



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

CP (IB) No. 771/MB-IV/2022

Under Section 7 of the I&B Code, 2016

In the matter of:

Axis Bank Limited

[IN: L65110GJ1993PLC020769]

...Financial Creditor/Applicant

V/s

**Datta Krupa Roller Flour Mill Private
Limited**

[CIN: U01119MH2005PTC245062]

...Corporate Debtor/Respondent

Order Dated: 28.04.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner(s) : Mr. Rushabh Chopra , Advocate.

For the Respondent(s) : None.

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. This is an application bearing C.P. (IB) No. 771/MB/C-IV/2022 filed by Axis Bank Limited, the Financial Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) seeking

initiation of Corporate Insolvency Resolution Process (CIRP) against Datta Krupa Roller Flour Mill Private Limited, Corporate Debtor.

2. The Application is filed by Mr. Piyush Deora, Senior Manager of the Financial Creditor duly authorised vide its Authority Letter dated 27.01.2021, claiming total default of Rs.16,34,40,265/- (Rupees sixteen crore thirty-four lakh forty thousand two hundred sixty-five only) as on 31.06.2022 which includes:
 - 2.1. Principal amount of Rs.10,94,81,444/-;
 - 2.2. Interest amount of Rs.4,61,47,823/-; and
 - 2.3. Penal Interest amount of Rs.78,10,998/-.
3. The first Date of Default is stated to be 31.05.2019 in the Part-IV of the Petition. The Petition is filed on 28.06.2022. the Account of the Corporate Debtor was classified as NPA on 29.07.2019.
4. The case of the Financial Creditor is that:
 - 4.1. The Financial Creditor granted Cash Credit Facility of Rs.11,00,00,000/- (Rupees eleven crore only) to the Corporate Debtor vide Sanction Letter dated 03.03.2014. The said Facility was modified vide Modification Letter dated 28.03.2014 issued by the Financial Creditor. Mr. Atul V. Khathoankar was deleted as one of the Personal Guarantors and replaced by Mr. Laxmikant G. Molawar.
 - 4.2. The facility was renewed twice for an amount of Rs.11,00,00,000/- vide Renewal Sanction Letter dated 09.11.2015 and dated 19.03.2018.

- 4.3. The Financial Creditor issued Loan Recall Notice dated 23.01.2020 for claiming an amount of Rs.12,31,41,895.21 due from the Corporate Debtor. The Financial Creditor also issued the Notice dated 31.07.2020 under the SARFAESI Act, 2002 for claiming total outstanding amount of Rs.13,15,28,076/- due from the Corporate Debtor.
5. The Financial Creditor has filed the NeSL Report dated 31.10.2021. The Financial Creditor has also filed Copy of Repository of Information on Large Credits (CRILC) Report dated 23.06.2022.
6. The Corporate Debtor has not filed reply in the matter despite being afforded several opportunities in the matter. Vide order dated 04.07.2022, the Court Notice was ordered upon the Corporate Debtor to appear and filed its reply in the matter. The matter was listed on 06.09.2022, 16.11.2022, 17.01.2023, 09.03.2023 and 24.03.2023, the Corporate Debtor did not appear in the matter. In view of consistent non-appearance, the Corporate Debtor was set ex-parte vide order dated 17.01.2023.

Findings/Observations:

7. We have heard the arguments of the Learned Counsel for Financial Creditor.
8. After perusal of the material on record, it is observed that the Financial Creditor granted Cash Credit Facility of Rs.11,00,00,000/- (Rupees eleven crore only) to the Corporate Debtor vide Sanction Letter dated 03.03.2014. The said Sanction Letter was renewed vide Renewal Sanction Letters dated 09.11.2015 and 19.03.2018. As per the

submissions of the Financial Creditor in Part-IV, the Corporate Debtor had made last payment on 29.04.2019.

9. From the material on records, it is observed by the Bench that, the Corporate Debtor has issued a letter of Acknowledgement of Debt dated 31.08.2017 wherein the Corporate Debtor had confirmed and acknowledged indebtedness on 31.07.2017 of the sum of Rs.10,98,58,164.85, which tantamount to acknowledgement u/s 18 of the Limitation Act, 1963 thereby extending the limitation period. Further, the Financial Creditor has annexed the Audited Financials of the Corporate Debtor wherein the Cash Credit of Rs.11,21,47,633.57 under the Schedule of Short-Term Borrowing is reflecting as Secured Loans payable to the Financial Creditor.
10. After perusal of the material on record, this Bench is of considered view that the Petition under section 7 filed by the Financial Creditor to initiate the CIRP against the Corporate Debtor is complete and filed in the proper form. The Corporate Debtor has failed to appear in the matter after being afforded several opportunities in the matter.
11. On perusal of the documents submitted by the Applicant, it is clear that financial debt amounting to more than Rs.1,00,00,000/- (Rupees One Crore Only) is due and payable by the Corporate Debtor to the Applicant. There is default by the Corporate Debtor in payment of debt amount. This Bench does not find any objection on record against the application filed for initiation of CIRP against the corporate debtor. Hence, the Application filed by the Financial Creditor deserve to be admitted u/s 7 of the Code.

12. The Applicant has proposed the name of Mr. Krishna Chamadia, a registered Insolvency Resolution Professional as Interim Resolution Professional (IRP) to carry out the functions as mentioned under I&B Code.

ORDER

13. This Application being C.P. (IB) No. 771/MB-IV/2022 filed by Axis Bank Limited, the Financial Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Datta Krupa Roller Flour Mill Private Limited, Corporate Debtor is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

- 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 possession of the corporate debtor.
- II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to
- a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
 - b. a surety in a contract of guarantee to a Corporate Debtor.
- IV. That the order of moratorium shall have effect from the date of this order 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 I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.
- VI. That this Bench appoints Mr. Krishna Chamadia, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P00694/2017-2018/11220], as Interim Resolution Professional to carry out the functions as mentioned

under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

- e) The Financial Creditor shall deposit a sum of Rs.5,00,000/- (Rupees five lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- f) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor.
- g) The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or Whats App. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

Prabhat Kumar
Member (Technical)
28.04.2023

Sd/-

Kishore Vemulapalli
Member (Judicial)