

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

PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 05.01.2022 AT 10.30 AM

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP No. 69/7/AMR/2021		7 of IBC	Charam Bio Tech Private Limited Vs. Sai Balaji Sponge Iron Private Limited

Counsel for Petitioner(s):

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

Counsel for Respondent(s):

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

ORDER

CP No. 69/7/AMR/2021 is admitted, vide separate orders.

Telaprolu Rajani
**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

**NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH**

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CP (IB) No. 69/7/AMR/2021

**In the matter of a Petition 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
AND**

**In the matter of
M/s. SAI BALAJI SPONGE IRON PRIVATE LIMITED**

Between

M/s. Charan Bio-Tech Private Limited,
D-411, Aditya Enclave, Ameerpet,
Hyderabad, T.G -500038.

... Financial Creditor

AND

M/s. Sai Balaji Sponge Iron Private Limited,
1st Floor, Siri Arcade, Bus Stand Road,
Nuzvidu, Krishna District,
Andhra Pradesh – 521201.

... Corporate Debtor

Date of pronouncement of order: 05.01.2022

CORAM:

Justice Telaprolu Rajani, Member Judicial.

Appearance:

For Financial Creditor : Ms.Sneha Agarwal, Advocate.

For Corporate Debtor : Mr.P.Kasi Nageswara Rao, Advocate.

ORDER

1. This Application is filed by M/s.Charan Bio-Tech Private Limited (“hereinafter referred to as Financial Creditor”) seeking initiation of Corporate Insolvency Resolution Process (CIRP) in respect of M/s. Sai Balaji Sponge Iron Private Limited (“hereinafter referred to as Corporate Debtor”) alleging that the Corporate Debtor

7/10/22

committed default in making payment to the Financial Creditor in view of the term loan and working capital facilities availed by them upon the Corporate Debtor, by invoking 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.

2. The Financial Creditor is a Private Limited Company engaged in the business of rendering the services relating to trade, manufacture, deal, import and export and ancillary to the manufacturing of the sponge iron. The Corporate Debtor is a Private Limited Company registered and incorporated under the Provisions of Companies Act, engaged in the business of spinning and manufacturing cotton, etc.,
3. The Corporate Debtor approached the Financial Creditor for availing financial assistance. Hence, as per the request of the Corporate Debtor the Financial Creditor sanctioned credit facilities of Rs.17,45,90,000/- to the Corporate Debtor. The Corporate Debtor had been availing the credit facilities and executed loan agreement in favour of Financial Creditor. The Corporate Debtor owes an amount of Rs.17,45,90,000/- and interest of Rs.2,75,25,159/-. The total amount due is Rs.20,21,15,159/- as on 31.03.2021.
4. The Financial Creditor requested the Corporate Debtor several times to pay the loan outstanding. But the Corporate Debtor neglected and failed to make the payment to the Financial Creditor.
5. The Corporate Debtor filed counter, admitting at paragraph 7 of the counter that the Financial Creditor entered into a loan agreement dated 01.04.2017 to a tune of Rs.18,00,00,000/- with the Corporate

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Debtor with simple interest payable at 12% per annum and repayable on or before 31.03.2021 without any notice. He further states that Corporate Debtor has paid some amounts as agreed and at present it is liable to pay an amount of Rs.17,45,90,000/-to the Financial Creditor. The said amount is the same as claimed by the Financial Creditor excluding interest.

6. The contention with regard to the inability to pay the said amount is stated to be due to the penalty that was imposed to a tune of Rs.8 Crores and odd which was imposed for failure to pay the excise duty. The Corporate Debtor has made a representation to the Central Excise Department to sell the goods and set off the amount against the existing dues. But unfortunately the goods stood damaged on account of heavy rainfall on 03.10.2019.
7. As the goods were insured, the Corporate Debtor made an application to the insurance company. The policy covers the risk up to the value of Rs.10 Crores. Valuation report was furnished by the Corporate Debtor. The valuation report on damages calculated as a total quantity of 5,936 MT of Sponge Iron. There was a pandemic in the form of Covid-19 in the meantime, due to which the activity of the Company came to a halt.
8. I heard both the counsel. The counsel for the Financial Creditor submits that since the debt is admitted, the defences taken by the Corporate Debtor cannot be appreciated. The counsel for the Corporate Debtor also does not raise any serious argument against the said contention. He only makes an attempt to submit that the inability to pay was due to the pandemic and due to the incidents mentioned in the counter. When debt is admitted, the reasons for the inability to pay, cannot help the Corporate Debtor however

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valid they are. It is for the Corporate Debtor to settle the matter with Financial Creditor. As it failed to do so, the Petition made to be allowed.

9. Hence I am of the considered view that it is a fit case to admit and order initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The Financial Creditor has suggested one name i.e., Mr.Maligi Madhusudhana Reddy (IBBI/IPA-001/IP-P00843/2017-2018/11427) as Insolvency Resolution Professional (IRP).

ORDER

The Company Petition is admitted. The Corporate Insolvency Resolution Process of the Corporate Debtor shall commence from this date and shall be completed within 180 days hence.

- i. Mr.Maligi Madhusudhana Reddy (IBBI/IPA-001/IP-P00843/2017-2018/11427), having office at MM Reddy and Co., 4th Floor, HSR Eden, Road No.2, Banjara Hills, Hyderabad, Telangana-500034; e-mail: **mmreddyandco@gmail.com**; Mobile: 9848271555 is appointed as the Interim Resolution Professional. No disciplinary proceeding is pending against him as per the IBBI website.
- ii. He is directed to take charge of the Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made thereunder.
- iii. Moratorium in respect of the Corporate Debtor is hereby declared in terms of Section 14 of the Code.
- iv. The Directors, Promoters or any other person(s) associated with the management of Corporate Debtor shall extend all assistance and

Maligi

cooperation to the IRP as stipulated under section 19 of the Code for effectively discharging his functions under the Code.

- v. The Registry shall communicate the order to the Financial Creditor and the Corporate Debtor forthwith.
- vi. The Financial Creditor and the Registry shall send the copy of this order to IRP for necessary compliance.

Swamy

**JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL**

Swamy Naidu