

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

CP(IB)No.1523/NCLT/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Standard Chartered Bank Limited

...Financial Creditor/ Petitioner
v/s

K.K Welding Limited

...Corporate Debtor

Order Dated 28th August 2019

Coram: Hon'ble Member (Judicial) : Mr. V.P. Singh
Hon'ble Member (Technical): Mr Rajesh Sharma

For the Petitioner : Adv. Luckyraj Indorkar, Adv. Deopum Dutta;
For the Respondent: Non present.

Per: Rajesh Sharma, Member (Judicial)

ORDER

1. This is a petition filed on 11.4.2019, being CP 1523(IB)/MB/2019 filed by **Standard Chartered Bank Limited**, body corporate constituted under the laws of the United Kingdom, the Financial Creditor or Petitioner, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **K.K Welding Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).
2. The Petition is filed claiming a total default of ₹30,55,73,479.17/- including interest (Rupees Thirty Crore Fifty Five Lakh Seventy Three Thousand Four Hundred and Seventy Nine and paise Seventeen only) as on 28.02.2019. The Petition is filed by Mr. Kamal Vyas, the Senior Account Manager of the Financial Creditor, duly authorised by the Power of Attorney dated 01.04.2016.
3. The Petitioner has sanctioned a loan in accordance with the Facility Letter dated 10.07.2017. The facility was extended for a sum of ₹27,50,00,000/- (Rupees Twenty Seven Crore Fifty Lakh only). In this regard, the Petitioner and the Respondent have also entered into hypothecation agreements dated 01.09.2006, 20.03.2012, . The Respondent has registered the charge of ₹27,50,00,000/-(Rupees Twenty Seven Crore Fifty Lakh only)

with the ROC. Copy of the certificate of registration of charge dated 27.05.2015 has been annexed to the petition.

4. The Petitioner submits that the Respondent defaulted in making payments to the Petitioner on 31.01.2018 and the Petitioner declared the Respondent a Non Performing Asset on 01.05.2018. The Petitioner has issued Recall Notice dated 02.08.2018 recalling the entire loan amount, demanding a sum of ₹28,23,41,658.77/- (Rupees Twenty Eight Crore Twenty Three Lakh Forty One Thousand Six Hundred and Fifty Eight and paise Seventy Seven only). The Recall Notice is annexed to the petition. The Petitioner also issued a notice dated 24.10.2018 under section 13(2) of the SARFAESI Act, 2002 for a sum of ₹28,86,67,927.37/- (Rupees Twenty Eight Crore Eighty Six Lakh Sixty Seven Thousand Nine Hundred and Twenty Seven and paise Thirty Seven only). Copy of the Notice under section 13(2) of the SARFAESI Act and the postal acknowledgement and receipt are annexed to the Petition.
5. The Petitioner submits that the account statement of the Corporate Debtor maintained by the Petitioner for the period 01.01.2018 to 28.02.2019 also establishes that the Corporate Debtor is in due and has defaulted to make good a sum of ₹30,55,73,479.17/- (Rupees Thirty Crore Fifty Five Lakh Seventy Three Thousand Four Hundred and Seventy Nine and paise Seventeen only). Copies of the Corporate Debtor's account statement maintained by the Petitioner along with the Certificate under Bankers Books of Evidence Act, 1891 are annexed to the Petition.
6. The Petitioner has also annexed a copy of the record of default by the Corporate Debtor as available with Central Repository of Information on Large Credits (CRILC) showing that the Petitioner has reported the Respondent as defaulter on 29.03.2018 on the part of the Respondent.
7. The Respondent filed Affidavit in Reply dated 18.07.2019, however did not raise contention that there is no debt and default. The Respondent has raised contentions like the valuation

reports of the Respondent are not correct, suppression of the fact that the Petitioner has debited interest from the account of the Respondent. Further, the Respondent, in para no.9 of its Affidavit in Reply has admitted to its liability by stating that although there was financial crisis, the Respondent offered to settle the alleged financial debt, and further states that the Petitioner declined it.

8. On perusal of the Recall Notice dated 02.08.2018, Notice under section 13(2) of the SARFAESI, Act, 2002, the CRILC Report where the Corporate Debtor's assets are classified as sub-standard, and the Corporate Debtor's admission that it approached the Petitioner for settlement in its Affidavit in Reply, it is clear that debt amounting to ₹30,55,73,479.17/- including interest (Rupees Thirty Crore Fifty Five Lakh Seventy Three Thousand Four Hundred and Seventy Nine and paise Seventeen only) is due and payable by the Corporate Debtor to the Applicant.
9. The application filed by the financial creditor is on proper form 1, as prescribed under the Adjudicating Authority Rules and application is complete.
10. The debt amount of more than Rs One Lakh and default by the Corporate Debtor has been established. The application is complete.
11. The Petitioner has proposed the name of Mr. Anil Vrijdas Rajkotia, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P01045/2017-18/11718] as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code, and given his declaration; no disciplinary proceedings are pending against him.
12. The Application under sub-section (2) of Section 7 of I&B Code, 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, presented by **Standard Chartered Bank Limited**, Financial Creditor / Petitioner against **K.K Welding Limited**, Corporate Debtor 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 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 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. Anil Vrijdas Rajkotia**, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P01045/2017-18/11718] 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.
13. 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)

28th August 2019