

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

**CP 2985 (IB)/MB/2018**

Under Section 7 of the I&B Code, 2016

In the matter of

**Dena Bank**

...Financial Creditor/ Applicant

v/s

**RSAL Steel Private Limited**

...Corporate Debtor

**Order Dated 03.09.2019**

**Coram:** Hon'ble Member (Judicial) Mr V.P. Singh

Hon'ble Member (Technical) Mr Rajesh Sharma

**For the Petitioner:** Adv.Raghav Ganesh and Adv. Samiksha Manek.

**For the Respondent:** Adv. Prachi Wazalwar and Adv. Heena Vichare

*Per V.P. Singh, Member (Judicial)*

**ORDER**

1. This is an application being CP 2985/2018 filed by **Dena Bank**, Financial Creditor or Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **RSAL Steel Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).
2. This application is filed by Mr. Manoj Kumar, Assistant General Manager of the applicant Bank.
3. The Applicant had extended a loan to the Corporate Debtor for ₹30.85crore, vide its sanction letter dated 05.03.2016 and approved vide interoffice approval letter dated 24.03.2016. it is stated by the Applicant that it disbursed the loan amount in the manner as under:
  - a. ₹1crore on 29.03.2012 under CCH facility;
  - b. ₹3.95crore on 16.05.2016 under WCDL facility;
  - c. ₹21.95crore on 22.08.2016 and 07.10.2016 under LC facility.

4. There is a charge of ₹241,48,00,000/- registered against the Corporate Debtor and in favour of the Applicant as on 08.03.2018.
5. The account of the Corporate Debtor was declared Non-Performing Asset (NPA) on 30.11.2016 for non-payment of the dues as on 31.03.2017, and demanding repayment of ₹29,05,61,448/- from the Corporate Debtor vide letter dated 17.07.2017.
6. The Corporate Debtor vide a without prejudice letter dated 28.02.2018 and 12.03.2018 proposed a one-time settlement to the consortium of Banks and has itself mentioned therein the outstanding amount of ₹27.11crore to the Applicant.
7. The Applicant sent a notice under section 13 (2) of SARFAESI Act dated 11.07.2018 recalling an outstanding amount of ₹33,95,90,890.71 including interest. the applicant submits that as on 30.06.2018, the total outstanding amount in default is ₹35.30crore and the date of default is mentioned as 01.08.2016.
8. The Applicant has filed extracts of Commercial Credit Information Report (CIBIL) dated 18.06.2018 reflecting the classification of the Corporate Debtor's account as non-standard and outstanding amount against the facilities extended by the Applicant. The Applicant has also submitted the copy of the bank statement along with the certificate under the Banker's Book of Evidence Act, 1891 dated 18.06.2018, certifying that the account statement is as per Ledger entries of the Bank Account of the Corporate Debtor for the period 28.04.2011 to 18.06.2018. The Bank Account Statements of the Corporate Debtor reflects the disbursements of funds by the Applicant under various facilities to the Corporate Debtor.
9. The Corporate Debtor filed its Affidavit in reply on 14.02.2019, opposing the Application on the ground of it being filed with inappropriate authorisation. However, in the light of the Judgment of the Hon'ble NCLAT in ***Palogix Infrastructure Private Limited vs ICICI Bank Limited, Company Appeal (AT) (Insol) No. 30 of 2017 dated 20.09.2017*** and also pursuant to the notification issued by Ministry of Corporate Affairs dated 27.02.2019, the objection of the Corporate Debtor regarding the insufficient

authorisation of the Assistant General Manager of the applicant Bank to file the present application is not tenable.

10. Further, the Corporate Debtor has submitted in its reply that it has proposed various one time settlements which were never considered by the Applicant and despite all the efforts of the Corporate Debtor, it could not stop making losses. It is also stated that the total sanctioned limit of the Applicant is ₹3085 lakhs of which ₹2690.47 lakhs is outstanding.
11. On perusal of the documents submitted by the financial creditor, it is clear that debt amounting to around ₹3530 lakhs is due and payable by the Corporate Debtor to the Applicant. The Loan approval letter dated 24.03.2016 and the Bank Statements prove the sanction and disbursement of funds; the CIBIL report, Bank Statements and various one-time settlement offers of the Corporate Debtor further establishes the default in repayment of the debt. The outstanding debt amounting to atleast ₹2690.47 lakhs is admitted by the Corporate Debtor in its affidavit in reply. Therefore, an outstanding amount of ₹1,00,000/- is admittedly in default.
12. The application filed by the financial creditor is on proper form 1, as prescribed under the Adjudicating Authority Rules and application is complete.
13. The Applicant has proposed the name of Mr R.K. Girdhar, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-003/IP-N00048/2017-18/10396] as **Interim Resolution Professional**, to carry out the functions as mentioned under I&B Code. In Form 2 annexed to the Application, the proposed IRP has declared that there are no disciplinary proceedings pending against him.
14. The Application under sub-section (2) of Section 7 of I&B Code, 2016 filed by the financial creditor for initiation of CIRP in prescribed Form No1, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 is complete. The existing financial debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the petition filed under section 7 of the Insolvency and Bankruptcy Code for initiation

of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

**ORDER**

This petition filed under Section 7 of I&B Code, 2016, filed by **Dena Bank**, against **RSAL Steel Private Limited**, for initiating corporate insolvency resolution process is at this moment **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 activity 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 such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

- 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 at this moment appoints Mr R.K. Girdhar, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-003/IP-N00048/2017-18/10396] 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.
15. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

**Sd/-**  
**RAJESH SHARMA**  
Member (Technical)

**Sd/-**  
**V.P. SINGH**  
Member (Judicial)

**3<sup>rd</sup> September 2019**