Sl. No.1

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
SPECIAL BENCH

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON **11-11-2022** AT **11:00 AM** THROUGH VIDEO CONFERENCE

CP (IB) No. 149/7/HDB/2022
U/s 7 of IBC, 2016

IN THE MATTER OF:

SREI Equipment Finance Ltd **…Financial Creditor**

Vs

Mantovani Di Dharti Pvt Ltd **…Corporate Debtor**

C O R A M:-
DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. AJAI DAS MEHROTRA, HON'BLE MEMBER (TECHNICAL)

O R D E R

CP (IB) No.149/7/HDB/2022 is allowed vide separate order. The Corporate Debtor is put under CIRP as per the conditions mentioned therein.

Sd/- Sd/-

MEMBER (T) **MEMBER (J)**

Karim

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH-1

CP (IB) No. 149/7/HDB/2022

U/S 7 of IBC, 2016, r/w Rule 4 of I & B(AAA) Rules, 2016

Between

M/s SREI Equipment Finance Limited,
Vishwakarma, 86C, Topsia Road,
Kolkata,West Bengal,
700046 …Operational Creditor

Versus

Mantovani Di Dharti Pvt.Ltd,
H.No. 6-3-1113/2, 2nd Floor,
D bil Bhavan, B S Maktha,
Begumpet, Hyderabad,
Telangana, 500016. …Corporate Debtor

Date of order:11.11.2022

Coram:

Shri Dr. N.Venkata Ramakrishna Badarinath, Hon'ble Member (Judicial)
Shri Ajai Das Mehrotra, Hon'ble Member (Technical)

Appearance:

For Applicant: Shri Srikanth Hariharan along with Ms. Sindhura Advocates
For Respondent: Shri Rajeshekar Rao Selvaji. Advocate

PER: BENCH

ORDER

1. This application is filed under Section 7 of Insolvency and Bankruptcy Code (hereinafter to be referred as "Code"), read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking admission of the application for initiation of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon, contending that the Respondent defaulted in the payment of alleged debt of Rs. 75,76,80,680(Rupees Seventy Five crores seventy six lakhs eighty thousand six hundred and eighty rupees only)
2. The averments in brief of the Application are that;

(i) The Applicant, herein after referred to as the "Financial Creditor", is a Public Limited Company registered under Company Act 2013 and having registered office in Kolkata and is a registered Non-Banking Financial Company.

(ii). The Respondent, herein after referred to as "Corporate Debtor", is a Private Limited Company incorporated under the Companies Act, 2013 is engaged in business of construction of project.

(iii). The Financial Creditor has extended credit facilities to Corporate Debtor to the tune of Rs. 58,00,00,000(Rupees Fifty Eight Crores only) by virtue of Master Facility Agreement dated 02-04-2019.The said amount was disbursed to the Corporate Debtor for the purposes of its business.

(iv). The Corporate Debtor in order to secure the credit facility extended by the Financial Creditor has hypothecated it's moveable assets by a Deed of Hypothecation Dated: 02.04.2019 and also submitted a deed of personal guarantee dated 02.04.2019 by one Mr. Akumalla Rajendra.

(v). The Corporate Debtor after receipt of credit facility, failed to make repayments as per Master Facility Agreement. Further submitted that the Financial Creditor issued a demand notice Dated: 11.11.2021 to Corporate Debtor for a default amount of Rs. 75,50,91,911/- which was due on 27.10.2021.

(vi). The Corporate Debtor failed to make repayment said of the amount, Hence prayed this Tribunal to initiate CIRP against the Corporate Debtor.

3. During the course of hearing this matter, the Ld. Counsel for the Corporate Debtor submitted that the holding company is already in CIRP and there is no chance of money coming in for repayment and submitted that the application may be adjudicated on merits without the counter. Ld. Counsel fairly admitted that the default is above 1 crore and the present application is filed within limitation. Further submitted that no action was taken by any enforcement agency till date on Corporate Debtor.

4. We have heard the Learned Counsel for the Financial Creditor Shri Sindhura and Learned Counsel for the Corporate Debtor, Shri Rajeshekar Rao Selvaji perused the records and case laws.
5. We raised a preliminary objection regarding the locus standi of the present applicant, as SREI Equipment Finance Limited is under CIRP vide an order dated 08.10.2021 in C.P(IB) No.294/2019 by NCLT Kolkata Bench. The counsel for applicant submitted that an administrator was appointed to administer the CIRP under the code. As per rule 5(i)(a) of Insolvency and Liquidation proceedings of financial service providers and Application to Adjudicating Authority Rules, 2019, Mr. Rajneesh Sharma was appointed as administrator and the said administrator has executed a power of attorney for initiation of legal proceedings on behalf of the SREI Equipment Finance Limited. Hence, the applicant is allowed to file this application under Section 7 of the Code.
6. The Financial Creditor with regard to the financial debt has placed on the record the Master Facility Agreement dated 02.04.2019 and the Counsel for Corporate Debtor has acknowledged the Debt and submitted to pass appropriate orders on merits.
7. Instant application is otherwise complete as per provisions of 7(5)(a) of IBC and meets the threshold limit prescribed under 4 of the IB Code.

8. The default date is 19.11.2021 and application is filed on 29.04.2022. Hence, the application is within limitation and not barred by law.
9. Therefore, for above reasons, this Adjudicating Authority admits this application under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions: -

    (A) Corporate Debtor, *Mantovani Di Dharti Pvt.Ltd* is admitted in Corporate Insolvency Resolution Process under section 7 of the Insolvency & Bankruptcy Code, 2016,
    (B) The 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 or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

(C) 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.

(D) 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.

(E) 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.

(F) That the order of moratorium shall have effect from the date 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, whichever is earlier.

(G) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.

(H) Accordingly, this Tribunal appoints Shri Krishna Komaravolu having registration No. IBBI/IPA-02/IP-IP-N00562/2017-2018/11699, H.No.7-1-214,Flat no. 409, Vamsikrishna Apartment, Dharam Karam Road, Ameerpet, Hyderabad,500016 as IRP. The aforesaid IRP has no disciplinary proceedings pending against him. Proposed IRP filed Form-B issued by the Institute of Insolvency Professional. This information is also available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with and further registry is directed to inform the order of admission of CIRP against the corporate to concern parties.

(I) The applicant is directed to pay a sum of Rs.1,00,000/- (Rupees one lakh only) to the Interim Resolution Professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of IBBI (Insolvency Resolution Process for Corporate Person) Regulations, 2016. This shall, however, be subject to adjustment by the Committee of Creditors as accounted for by Interim

Resolution Professional and shall be paid back to the applicant.

10. Accordingly, this application is admitted.

Sd/-	Sd/-
(Ajai Das Mehrotra)	**(Dr.N.Venkata Ramakrishna Badarinath)**
Member (Technical)	**Member (Judicial)**

Yasaswi (LRA)