



**IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD**

COURT - II

CP (IB) 236/NCLT/AHM/2021

(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:

Saraswat Co-operative Bank Limited

**Applicant/
Financial Creditor**

Versus

Nami Steel Private Limited

**Respondent/
Corporate Debtor**

Order Pronounced on: 16/08/2022

CORAM:

**DR. DEEPTI MUKESH
HON'BLE MEMBER(JUDICIAL)
AJAI DAS MEHROTRA
HON'BLE MEMBER (TECHNICAL)**



MEMO OF PARTIES

Saraswat Co-operative Bank Limited

Having Registered Office at
Ekanath Thakur Bhawan,
953 Appasaheb Marathe Marg
Prabhadevi
MUMBAI 400 025

And having Zone / Branch office at
Unit No. 10 & 11
Ground Floor, Shivalik Yash
132 Ft. Ring Road,
Naranpura-Wadaj
AHMEDABAD 380 013 ...

Applicant/Financial Creditor

Versus

Nami Steel Private Limited

Survey No. 316-P, 317-P, 342-P & 343-P
Nano Ford Road
Opp. Chharodi Railway Station
Sanand
Ahmedabad 382 110
Gujarat State ...

Respondent/Corporate Debtor

Appearance:

For the Applicant : Mr. Lalit Patel, Advocate
For the Respondent : Mr. Aalay Shah, Advocate



ORDER

1. The Present Application is filed on 29.11.2021 under section 7 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Mr. Jayeshh Thakur, Chief Manager, **Saraswat Co-operative Bank Limited** (for brevity 'Applicant'), duly authorised vide Board Resolution dated 26.11.2021, with a prayer to initiate the Corporate Insolvency process against **Nami Steel Private Limited** (for brevity 'Corporate Debtor').

2. The applicant is a scheduled bank registered under the Multi State Co-operative Societies Act, 2002 and having its registered office at Mumbai and inter alia engaged in the business of providing various types of financial facilities including business loans, personal loans, consumer loans, loan against property, home equity loans, term loan etc. and is also a bank within the meaning of the Banking Regulation Act, 1949 operating in India having its registered office at Eknath Thakur Bhavan, 953 Appasaheb Marathe Marg, Prabhadevi, Mumbai



400 025 and branch office at Unit No. 10 & 11, Ground Floor, Shivalik Yash, 132 Feet Ring Road, Naranpura – Wadaj, Ahmedabad 380 013.

3. The corporate debtor is a Private limited company, incorporated under the provisions of The Companies Act, 1956 on 24.07.2012, duly registered with Registrar of Companies, Ahmedabad with CIN: U27100GJ2012PTC071270 and having registered office at Survey No. 316-P, 317-P, 342-P & 343-P, Nano Ford Road, Opp. Chharodi Railway Station, Sanand, Ahmedabad 382 110, Gujarat State. The Authorized share capital of the Respondent is Rs. 20,00,00,000/- and paid up share capital of the company is Rs. 20,00,00,000/-. The respondent company is engaged in the business of manufacturing of stainless steel and mild steel products.
4. It is submitted by the applicant that the corporate debtor had approached and applied to the applicant for credit facilities for setting up a steel rolling mill. The applicant had sanctioned initial credit limit of Rs. 42.48 crores in July, 2012 for setting up a steel rolling mill. After initial implementation of the project, the corporate debtor had gone for two expansion projects for which additional limits of Rs.9.25 crores were sanctioned vide BDR dated 11.04.2014 and, Argon



Oxygen Decarburization Plant (AOD) for which additional limits of Rs. 8.00 crores was sanctioned vide BDR dated 13.03.2015. During expansion period of AOD plant, in order to tide the liquidity crunch, the applicant had sanctioned OD against property upto the limit of Rs. 7.70 crores vide BDR dated 30.10.2015. Upon request of the corporate debtor, term loan facilities were restructured w.e.f. 05.12.2016 for a period of 10 years with a moratorium of two years. Subsequently, the corporate debtor sold one of the securities (property) partly during 2017-18 and reduced the ODAP limit to Rs. 3.20 crores and for the balance limit alternate security was considered – sanctioned vide BDR dated 08.09.2017.

