S.No. 11

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON **26-09-2022** AT 10:30 A.M. THROUGH VIDEO CONFERENCE.

CP (IB) No. 325/7/HDB/2021
U/s 7 of IBC, 2016

IN THE MATTER OF:

Andhra Pradesh State Financial Corporation **…Financial Creditor**

Vs

Shree Rangham Ispat (P) Ltd **…Corporate Debtor**

C O R A M:-
DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. VEERA BRAHMA RAO AREKAPUDI, HON'BLE MEMBER (TECHNICAL)

O R D E R

Orders pronounced and recorded vide separate sheets. In the result, the Company Petition is admitted and CIRP is ordered against the Corporate Debtor as per the terms mentioned in the order.

Sd/-　　　　　　　　　　Sd/-

MEMBER (T)　　　　　　　　　　**MEMBER (J)**

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

CP (IB) NO.325/7/HDB/2021
Under section 7 of the IB code, 2016
Under rule 4 of the Insolvency and Bankruptcy
(Application Adjudicating Authority) Rules, 2016

In the matter of

M/s. Shree Rangham Ispat Pvt Ltd

Between:

Andhra Pradesh State Financial Corporation
Rep by senior Branch Manager
Vijayavadana Towers,
Opp: Maruti Show Room, Mettugudda,
Mahabubnagar- Telangana -509001.

....Petitioner/
Financial Creditor

And

M/s. Shree Rangham Ispat Pvt Ltd
Rep. by it's Managing Director
Sri Venkat Kumar Sihotia,
Sy. No. 512/A, 512/AA, Udithyal (V),
Balanagar (M), Mhaboobnagar District

....Respondent/
Corporate Debtor

Date of Order: 26.09.2022

Coram:
DR.VENKATA RAMAKRISHNA BADARINATH NANDULA, Member Judicial
Mr. VEERA BRAHMA RAO AREKAPUDI, Member Technical

Parties/Counsels Present:

For the Financial Creditor: Mr. R. Rajendra Prasad, Counsel

For the Corporate Debtor: None [*Ex-parte]*

[Per: Bench]

ORDER

1. Under consideration is a Company Application filed by Andhra Pradesh State Financial Corporation Company Limited (in Short "Petitioner /Financial Creditor") under section 7 of the Insolvency and Bankruptcy Code, 2016 (in Short IB Code, 2016) read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiation of Corporate Insolvency Resolution Process (CIRP) against M/s. Shree Rangham Ispat Pvt Ltd (in Short, "Respondent /Corporate Debtor").
2. Brief facts of the case as submitted by the Financial Creditors are as follows:
   a) The Corporate Debtor had availed Term Loan facility for their business. The Corporate Debtor offered primary and collateral security and availed said loans.
   b) The summary of total debt sanctioned and disbursed by by the Financial Creditor is tabulated as under:-

Sl No.	Nature of Facility	Amount Sanctioned	Date of Sanction	Amount Disbursed	Total Outstanding as on 31.10.2021
1	Term Loan	11,00,00,000	25.09.2009	11,00,00,000	19,11,38,613

   c) That the Corporate Debtor had defaulted in servicing of the principal and interest for loan facility in relation to the said loan account. Owing to such Irregularities the account of the Corporate debtor has been classified as non –Performing assets (NPA) since 29-06-2015 in accordance with the applicable guidelines and regulations and subsequently the Corporate Debtor has been admitting the liability by confirming the same in its balance sheet for the year 2018 and in various correspondence with the Financial creditor and the last such correspondence is dated 18-112021. Accordingly the Financial Creditor vide its notice dated 27.07.2018 demanded a payment of outstanding Rs.1230.95 lakhs and on account of failure in making such payment by Corporate Debtor, the Financial Creditor has recalled the total loan facility availed by Corporate Debtor and entire exposure is due and payable by the Corporate Debtor. The total amount in default and computation of amounts under default are set out in detailed manner in annexure to this Application.

d) The Financial Creditor submits that the total outstanding as on 30.06.2018 in respect of above amount is Rs. 1230.95 lakhs.

Reiterating above, learned counsel for the Financial Creditor prayed to admit the instant Application for CIRP.

3. It is seen from the record that during the hearing held on 18.02.2022, Financial Creditor was directed to serve fresh notice to the Corporate Debtor as the notice ordered earlier was not served. During the hearing held on 16.03.2022, counsel for the Financial Creditor filed proof of service, wherein it was recorded 'returned unserved with an endorsement left'. Thus, Financial Creditor was ordered to issue notice to Corporate Debtor by way of paper publication and the matter was adjourned to 18.04.2022. During the hearing held on 18.04.2022 it was recorded as under:-

"Financial Creditor in terms of the direction of the Tribunal, notice by way of publication to the Corporate Debtor has been affected on 23.03.2022 and publication filed. Corporate Debtor called absent. Service held sufficient. Corporate Debtor has been set ex-parte."

