



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II**

CP (IB) 3788/MB/2019

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

Bank of India

..... Applicant/ Financial Creditor

Versus

Spectra Industries Limited

..... Corporate Debtor

Order Delivered on :- 16.06.2023

Coram:

Shyam Babu Gautam

Kuldip Kumar Kareer

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Appearances:

For the Financial Creditor: Ms. Prajakta Menezes, Advocate

For the Respondent: Mr. Gauraj, Advocate

ORDER

Per:- Kuldip Kumar Kareer, Member Judicial

1. This is a Company Petition filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (“**IBC**”) seeking to initiate Corporate Insolvency Resolution Process (“**CIRP**”) against Spectra Industries Limited., (“**the Respondent**”) alleging default in payment of a Financial Debt.
2. The present petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of outstanding financial Debt of Rs. 29,51,82,142.25/- (Rupees Twenty-Nine Crores Fifty-One Lakhs Eighty-Two Thousand One Hundred Forty-Two and Twenty-Five Paise Only) as on 31.08.2019. The Principal amount is Rs. 24,73,31,118.90/- (Rupees Twenty-Four Crores Seventy-Three Lakhs Thirty-One Thousand One Hundred and Eighteen and Ninety Paise Only), uncharged interest till 31.08.2019 Rs. 4,25,41,602.19/- (Rupees Four Crores Twenty-Five Lakhs Forty-One Thousand Six Hundred Two and Nineteen Paise Only) and Penal Interest till 31.08.2019 Rs. 53,09,421.16/- (Rupees Fifty-Three Lakhs Nine Thousand Four Hundred Twenty-One and Sixteen Paise Only). The date of default is 02.02.2018 and the account was declared NPA on 31.05.2018.

The Submissions of the Financial Creditor are as follows: -

3. The Financial Creditor submits that a loan of Rs. 35,00,00,000 (Rupees Thirty Five Crores Only) was sanctioned to the Corporate Debtor vide sanction letter dated 01.08.2013. The said credit limit was

however, curtailed to Rs. 32,00,00,000 (Rupees Thirty-Two Crores Only) vide sanction letter dated 18.10.2016. Subsequently, vide sanction letter dated 10.04.2018 credit facilities of the Corporate Debtor were further curtailed to Rs. 25,00,00,000 (Rupees Twenty Five Crores Only).

4. The Financial Creditor have annexed the copy of Financial Statements of the Corporate Debtor for the Financial year ended 31.03.2018. The Financial Creditor has also annexed Certificate under the Bankers Book Evidence Certificate dated 21.08.2019.
5. The Corporate Debtor has acknowledged the amount of debt of Rs. 4,27,71,507/- (Rupees Four Crores Twenty Seven Lakhs Seventy One Thousand Five Hundred and One Only) by the directors and also by the guarantors of the Corporate Debtor vide letter dated 11.09.2017.
6. The Financial Creditor has also produced on record Demand Notice dated 24.07.2019 issued under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 by the Financial Creditor to the Corporate Debtor.
7. Hence, the petitioner submits that the petition is complete in all respects and the default has been corroborated by enough substantial evidences, therefore, the petition ought to be admitted and the Corporate Debtor's Corporate Insolvency Resolution process be initiated.

Submissions from the Corporate Debtor:-

8. The Corporate Debtor has not filed its reply. The Corporate Debtor has filed compilation of documents. The Corporate Debtor has brought on record correspondences exchanged between the parties pertaining to the OTS. The Corporate Debtor has provided letters dated 07.01.2019, 06.02.2019 wherein the Corporate Debtor was requesting the Financial Creditor to consider their OTS proposal. The Corporate Debtor has also annexed the Orders passed by the Hon'ble High Court of Bombay dated 04.01.2023 wherein the Hon'ble Bombay High Court stated that it for this Tribunal to consider the proper course of action and also refrained from passing any interim orders with respect to the proceedings pending before this Tribunal.

FINDINGS

9. We have heard the submissions of the Counsel appearing for the Financial Creditor and the Respondent.
10. It is observed from the financial records maintained by the Financial Creditor that a Financial Debt exists which is due and payable and the same is corroborated by the Financial Statements annexed to the petition.

11. Further, the correspondences pertaining to the OTS proposal exchanged between the parties clearly demonstrates that the Corporate Debtor has defaulted in payment of its dues.
12. The Financial Creditor has successfully demonstrated and proved the debt and default in this case and has also proved that there is absolutely no reason for the Corporate Debtor to hold on to the payment. Hence this Bench is left with no option except to admit the above Company Petition, since the above Company Petition in hand satisfies all necessary legal ingredients for admission under Section 7 of the Code.
13. The Financial Creditor has proposed the name of Mr Kamal Kishor Gurnani, Registration No. IBBI/IPA-001/IP-P01463/2018-2019/12338, as the Interim Resolution Professional.
14. For the foregoing reasons, the above Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

ORDER

- a. **The above Company Petition No. (IB) - 3788(MB)/2019 is hereby admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Spectra Industries Limited.
- b. This Bench hereby appoints **Mr. Kamal Kishor Gurnani, Registration No. IBBI/IPA-001/IP-P01463/2018-2019/12338**, having Address at :- Flat No. 1301, Building No. 23, E Palazzio CHS Limited Mhada



Housing Society, Powai, Mumbai Maharashtra - 400076,
email :- kamalgurnaniip@gmail.com, to carry out the
functions as mentioned under the Insolvency &
Bankruptcy Code, 2016.

c. The Financial Creditor shall deposit an amount
of Rs. 3 Lakhs 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.

d. That this Bench hereby prohibits 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 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 supply of essential goods or services to
the Corporate Debtor, 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 debtor 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 Debtor will vest in the IRP/RP. The suspended directors and 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 concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

**SHYAM BABU GAUTAM
(MEMBER TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER
(MEMBER JUDICIAL)**