5. The applicant submits that the corporate debtor approached the applicant and LC Limit of Rs. 10.00 crore and PC/PS limit of Rs. 5.00 crore was sanctioned vide BDR dated 16.02.2018. As the corporate debtor had incurred losses of Rs. 3.44 crores in FY 2018, it could not repay term loans as per restructuring terms and there was frequent overdrawing as well as devolvement of LCs. In the inspection conducted during FY 2019, Reserve Bank of India classified the account of the corporate debtor as NPA with effect from 31.01.2017. However, based on the request of the corporate debtor, limits were again restructured w.e.f. 30.03.2019. Thereafter, considering the



increase in exports, corporate debtor applied for additional PC/PS limit of Rs. 5.00 crore, thereby making the total PC/PS limit to Rs. 10.00 crore, which was sanctioned vide BDR dated 14.08.2019 based on provisional financials for FY 2019. Based upon satisfactory performance of second restructuring during the specified period from 30.03.2019 to 30.03.2020, the account was upgraded to standard category w.e.f. 30.03.2020 and status of NPA was removed. Thereafter, a deferment of six months under COVID-19 package was also sanctioned to the corporate debtor. Furthermore, the corporate debtor was also sanctioned STCC limit of Rs. 2.20 crore which was utilised to pay staff salary, electricity bill etc. during the lockdown period. Thereafter, additional term loan of Rs. 5.00 crore was sanctioned vide Board Meeting dated 26.06.2020 to mitigate the liquidity issues. STCC of Rs. 2.20 crore was closed from the disbursement of the same. Due to lock down, consignments of the corporate debtor were delayed and upon request of the corporate debtor PC (Packaging Credit) tenure was extended upto 360 days vide BDR dated 11.09.2020. Due to second wave of Covid – 19, business operations of the corporate debtor were shut down from 26.04.2021. Further, due to non-payment of electricity bill, Gujarat Electricity Board had disconnected power supply of the factory. Moreover, Government of Gujarat had taken possession of the corporate debtor's



Oxygen storage unit which was critical to its operations. As the corporate debtor was unable to pay its dues to the petitioner, the account of the corporate debtor was classified as NPA category w.e.f. 29.05.2021.

6. The applicant further submits that as per the last sanction/renewal letter dated 29.01.2021, the applicant had sanctioned credit facilities of Rs. 9575.20 lacs to the corporate debtor upon execution of various legal and security documents in favour of the applicant for security of repayment of the said credit facility and the existing facilities. The details of various financial assistance sanctioned to the corporate debtor by applicant are described below:

Type of Facilities	Total sanctioned amount (Rs. In lakhs)
CC (366500100000105)	2,250.00
PC/PS	1,000.00
Import/inland letter of credit	1,000.00
OD (366500100000198)	320.00
Term Loan – I (SL 366700100000067)	1,700.00
Term Loan – II (SL 366700100000068)	1,000.00
Term Loan – III (SL 366700100000080)	48.00
Term loan – IV (C Vehicle) (SL 366700100000098)	12.00
Term Loan V (SL366700100000115)	925.00
Term Loan VI (SL366700100000161)	600.00
Term Loan VII (SL366700100000169)	200.00
Term Loan VIII (SL366700100000380)	500.00



Term Loan I (SL366700100000272)	12.60
Term Loan II (SL366700100000287)	3.75
Term Loan III (SL366700100000326)	3.85
Total	9575.20

7. The applicant further submits that the corporate debtor had executed documents of mortgage and deposited with the applicant title deeds of different properties, details of which are annexed to the application. The corporate debtor had created security interest in favour of the applicant by way of equitable mortgage of properties details of which are also annexed to the application.
8. The applicant further submits that under the terms of sanction and legal/security documents, the corporate debtor agreed to repay the aforesaid credit facilities along with interest, however, despite repeated demands, corporate debtor failed to pay its overdues and committed default and consequent to such default the loan account of the corporate debtor was classified for second time as NPA on 29.05.2021. The applicant issued statutory demand notice dated 19.06.2021 under Section 13 (2) of the SARFAESI Act on the corporate debtor and guarantors and called upon them to pay an amount of Rs. 84,82,12,935/- (Rupees eighty-four crores eighty-two lacs twelve thousand nine hundred thirty-five only) due as on 01.06.2021 within 60 days which was duly served upon them.



However, the corporate debtor failed to make payment of the said amount within 60 days. Thereafter, on 29.11.2021, the applicant filed the present application.

