

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP 977 (IB)/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

United Bank of India

...Financial Creditor

v/s

**M/S Gadhinglaj Agro Alcochem
Limited**

...Corporate Debtor

Order Dated 09.08.2019

Coram: Hon'ble Member (Judicial): Mr. V.P. Singh

Hon'ble Member (Technical): Mr. Rajesh Sharma

For the Petitioner: Adv. Arti Singh, Adv. Arti Deep Singh Reda

For the Respondent: Adv. Sarita Zorapkar, Adv. Bhavik Salia

Per: V.P. Singh, Member (Judicial)

ORDER

1. This is an application being CP 977 (IB)/MB/2019 filed by **United Bank of India**, Financial Creditor or Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **M/S Gadhinglaj Agro Alcochem Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**). The Petition is filed on 08.03.2019.
2. This application is filed by Mr. Prabhata Kumar Satapathy, Assistant General Manager of the applicant Bank, who is duly authorised to do the same vide authorisation dated 03.01.2019.
3. The Applicant had extended a Term Loan I to the Corporate Debtor of ₹24,80,00,000/- vide its sanction letter dated 25.09.2012. The Applicant further enhanced a Term Loan II of ₹13,00,00,000/- vide sanction letter dated 05.01.2016 and fund based working capital limit of ₹13,00,00,000/- in form of Cash Credit vide letter dated 05.01.2016. The enhanced loan was in continuation of existing Term Loan I of ₹24,80,00,000/-.

4. The Applicant submits that the total outstanding amount in default is ₹58,77,75,378/- as on 31.01.2019 plus further interest at the rate of 12.95% at monthly rests. The date of default is mentioned as 31.03.2018 which is also the date on which account of the Corporate Debtor was declared Non-Performing Asset(NPA). The Applicant sent notice dated 05.04.2018 under Section 13(2) of SARFAESI Act, 2002 recalling outstanding amount of ₹58,77,75,378/- including interest at the rate of 12.95% at monthly rests to show that default has occurred. The Applicant sent various request letters to the Corporate Debtor again on 23.04.2018, 01.05.2018, 08.05.2018 and 14.05.2018. The Applicant issued possession notices on 05.07.2018 and 10.07.2018 under Section 13(4) of SARFAESI Act, 2002 to the Corporate Debtor for taking possession of the secured assets of the Corporate Debtor, Corporate Guarantor and other Guarantors.
5. The Applicant has filed extracts of Commercial Credit Information Report (CIBIL) dated 26.02.2019 reflecting the classification of the Corporate Debtor's account as sub-standard. The Applicant has also submitted the copy of the bank statement along with the certificate under the Banker's Book of Evidence Act, 1891 certifying that the account statement is as per Ledger entries of the Bank Account of Corporate Debtor.
6. The Corporate Debtor was directed to file a reply, however, to date, no reply has been filed.
7. On perusal of the documents submitted by the financial creditor, it is clear that debt amounting to ₹58,77,75,378/- as on 31.01.2019 plus further interest at the rate of 12.95% at monthly rests is due and payable by the Corporate Debtor to the Applicant. The outstanding debt is acknowledged by the Corporate Debtor on affidavit vide its letter dated 28.03.2018 and 15.05.2018. The outstanding amount that is admittedly in default is more than ₹1,00,000/-.
8. The application filed by the financial creditor is on proper Form 1, as prescribed under the Adjudicating Authority Rules and application is complete.
9. The Applicant has proposed the name of Mr Gulshan Kumar Gupta, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-001/IP-P00021/2016-17/10046] as **Interim Resolution Professional**, to carry out the functions as mentioned

under I&B Code. In Form 2 annexed to the Application, the proposed IRP has declared that no disciplinary proceedings are pending against him.

10. The Application under sub-section(2) of Section 7 of I&B Code, 2016 filed by the financial creditor for initiation of CIRP in prescribed Form No. 1, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 is complete. The existing financial debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the petition filed under Section 7 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This petition filed under Section 7 of I&B Code, 2016, filed by **United Bank of India**, against **M/S Gadhinglaj Agro Alcochem Limited**, for initiating corporate insolvency resolution process is at this moment **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
 - a) 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;
 - b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any activity under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 - d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

- II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
 - III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
 - IV. 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 of I&B Code or passes an order for the liquidation of the corporate debtor under Section 33 of I&B Code, as the case may be.
 - V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.
 - VI. That this Bench at this moment appoints Mr. Gulshan Kumar Gupta, a registered insolvency professional having Registration Number [IBBI/IPA-001/IP-P00021/2016-17/10046] as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
11. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V. P. SINGH
Member (Judicial)

9th August 2019