

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT NO. V**

CP No. 90/(IB)-MB-V/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

India SME Asset Reconstruction Company Limited

Swavalamban Bhavan, 3rd Floor, C-11, G-Block, Bandra Kurla Complex, Bandra (East), Mumbai – 400051

... Petitioner/Financial Creditor

V/s

Siddharth Natural Foods Resources Pvt. Ltd.

Plot No. 83, Kundaim Industrial Estate, Kundaim, Goa- 403115

... Respondent/Corporate Debtor

Order Reserved on: 15.12.2022

Order Pronounced on: 25.01.2023

Coram:

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

Appearances (via Video Conferencing):

For the Petitioner : Mr. Arjun Sathees i/b Indialaw LLP

For the Corporate Debtor : None.

Per: Anuradha Sanjay Bhatia, Member (Technical)

ORDER

1. This Company Petition is filed by India SME Asset Reconstruction Company Limited (hereinafter called "**Petitioner**") seeking to initiate Corporate Insolvency Resolution Process (**CIRP**), against Siddharth Natural Foods Resources Pvt. Ltd. (hereinafter called "**Corporate Debtor**") alleging that the Corporate Debtor committed default on 31.03.2017 to the extent of Rs. 3,06,75,02,132/- inclusive of interest, penal interest and compound interest. This Petition has been filed by invoking the provisions of Section 7 Insolvency and Bankruptcy Code, 2016 (hereinafter called "**IBC**") read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. In the requisite Form-1, under the head "Particulars of Financial Debt" the amount claimed to be in default is Rs. 3,06,75,02,132/- inclusive of interest, penal interest and compound interest. The details of the same are as follows:

Facility	Principal Amount	Interest, Penal Interest, compound Interest	Total Outstanding
OCC & ILC	278,037,475	517,682,987	795,720,462
Term Loan	320,101,974	631,655,538	951,757,512
OCC & ILC	443,960,078	876,064,081	1,320,024,159
Total	1,042,099,527	2,025,402,605	3,067,502,132

3. The listed documents annexed by the Petitioner on which the Petitioner relied are as follows:
 - a. A copy of Sanction Letter dated 14.05.2008
 - b. A Copy of Hypothecation Agreement dated 28.05.2008.

- c. A copy of Sanction Letter dated 09.09.2009.
 - d. A copy of Assignment Agreement dated 28.03.2014.
 - e. A copy of CIBIL Report
 - f. A copy of Acknowledgement of Debt and Security dated 08.02.2011 by the Corporate Debtor
 - g. A copy of Letter dated 04.11.2014.
 - h. Statement of Accounts as on 10.01.2020 along with the Certificate as per the Banker's Book of Evidence Act.
 - i. A copy of OTS Letter dated 16.03.2015.
 - j. A copy of Cancellation of OTS Letter dated 27.12.2017.
4. The Petition reveals that the Corporate Debtor had approached the Canara Bank in the year 2008 and requested to grant financial Facilities and the same were granted vide Sanction Letter dated 14.05.2008. Thereafter, Canara Bank enhanced the limit of the Open Cash Credit account and the Inland Irrecoverable Letter of Credit account to Rs. 12,00,00,000/- each vide Sanction letter dated 09.09.2009. Subsequently, Canara Bank assigned all the debts due from the Corporate Debtor to the Petitioner (India SME Asset Reconstruction Company Limited) vide Assignment Agreement dated 28.03.2014. The same was informed to the Corporate Debtor vide letter dated 04.11.2014.
5. Thereafter, the Corporate Debtor had approached the Petitioner with an OTS Proposal letter dated 26.12.2014 for the settlement of the dues with respect to the accounts of M/s. Siddharth World Trade Private Limited (a group entity) and the Corporate Debtor (Siddharth Natural Foods Resources Pvt. Ltd), wherein a joint repayment schedule for both accounts were proposed. The same was accepted by the Petitioner vide OTS Sanction Letter dated 16.03.2015. The Corporate Debtor alongwith sister concern (M/s. Siddharth World Trade Private Limited) were required to make a payment of Rs. 65,00,000/- on or before 31.03.2017. However, only Rs. 25,00,000/- was paid on 31.03.2017 by the Corporate Debtor, thereby committing the default under the OTS. Since no further payment

was forthcoming from the Corporate Debtor, the Petitioner cancelled the OTS vide letter dated 27.12.2017.

6. The Petitioner submits that the date of default under the OTS sanctioned, is 31.03.2017, when the Corporate Debtor failed to pay the first instalment as per the settlement terms. The account of the Corporate Debtor was classified as Non-Performing Asset (NPA) by Canara Bank on 17.09.2011. The present Petition was filed on 19.03.2020 and is therefore well within limitation having been filed within three years from 31.03.2017.
7. The Corporate Debtor failed to appear despite service of notice and personal notice dated 09.09.2021, 19.10.2022 and 25.02.2022 and when the matter was called out today, the Corporate Debtor failed to appear and hence was set ex parte.
8. On going through the submissions made by the Learned Counsel for the Petitioner and on perusing the documents produced on record, it is understood that the Corporate Debtor has defaulted in repayment of debt. Hence, owing to the inability of the Corporate Debtor to pay its dues, this petition u/s 7 of the Code deserves to be admitted. Moreover, the Corporate Debtor has neither appeared nor raised any defence.
9. Considering the above facts, we come to conclusion that the nature of Debt is a "Financial Debt" as defined under section 5 (8) of the Code. It has also been established that there is a "Default" as defined under section 3 (12) of the Code on the part of the Debtor. The two essential qualifications, i.e., existence of '**debt**' and '**default**', for admission of a petition under section 7 of the I&B Code, have been met in this case. Besides, the Company Petition is well within the period of limitation. The Petitioners have also suggested the name of proposed Interim Resolution Professional in Part-3 of the Petition along with his consent letter in Form-2.
10. As a consequence, keeping the aforesaid facts in mind, it is found that the Petitioner has not received the outstanding Debt from the Corporate

Debtor and that the formalities as prescribed under the Code have been completed by the Petitioner, we are of the considered view that this Petition deserves 'Admission' by passing the following:

ORDER

- a. The above Company Petition No. 90/IBC/MB/2021 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Siddharth Natural Foods Resources Pvt. Ltd.**
- b. The IRP proposed by the Financial Creditor, **Mr. Salil Kumar Basu**, having registration No. IBBI/IPA-001/IP-P00036/2016-2017/10097, having address at Flat No. A-2/13, Saidatta Residency, Baner Gaon, Baner Road, Pune, Maharashtra 411045, is hereby appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Petitioner shall deposit an amount of Rs. 5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by CoC.
- d. That this Bench hereby declare moratorium in terms of Section 14 of Insolvency and Bankruptcy Code, 2016 prohibiting 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

- e. That the order of moratorium shall have effect from the date of pronouncement 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 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- f. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- g. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the Corporate Debtor will vest in the IRP/RP. The board of directors of the Corporate Debtor shall stand suspended. The members of the suspended board of directors and the employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, C.P. No. 90/IBC/MB/2021 is **admitted**.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

Anuradha Sanjay Bhatia
Member (Technical)

Sd/-

Kuldip Kumar Kareer
Member (Judicial)