9. The applicant further submits that the corporate debtor failed to pay the overdue instalments and serve the interest and repay the credit facilities as per the terms of sanction. As per the statement of accounts of the various credit facilities, an amount of Rs. 87,89,37,027.33 (Rupees eighty-seven crore eighty-nine lacs thirty-seven thousand twenty-seven and paise thirty-three only) is due and payable to the applicant as on 31.10.2021, more particularly mentioned hereunder and supported by the statement of accounts duly certified as per the Banker's Books Evidence Act, 1891 annexed to the application.

Type of Facilities	Total amount sanctioned amount in rupees
CC (366500100000105)	**
PC/PS	44,53,64,653.91
Import/inland letter of credit	
OD (366500100000198)	3,34,28,379.00
Term Loan – I (SL 366700100000067)	11,30,78,857.71
Term Loan – II (SL 366700100000068)	6,77,58,791.00
Term Loan – III (SL 366700100000080)	23,95,625.71
Term loan – IV (C Vehicle) (SL 366700100000098)	4,28,073.00
Term Loan V (SL366700100000115)	7,77,88,292.00
Term Loan VI (SL366700100000161)	6,31,29,959.00



Term Loan VII (SL366700100000169)	2,11,19,081.00
Term Loan VIII (SL366700100000380)	5,35,27,957.00
Term Loan I (SL366700100000272)	5,11,676.00
Term Loan II (SL366700100000287)	1,71,426.00
Term Loan III (SL366700100000326)	2,34,256.00
Total	87,89,37,027.33

** LC & PC/PS limits are interchangeable with CC limit.

10. As the corporate debtor failed to file reply even after opportunities given, right to file reply was closed vide order dated 09.05.2022. Vide order dated 04.07.2022, both the sides were given liberty to file written submission. The applicant filed written submissions reiterating the contentions in the applications, however, corporate debtor has not filed any written submission.
11. As per Form 1, part IV, the corporate debtor is in default of total amount of Rs. 95,75,20,000/- (Rupees ninety-five crores seventy-five lacs twenty thousand only). First loan was sanctioned in July, 2012 and renewed from time to time. Last such renewal was done on 29.01.2021. The default occurred on different dates on account of restructuring/renewal/additional loan, however, the loan account of the corporate debtor was classified as NPA on 29.05.2021. Therefore, the application filed on 29.11.2021 is within the period of limitation and not barred by law.



12. The registered office of the corporate debtor is situated in Ahmedabad District, Gujarat State and, therefore, this Tribunal has jurisdiction to entertain and try this application.
13. Heard the submissions and perused the documents on record. On perusal of the records it is found that the corporate debtor has neither replied to the notice issued u/s 13 (2) of the SARFAESI Act, 2002 nor filed any reply to the present application filed under Section 7 of the Code. The applicant has brought on record all the documents to substantiate its claim.
14. The present application is complete in terms of Section 7 (5) of the Code. The applicant is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. Moreover, the corporate debtor has not contested or disputed the claim of applicant at any stage or in any proceedings initiated by applicant for recovery of the said debt. In light of the above facts and records the present application is admitted and CIRP is ordered to be initiated against corporate debtor.



15. The applicant has proposed the name of Mr. Udayraj Patwardhan as Insolvency Resolution Professional, who is hereby appointed as IRP of corporate debtor having registration number IBBI/IPA-001/IP-P-00024/2016-17/10057 having office at Naman Midtown, B Wing, 1106, 11th Floor, Behind Kamgar Kala Kendra, Senapati Bapat Marg, Elphinstone West, Mumbai 400 013, subject to the condition that no disciplinary proceedings are pending against him. Specific consent of the IRP in Form 2 along with disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 is filed, which is on record.
16. We direct the Financial Creditor to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely Mr. Udayraj Patwardhan to meet the expenses for performing functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the Financial Creditor. The amount however be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional, and shall be paid back to the Financial Creditor.



17. As a consequence of the application being admitted in terms of Section 7(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14 (1) shall follow in relation to the Corporate Debtor, prohibiting actions as per clauses (a) to (d) of Section 14 (1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall remain in force.
18. A copy of the order shall be communicated to the Applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order be also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

Sd/-

**AJAI DAS MEHROTRA
MEMBER (TECHNICAL)**

Sd/-

**DR. DEEPTI MUKESH
MEMBER (JUDICIAL)**

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