	7 OF IBC

**Counsel for Petitioner(s):**

Ries

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

**Counsel for Respondent(s):**

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

**ORDER**

CP(IB) NO. 27/7/AMR/2020 is admitted, vide separate orders.

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(JUSTICE TELAPROLU RAJANI)  
MEMBER JUDICIAL

**NATIONAL COMPANY LAW TRIBUNAL  
Amaravati Bench**

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**CP (IB) No.27/7/AMR/2020**

**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 M/s State Bank of India, Stressed Assets Management Branch**

**Between**

M/s State Bank of India,  
Stressed Assets Management Branch,  
2<sup>nd</sup> Floor, Red Cross Building,  
No.32 Montieth Road,  
Egmore,  
Chennai – 600 008.

**: Petitioner / Financial Creditor**

**and**

M/s Prathyusha Resources & Infra Pvt. Ltd.,  
Prathyusha House,  
No.25-40-12, Near Lakhmi Talkies,  
Gangulavari Street,  
Vishakapatnam – 500 001

**: Respondent / Corporate Debtor**

**Date of Order: 03.11.2021**

**Appearance:**

For Petitioner/Financial Creditor: Mr. Kailash Nath P.S.S. Advocate

For Respondent/Corporate Debtor: Mr. Vikram Puttapaga, Advocate

**CORAM: JUSTICE TELAPROLU RAJANI, MEMBER (J)**

**ORDER**

1. This is a Company Petition filed by ‘M/s State Bank of India’ (Stressed Assets Management Branch, Egmore, Chennai (“in short Petitioner/Financial Creditor”), seeking Corporate Insolvency Resolution Process (CIRP) against ‘M/s Prathyusha Resources & Infra Pvt Ltd.,’ (in short “Respondent/Corporate Debtor”), under Section 7 of the Insolvency and Bankruptcy Code 2016 (in short “IB Code 2016”) read with Rule 4 of the Insolvency and Bankruptcy (AAA) Rules 2016.

2. The brief facts of the case as submitted by the petitioner are as under:
- a) The Applicant is a “Commercial Bank” and a well-recognised Bank. It has garnered reputation since its incorporation and submits that the Corporate Debtor viz M/s Prathyusha Resources & Infra Pvt Ltd is a stevedore agent and later expanded into various businesses allied to the shipping services, logistics etc., Thereon the Corporate Debtor diversified into infrastructure project construction Build Operate Transfer (BOT) space and undertook major projects.
  - b) The Applicant submits that the Corporate Debtor approached the Applicant for availing credit facilities and on 18.03.2011 the Applicant issued the Loan Sanction letter for working Capital Term Loan for Rs.50 Crores (herein after referred as 1<sup>st</sup> Loan Sanction Letter). The Corporate Debtor executed the loan agreement for the same pursuant to its Board Resolution to avail the Credit facility. The Corporate Debtor in its Board Meeting held on 19.03.2011 had resolved to avail the sanctioned financial assistance to provide/furnish security for credit facilities and authorised its directors to jointly and/or several sling, execute and deliver all the documents for the purpose of the same
  - c) The Applicant submits that the overall limit of the Initial Loan Facility was subsequently extended from Rs.50,00,00,000/- (Rupees Fifty Crores) Crores to Rs.70,00,00,000/- (Seventy crores) vide Loan Sanction letter (hereinafter referred as 2<sup>nd</sup> Loan Sanction Letter) dated 03.02.2012 subject to terms and conditions in the said letter. Further submits that on 06.04.2013 the Cash Credit Facilities were renewed at the existing limit vide Renewal of Working Capital Facilities. The same is annexed as Exhibit – G. The Applicant submits that the facilities availed were further sanctioned/renewed vide the Renewal of FBWC Facilities of Rs.70 Crores dt. 12.03.2014 subject to its sanction terms (annexe and marked as Exhibit-H)
  - d) The Corporate Debtor requested the Applicant towards restructuring credit facilities availed. The Applicant offered a restructure vide the terms in its Restructuring of Working Capital Facilities letter dt. 28.03.2013 (Exhibit-I) and the terms and conditions formed part of

- the Restructuring Agreement (hereafter referred to as the Restructuring Agreement) dated 31.03.2015 annexed and marked as Exhibit-J). The aforementioned restructuring of Working Capital Facilities dated 27.04.2015, is annexed and marked as Exhibit-K)
- e) The Corporate Debtor defaulted in repayment of debt and the account of the Corporate Debtor was declared a Non-performing Asset (hereinafter referred to as NPA) on 25.03.2015. At the request of the Corporate Debtor, the Applicant vide its sanction letter dt. 31.03.2016 agreed for a continuation of the existing limits for a period of 6 months with an assurance from the Corporate Debtor that the defaulted amount will be repaid. The sanction letter for continuation of existing limits is annexed and marked as Exhibit-L. The Corporate Debtor defaulted to repay the amount due despite extension of existing limits, the Corporate Debtor's account was declared as NPA on 28.06.2016.
- f) The Applicant submits that despite repeated demands and several reminders, the Corporate Debtor defaulted in repayment of debt to the Applicant. On 13.07.2017, the Applicant sent a demand notice through its advocate demanding payments for the defaulted sum. The above mentioned demand notice is annexed and marked as Exhibit-M. The Applicant further issued a reminder notice on 31.08.2017. The aforementioned reminder notice is annexed and marked as Exhibit-N. The CD did not take any efforts to repay the dues and rectify the default in repayment of debt.
- g) The Applicant offered the Corporate Debtor one Time settlement schemes (hereinafter referred to as OTS) for repayment of the defaulted amount. The Corporate Debtor failed to adhere to the terms and conditions in the OTS Sanction letter dated 30.03.2019. Therefore, the OTS which was offered to the Corporate Debtor was cancelled on 03.07.2019. The documents relating to the OTS and Cancellation of OTS is marked as Exhibits-O.
- h) The balance confirmation letters issued by the Corporate Debtor in the nature of the Loan Revival letters from the Corporate Debtor (Form C-6) dated 07.01.2014 and 21.12.2016 are marked as Exhibits-R.

