

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

CP (I&B) 1921/NCLT/MB/MAH/2018

(Under Section 7 of the IBC, 2016)

In the matter of

Corporation Bank

... Financial creditor

v/s

Eurobond Industries Private Limited

...Corporate Debtor

Coram: Hon'ble Shri V.P. Singh, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

For the Petitioner: Adv. Prakash Shinde a/w Adv. M. Swat ii/b MDP &
Partners

For the Respondent: Adv. Jaideep Singh Khattar a/w Adv. Shreya Vajpei
i/b Khaitan & Co.

Per V.P. Singh, Member (Judicial)

ORDER

1. It is a Petition filed u/s 7 of Insolvency & Bankruptcy Code, 2016 (IBC) by Corporation Bank, Financial Creditor against Eurobond Industries Private Limited, having its registered office at M/s Gala & Shethia Enterprises, Plot No. 5, St. 11, Marol Industrial Area, MIDC, Andheri (East), Mumbai – 400 093, Corporate Debtor to initiate Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor on the ground that as on 30.04.2018, the Corporate Debtor has defaulted in making a total repayment stated as Rs. 55,06,43,658.09/- (including interest) to the Financial Creditor.
2. The brief facts revolve around, in this case, is that the Corporate debtor has availed the loan facilities from the Financial Creditor. The lender i.e. Corporation Bank has disbursed principal amount of Rs. 32,86,75,653.28 to the Corporate Debtor *vide* various sanction letters dated 05.01.2010, 20.12.2010, 13.08.2011, the sanction letter dated 13.06.2013 restructuring

the credit facilities and the renewal sanction letter dated 23.12.2014. The account of the Corporate Debtor has turned into Non-Performing Assets (NPA) on 30th August 2015.

3. The working computation of the debt in default as given by the Petitioner is reproduced below:

Account No.	Book balance	Uncharge interest	Penal interest	Total
CC/01/110005	4,024,685.00	1919976	289,807.70	6,234,468.70
CC/01/110006	40522892	20548757	3,101,699.17	64,173,348.63
TLS/01/110005	168400000	112199807.7	14,113,183.36	294,712,991.05
TLS/01/110014	23234540	15558653.21	1,897,396.73	40,690,589.76
WCTL/01/130001	25400000	18982517.24	2,120,951.65	46,503,468.89
FITL/01/130003	67093446	26135696.9	5,099,648.17	98,328,791.07
Total	328,675,563.28	195,345,408.03	26,622,686.78	550,643,658.09

4. The Financial Creditor has annexed a notice dated 21.4.2016 u/s 13(2) of the SARFAESI Act, 2002 which was issued by UCO Bank in its capacity as leader and on behalf of the consortium of banks comprising UCO Bank, Corporation Bank and Jammu and Kashmir Bank Ltd., to the Corporate Debtor demanding the payment of outstanding amounts as then.

5. The Financial Creditor has annexed acknowledgment of debt/liability by the Corporate Debtor, details of which are as follows:

Date of acknowledgment	Account Number	balance outstanding as on	Outstanding Amount
15.9.2015	CC/01/110006	30.6.2015	Rs. 4,08,82,955.46/-
15.9.2015	CC/01/110005	30.6.2015	Rs. 40,44,236/-
15.9.2015	TLS/01/110005	30.6.2015	Rs. 17,49,10,648/-
15.9.2015	TLS/01/110014	30.6.2015	Rs. 2,38,45,293.82/-

6. The copy of the CIBIL report dated 27.04.2018 in respect of the Corporate Debtor is also annexed with the Petition.

7. The Corporate Debtor vide its Affidavit dated 20th day of October 2018 submitted its reply whereby, *inter-alia*, it has stated that the business had suffered heavy financial constraints due to various operative reasons. It is stated that the Corporate Debtor had made efforts by proposing to pay Rs. Eleven crores as one time settlement to the Financial Creditor which was not accepted by the Financial Creditor. The Corporate Debtor has also stated that the only other Financial Creditor of the Corporate Debtor is CFM ARC,

which holds 82% of the share in the total outstanding dues of the Corporate Debtor, has agreed to restructure the outstanding loan. It is also stated that even if the petition is admitted, the Petitioner will have little or no control over the insolvency proceedings.

8. We have heard the parties and perused the record.
9. The Financial Creditor has annexed the sanctions letters through which monies were advanced and documents of security created in favour of the Financial Creditor. The Financial Creditor has also annexed the CIBIL Report as well as documents executed by the Corporate Debtor acknowledging debt. The Respondent has nowhere disputed the existence of debt to Corporation Bank. Hence the Debt and default is admitted. Therefore, there is clear existence of a debt as defined in Section 3(11) of IBC. Also there is default in this case within the meaning of Section 3(12) of IBC. Application submitted under Sec 7 of IBC is complete. As per declaration submitted by Resolution Professional, no disciplinary proceeding is pending against then proposed Resolution Professional, thus application filed U/S Sec 7 of the IBC for initiation of CIRP deserves to be allowed.

ORDER

The application filed U/S 7 of the IBC is admitted. We declare moratorium U/S 14 of the IBC with consequential directions as mentioned below:

I. That this Bench at this moment 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 action 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 the 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 moratorium period.

III. That the provisions of sub-section (1) of Section 14 of IBC 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 IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, 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 IBC.

VI. That Mr Ram Ratan Kanoongo (Regn. No. IBBI/IPA-001/IP-P00070/2017-18/10156) Address: Headway Resolution and Insolvency Services Pvt. Ltd., 1006, Raheja Center, Nariman Point, Mumbai – 400 021, Tel No. 022-66107432, Mob: 9821031996 is appointed as Interim Resolution Professional. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

10. Accordingly, this Petition is admitted.

11. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by speed post and email/whatsapp.

SD/ -

RAVIKUMAR DURAISAMY
Member (Technical)

SD/ -

V.P. SINGH
Member (Judicial)

DT. 7.1.2019