Accordingly, Corporate Debtor was set ex-parte on 18.04.2022 and the matter was adjourned for hearing to 13.05.2022.

4. Since the Respondent has neither filed its Counter nor availed the opportunity of being heard in the manner provided in accordance with principles of natural justice, we have no other option but to dispose of the instant application without the Respondent's assistance.

5. Heard. Perused the record.
6. It is the case of the Financial Creditor that it has facilitated term loan facility to the Corporate Debtor to the tune of Rs. 11,00,00,000/-. However, the Corporate Debtor has defaulted in repayment of the same. That as on 31.10.2021, an amount of Rs. 19,11,38,613/- is due and liable to be paid by the Corporate Debtor to the Financial Creditor. The Financial Creditor, has placed on record various documents such as Sanction letter, copy of deed of hypothecation copy of register Memorandum of deposit of tile deeds in respect of free hold interest executed by the Corporate Debtor, various email communications addressed to the Financial Creditor, copy of notice issued to the Corporate Debtor, statement account and copy of auditors report of the Corporate Debtor dated 25.05.2018.
7. After hearing the Financial Creditor and perusing record, it is observed that the Corporate Debtor has declared in its Audited Financial Statements for the year ended 31.03.2018, the long term borrowings from the Financial Creditor/Applicant herein. Further in Notes to Accounts for the Audited Balance Sheet for the year ended 31.3.2018, an amount of Rs. 11,52,57,418/- is reflected as term loan from APSFC.
8. A conjoint reading of the details of Long Term Borrowings as reflected in the Balance Sheet and the Note to Accounts clearly indicates that there was a 'financial debt' owed by the Corporate Debtor to the Financial Creditor and there was a "default" on the part of the Corporate Debtor as claimed by the Financial Creditor. We, therefore, are of the view that in the instant case there is a financial debt and there has been a default in repayment of the same and that this Adjudicating Authority is satisfied that the Financial Creditor has proved its case by placing evidence that default has occurred for which the Corporate Debtor was liable to pay. Further, it is pertinent herein to note that the Hon'ble Supreme Court, while deciding the matter in the case of INNOVENTIVE INDUSTRIES LTD. Vs. ICICI BANK & ANR., in Civil Appeal Nos. 8337-8338 of 2017, held as under:

> "..............*The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is*

incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under subsection (7), the adjudicating authority shall then communicate the order passed to the Financial Creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be."

9. The Financial Creditor has fulfilled all the stipulations as required under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. Further, the amount in default is higher than the minimum threshold limit as prescribed under Section 4 of the IB Code, 2016. In these circumstances, having satisfied with the submissions made by the Petitioner/Financial Creditor, this Adjudicating Authority is inclined to admit the instant Application.
10. Accordingly, the instant application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process (CIRP) which shall ordinarily be completed within the timelines stipulated in the IB Code, 2016 (as amended), reckoning from the day of this order is passed.
11. The Financial Creditor proposed the name of Mr. Kalvakolanu Murali Krishna Prasad, as the Interim Resolution Professional and he has given his written consent in Form 2. Accordingly, this Adjudicating Authority hereby appoints Mr. Kalvakolanu Murali Krishna Prasad, having Registration No. IBBI/IPA-001/IPA-P00967/2017-18/11588 e-mail id: kmk123ip@gmail.com as Interim Resolution Professional. He is directed to file valid Authorization for Assignment within three days from the date of this order.
12. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IB Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

13. We direct the Financial Creditor/Petitioner to pay a sum of Rs.2,00,000/- towards an advance fee of IRP and expenses towards CIRP, which shall be ratified and reimbursed later on by CoC.

14. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP for the purposes referred to in section 14 of the IB Code, 2016. It is hereby ordered to prohibit all of the following namely:-

    i. *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 or law, tribunal arbitration panel or other authority;*
    ii. *Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal rights or beneficial interest therein;*
    iii. *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 (54 of 2002);*
    iv. *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*
    v. *Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*

15. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period.

Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.

16. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.
17. The Petitioner/Financial Creditor as well as the Registry is directed to send a copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
18. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
19. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
20. Accordingly, this Petition is admitted.

Sd/-

Veera Brahma Rao Arekapudi
Member Technical

Sd/-

Dr.Venkata Ramakrishna Badarinath Nandula
Member Judicial

SKRATHI