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- i) The Applicant submits that the loan was sanctioned on 18.03.2011, 03.02.2012, 12.03.2014 and restructured on 28.03.2015 and the loan documents were executed on 18.03.2011, 03.02.2012, 06.04.2013, 12.03.2014 and restructured on 28.03.2015. The revival letters were executed by the Corporate Debtor on 07.01.2014 and 21.12.2016. The Applicant further submits that as the Loan Facility was given in the nature of "Cash Credit", the date of sanction and approval is deemed to be the date of disbursement.
  - j) The Applicant submits that pursuant to the restructuring of the Loan Agreement on 28.03.2015, the outstanding principle amount due as on date is Rs.63,20,80,661/- (Rupees Sixty Three Crores Twenty Lakhs Eighty Thousand Six Hundred and Sixty One only) and the interest is Rs.54,34,27,233/- (Rupees Fifty Four Crores , Thirty Four Lakhs Twenty Seven Thousand Two Hundred and Thirty Three only) and Charges Rs.15,03,715-00 (Rupees, Fifteen Lakh Three Thousand Seven Hundred Fifteen only). The Total Amount due is rounded off to Rs.117,70,11,609/- (Rupees Hundred and Seventeen Crores Seventy Lakhs, Eleven Thousand Six Hundred and Nine only) as on 30.11.2019.
  - k) Reiterating the above, the learned Counsel for the Petitioner/Financial Creditor has prayed to admit the instant Application.
3. Several opportunities had been extended to the Respondent/CD to defend his case. Right to file counter is forfeited vide order dated 25.08.2020. Subsequently, Counsel for the Respondent filed IA No.125/2020 requesting to set aside the order dated 25.08.2020 passed by this Bench. After hearing the submissions made in the IA the Respondent was directed to file counter subject to payment of costs of Rs.50,000/- (Rupees Fifty Thousand only) to the Counsel for the Petitioner with a direction to file counter by the next date of hearing i.e., on 26.10.2020. But the Respondent's Counsel reported no counter and costs imposed on the last date of hearing also not paid.
  4. Reasonable opportunities had been extended to the Respondent/CD to contest his case. The Petitioner/Financial Creditor has completed with all the requirements as stipulated under the provisions of the I&B Code 2016 for the purpose of initiating Corporate Insolvency Resolution Process. It is a clear case of admitted debt.

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5. In the circumstances, having been satisfied with the submissions put forth by the learned Counsel for the Petitioner/Financial Creditor I hereby admit the instant petition under section 7 by the following order:
- a) The instant petition is hereby admitted and this Adjudicating Authority Orders the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed as per the time line stipulated in section 12 of the IB Code, 2016, reckoning from the day this order is passed.
  - b) Therefore, this Adjudicating Authority hereby appoint Sri K. Sivalingam, having Regn. No.IBBI/IPA/001/IP-PO1597/2018-2019/12430 (IRP) as his name is proposed by the Financial Creditor and is also reflected in IBBI website. He has also filed his written consent in Form – AA dated 04.12.2019. The IRP is also directed to furnish a valid Authorization for Assignment issued by competent institute in the Registry within 3 days of receipt of copy of this order. 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 I&B Code, 2016 within three days from the date of receipt of this order and call for submission of claims in the manner as prescribed.
  - c) This Adjudicating Authority hereby declares 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. I order to prohibit all of the following, namely:
    - i. *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;*
    - ii. *Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*
    - iii. *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);*

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- iv. *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. *Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*
- d) The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.
- e) 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.
- f) The Petitioner/Financial Creditor 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.

*Handwritten signature*

- g) The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
- h) The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
- i) The address details of the IRP are as follows:-  
Mr. K. Sivalingam,  
Reg.No: IBBI/IPA-001/IP-P01597/2018-2019/12430  
Flat No.1603, Tulive Horizon Residences,  
Arunachalam Road, Saligramam,  
Chennai – 600 093,  
Mobile No. 9963744255  
Email: [siva.k220353@gmail.com](mailto:siva.k220353@gmail.com)
- j) The present Company Petition bearing CP (IB) No. 27/7/AMR/2020 is hereby admitted.



**JUSTICE TELAPROLU RAJANI**  
**MEMBER JUDICIAL**

**Seshu**