IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
DIVISION BENCH
COURT - 1

ITEM No.64

TP 48 of 2019 [CP(IB) 305 of 2019]

Order under Section 7 IBC

IN THE MATTER OF:

Dena Bank ....**Applicant**
V/s
Hind Syntex Ltd ....**Respondent**

Order delivered on ..04/03/2022

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Ajai Das Mehrotra, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.

AJAI DAS MEHROTRA
MEMBER (TECHNICAL)

MADAN B GOSAVI
MEMBER (JUDICIAL)

Sweta

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH at AHMEDABAD

CP (IB) No.305/7/NCLT/AHM/2019

[An application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016]

In the matter of:

Dena Bank
Registered Office at:
Dena Corporate Centre,
C-10, G-Block, Bankra Kurla Complex,
Bandra (East),
Mumbai – 400051.
Now,
Bank of Baroda,
Head Office at Baroda Bhawan,
R C Dutt Road,
Alkapuri,
Baroda – 390007.

Corporate Office at:
Baroda Corporate Center,
Plot No. C-26, Block G,
Bandra Kurla Complex,
Bandra (East),
Mumbai – 400051.

Corporate Business Branch office at
Awani Heights,
1st Floor, 59-A, Chowringhee Road,
Kolkata - 700020.

... Applicant/Financial Creditor

Versus

Ah

M/s. Hind Sintex Limited,
(CIN: L17118MP1980PLC001697)
Registered office at;
Plot No. 2,3,4 and 5, Sector-A,
Industrial Growth Center, Pillukhedi,
District- Rajgarh, Madhya Pradesh
Pin- 465667

... Respondent/Corporate Debtor

Date of Hearing: 25th February 2022
Date of Pronouncement: 04.03.2022

Coram: Madan B. Gosavi, Member (Judicial)
Ajai Das Mehrotra, Member (Technical)

Appearance:

For the Applicant : Ld. Adv. Mr. Vishal J Dave
For the Respondent : None

ORDER

[Per: Bench]

1. The instant application is filed by Dena Bank – now Bank of Baroda on 15.04.2019 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as **"Code"**) against the Corporate Debtor-M/s. Hind Syntex Ltd. for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as **"CIRP"**) for the outstanding amount of Rs. 81,78,54,736.50 as on 31.01.2019.

2. The Financial Creditor has submitted that loan of Rs. 27,05,00,000/- was sanctioned on account of cash credit hypothecation and Rs. 55,25,00,000/ on account of packing credit on 26.09.2016 to the borrower Wearit Global Ltd. (hereinafter referred to as **"WGL"**) and the Corporate Debtor gave a corporate guarantee of aforesaid loan amount along with other guarantors to secure the aforesaid loan amount.

3. It is submitted by the Financial Creditor that the said loan amount was to be paid within one year from the date of disbursal of the loan amount. However, the Corporate Debtor has failed to pay the said amount as on the agreed date. Thereafter, the Bank issued a loan recall notice on 06.08.2018 to the Corporate Debtor and other Corporate Guarantor, including present respondent. The Corporate Debtor and the Corpoate Guarantors replied to the loan recall notice and requested the Financial Creditor to consider its proposal of restructuring of the loan account and assured that on the restructuring of the loan account by the Financial Creditor as well as other creditors of consortium the account shall be upgraded to standard by next year.

4. It is further submitted by the Financial Creditor that a legal notice dated 11.02.2019 was issued by the Bank for the repayment of Rs. 89,68,25,531.60 but the Corporate Debtor and the corporate Guarantors neither repaid the said outstanding amount nor replied to the said legal notice.

5. It is stated by the Financial Creditor that the instant petition was dismissed by this Adjudicating Authority on 06.01.2020 for want of prosecution but the same was restored vide order dated 29.10.2021 of this Authority. The Financial Creditor further stated that this application was filed by Dena Bank but due to merger of Dena Bank with Bank of Baroda vide notification dated 02.01.2019 of Department of Finance Services, Ministry of Finance (Government of India), the name of the Corporate Debtor was allowed to be amended as Bank of Baroda as a Financial Creditor in place of Dena Bank vide order dated 22.08.2019 of this Authority. Hence, presently, Bank of Baroda is the Financial Creditor.

