



NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH

COURT III

19. C.P.(IB)-740(MB)/2022

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)
SMT ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **12.10.2022**

NAME OF THE PARTIES: SAI YOUTHS AGRO PRODUCTS

V/S.

PRIVATE LIMITED

SECTION 10 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Mr. Sandeep Bajaj, counsel appearing for the Petitioner and Mr. Nikhil Rajani, counsel appearing for the Financial Creditor are present through virtual hearing.

Heard the arguments in the above Company Petition. The above Company Petition is **admitted**. Detail order would follow:

Sd/-
ANURADHA SANJAY BHATIA
Member (Technical)
//rks//

Sd/-
H. V. SUBBA RAO
Member (Judicial)



**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

C.P. No. 740/IBC/MB/2022

Under Section 10 of the Insolvency and
Bankruptcy Code, 2016 read with
Rule 7 of the Insolvency and
Bankruptcy (Application to
Adjudication Authority) Rule 2016)

In the matter of

**Sai Youths Agroproducts Private
Limited**

(CIN- U74999MH2015PTC262043)

Having registered office at: 12,
Aradhana Society, Near Chintamani
Nagari, Nagpur- 440027

Corporate Applicant

Order Dated : 12.10.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

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

For the Applicant: Mr. Sandeep Bajaj, Advocate

For the Creditor: Mr. Nikhil Rajani, Advocate

Per: Shri H.V. Subba Rao, Member (Judicial)

-
1. This Company petition is filed by *Sai Youths Agroproducts Private Limited* (hereinafter called "Corporate Applicant") seeking to initiate Corporate Insolvency Resolution Process. The said application is being preferred by the Corporate Applicant owing to financial stress faced by it, consequent to



which it is not in a position to repay the debts due to its creditors.

2. The present petition is filed before this Adjudicating Authority on the ground that the Corporate Applicant failed to make payment of a sum of Rs. 5,91,59,489/- (Rupees Five Crore Ninety-One Lakhs Fifty Nine Thousand Four Hundred Eighty Nine only).
3. The brief facts of the case are as follows:-
 - a. The Corporate Applicant was incorporated in 2015 and is primarily engaged in the business of ginning and pressing mill of cotton. Subsequent to its incorporation, the Corporate Applicant entered into term loan agreement dated 10.11.2015 with Nagpur Nagrik Sahakari Bank Ltd. (herein after referred to as Bank) for an amount of Rs. 1,78,00,000/-. The Corporate Applicant and Bank executed a Hypothecation agreement on the same day as term loan agreement.
 - b. Subsequent, Corporate Applicant availed loan against deposit dated 23.11.2015 of amount of Rs. 4,75,000/- (Rupees Four Lakh Seventy Five Lakhs Only).
 - c. Pursuant to cash credit facility in the year 2016 at the request of Corporate Applicant, the bank revised the overall banking limits by converting the existing working capital limit of Rs. 1,00,00,000/- (Rupees One Crore Only) to secured cash credit limit of Rs. 80,00,000/- (Rupees Eighty Lakhs Only) and issue of fresh term loan of Rs. 70,00,000/- which was secured against immovable property.
 - d. In the year 2017, a subsequent request was made by the Corporate Applicant to the Bank for the revision of the



existing cash credit facilities. The said request of the Corporate Applicant was duly accepted and the same was increased by Rs. 2,95,00,000/- (Rupees Two Crore Ninety-Five Lakhs Only). Due to high competition and introduction of high level of hybrid technology in the agro sector, the Corporate Applicant started suffering losses. Subsequent, due to the outbreak of Covid-19, the Corporate Applicant was unable to repay its loan amount and was unable to maintain regularity of cash credit account with bank, on such defaults, the bank issued notice dated 06.07.2021, to the Corporate Applicant, informing the default/irregularity of cash credit account and demanding the repayment of the loan amount.