6. We heard the Learned Counsel for the Financial Creditor and perused the material on record. It is noted that a loan amount of Rs. 27,05,00,000/ on account of cash credit hypothecation

and Rs. 55,25,00,000/- was sanctioned on 26.09.2016 to the WGL and the M/s Hind Sintex Limited had given a guarantee for securing the aforesaid loan amount, thereby the Hind Sintex Limited is a Corporate Debtor in terms of section 2(8) of the IB Code read with section 2 (8) and section 5 (8) (i) of the Code. The Corporate Debtor failed to pay the outstanding amount as per the terms and conditions of the sanction letter dated 26.09.2016. Thereafter, the Financial Creditor issued a recall notice, as well as legal notice for the repayment of the outstanding amount but the Corporate Debtor failed to pay the outstanding loan amount.

7. It is also noted that the respondent, Corporate Debtor chose not to appear and contest this application even after sufficient opportunities were given whereby this Adjudicating Authority, vide order dated 26.11.2021, passed an order to proceed *ex-parte* against the respondent Corporate Debtor.

8. It is established from the record that there is default of amount of Rs. 89,75,40,237.91/-, along with the interest thereon, and the respondent Corporate Debtor has failed to pay the amount even after number of reminders and notice. Moreover, the

Corporate debtor had itself admitted the debt of the Financial Creditor vide letter dated 25.08.2018. This application is otherwise complete and defect-free. The amount of default meets the threshold limit as prescribed under Section 4 of the Code and is within the limitation to initiate the CIRP against the Corporate Debtor. Hence, we pass the following orders:

ORDER

I. The Corporate Debtor M/s. Hind Syntex Ltd. is admitted in the Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.

II. We appoint **Mr. Samir Kumar Bhattacharyya, having Registration No. IBBI/IPA-002/IP-N00273/2017-2018/10831, e-mail id: skv.resolution@gmail.com** , and having an address at C/0- LSI Resolution Pvt. Ltd., Sagar Trade Club, 104, SP Mukherjee Road, Kolkata-700026 under section 13(1) (c) of the IB Code as IRP as proposed by the Financial Creditor.

III. The Moratorium under Section 14 of the Code shall come to effect from the date of this order till the completion of 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.

IV. The Adjudicating Authority hereby prohibits the institution of suits or continuation of pending suit or proceedings against the Corporate Debtor including the execution of any judgment, decree or order in any Court of law and further prohibits Tribunals, Arbitration Panels or other Authority(s), transferring, encumbering, alienating or disposing of any of Corporate Debtor 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 SARFAESI 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.

V. Further, litigation or application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to the pronouncement of this order such proceedings are expected to be dealt with in accordance with law i.e., Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.

VI. The supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended, or interrupted during the Moratorium, period. The Corporate Debtor to provide effective assistance to the IRP as and when he takes charge of assets and management of the Corporate Debtor.

VII. The IRP so appointed shall make a Public announcement of the Corporate Insolvency Resolution Process (CIRP) immediately as specified under Section 13 of the Code and by calling for submissions of the claim under Section 15 of the Code.

VIII. The IRP shall perform all his functions as contemplated, *inter-alia,* by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with the Corporate Debtor, its Promoter, or any other person associated with the management of the Corporate Debtor are under legal obligation as per Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution

Professional. Where any personnel of the Corporate Debtor, its Promoter, or any other person required to assist or co-operate with the IRP, do not assist or co-operate, the IRP is at liberty to make the appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

IX. The IRP shall be under a duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of an obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.

X. We direct the Financial Creditor / Applicant to pay the IRP a sum of **Rs. 1,00,000/- (Rs. One lakh)** as fees & expenses till the COC decides about his fees/expenses.

XI. The Registry is directed to communicate this order to the Financial Creditor, Corporate Debtor, and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on the website immediately after pronouncement of the order.

XII. The commencement of the Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.

9. Accordingly, CP (IB) No. 305 of 2019 is allowed.

(AJAI DAS MEHROTRA)
MEMBER (TECHNICAL)

(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Ramashish