- e. It is pertinent to mention here that the business operations of the Corporate Applicant has been shut down since January, 2022 and financial situation of Corporate Applicant clearly manifests the financial distress being suffered by the Applicant herein and its liability to pay the outstanding debts despite its bonafide intentions and efforts to pay off debts.
 - f. In the light of the above stated facts and circumstances, the Corporate Applicant being left with no other option is compelled to file the present application considering the weak financial health and incapacity of corporate applicant to liquidate the outstanding debt due to it. The present application is being filed after the due approval of its shareholders by way of special resolution dated 22.04.2022 for initiation of Corporate Insolvency Resolution Process under Section 10 of the Code.
4. On the first listing date i.e. on 22.06.2022, the Bench directed the Corporate Applicant to issue notice to the



creditors and the matter was posted on 08.08.2022. Further, the Corporate Applicant filed an I.A. 1760/2022 for bringing the letter of communication and other documents sent by the Omkara Asset Reconstruction Private Limited addressed to the Corporate Applicant intimating them about the assignment of debt of the Corporate Applicant to the above ARC by the original lender i.e. Nagpur Nagrik Sahakari Bank Ltd. vide Assignment Agreement dated 21.03.2022. This Bench allowed the said I.A. 1760/2022 and the said document was taken on record on 01.07.2022.

5. On 22.08.2022, Mr. Nikhil Rajani, counsel appearing for the Financial Creditor/Omkara ARC is present and requested time for filing reply and the matter was posted on 09.09.2022. Again on 09.09.2022, counsel appearing for the Financial Creditor sought permission to file reply. Since sufficient time has been given to the Financial Creditor, further extension of time for filing reply was rejected on 09.09.2022 and the matter was posted today i.e. 12.10.2022 for hearing.
6. Heard the counsel appearing for the Corporate Applicant and Mr. Nikhil Rajani, counsel appearing for the secured Financial Creditor, M/s Omkara ARC and perused the record.
7. The Corporate Applicant has enclosed a copy of Special Resolution passed by the shareholder of the company in their Extra-Ordinary General Meeting held on 22.04.2022 for initiating Corporate Insolvency Resolution Process u/s 10 of Insolvency & Bankruptcy Code. The Board of Directors of the Corporate Applicant in their meeting held on 22.04.2022 authorised Mr. Rajesh Lakhekar, Director



of the Company to file necessary application under the Code.

8. Owing to defaults by the Corporate Applicant in making payment under the facilities extended by the bank, demand notice was issued by the bank to the Corporate Applicant informing the default/irregularity in cash credit account and also repayment of loan amount. The bank issued a notice to corporate applicant classifying the debt as Non-Performing Asset (NPA) in accordance with the directive/guidelines relating to asset classification issued by Reserve Bank of India consequent to default committed by Corporate Applicant in repayment of principal and debt and interest. The Corporate Applicant enclosed the Notice dated 06.07.2021 intimating the default on part of corporate applicant issued by the bank. The corporate applicant also enclosed the statement of account for the above said loans.
9. The Corporate Applicant enclosed the Certificate of Registration for Modification dated 06.06.2017 for the above said loans is also enclosed with the petition.
10. Further, the Corporate Applicant has also enclosed the audited report for the years 2015-2016, 2016-17, 2017-18, 2018-19, 2019-20 and 2020-21. The Corporate Applicant also enclosed the financial statement for the period for the year ending 2021, list of financial creditors (secured/unsecured), list of properties given as security for the loans availed and extract of charges registered with the Registrar of Companies taken from MCA portal. The Corporate Applicant disclosed the names and addresses of the members of the Company with details of their shareholding, details of debt owed by or to the Corporate



Applicant to or by persons connected with it and details of personal guarantors of the Corporate Applicant.

11. After hearing the submissions and upon perusing the supporting documents annexed with the Petition, this Bench is of the view that the Corporate Applicant has committed default and the Petition contains the particulars as required u/s 10 of the Code. The Corporate Applicant also suggested the name of Mr. Prasad Dharap, Chartered Accountant as Interim Resolution Professional along with his consent letter in Form II. Thus, the present Company Petition satisfies all the necessary legal requirements for admission. Accordingly, the above Company Petition is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) -740/(MB)/2022 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Sai Youths Agroproducts Private Limited.
- b. This Bench hereby appoints **CA Prasad Dharap** (dharap65@rediffmail.com), Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00702/2017-18/11228 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Corporate Applicant shall deposit an amount of Rs.5 Lakh towards the initial CIRP cost 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 only for expenses till his fee is decided by COC.



- d. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate applicant 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 applicant 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 applicant 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 applicant.
- e. That the supply of essential goods or services to the Corporate applicant, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- f. 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.
- g. 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 applicant under section 33, as the case may be.



- 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 applicant will vest in the IRP/RP. The suspended directors and employees of the corporate applicant 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 Applicant.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to Corporate Applicant and IRP immediately.

Sd/-

**ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)**

Sd/-

**H.V. SUBBA RAO
MEMBER (JUDICIAL)**