



IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI

CP/IB/153/(CHE)/2023

(Filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 7 of the
Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the matter of Fateh Leasing and Finance Private Limited

Fateh Leasing and Finance Private Limited

Rep by its Director, Mr.Ritesh Rai,
No.6/13, North Avenue,
Kesavaperumalpuram,
Chennai – 600 028

... Corporate Applicant

Order Pronounced on 8th January 2024

CORAM

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Corporate Applicant : Rohan Rajasekaran, Advocate

ORDER

(Hearing Conducted through VC)

Under Consideration is an Insolvency & Bankruptcy Application filed u/s 10 of the Insolvency & Bankruptcy Code, 2016 (“the Code”) by one **Fateh Leasing and Finance Limited** (in short, “the Corporate Applicant”) for initiation of Corporate Insolvency Resolution Process (CIRP) under Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, ‘I&B Rules 2016’), following a default



in meeting the financial obligations to its Financial Creditors (Secured/Unsecured Creditors) and Operational Creditors and other Creditors as shown in the Company Petition filed in Form-VI.

2. In Part-I of the application, it is stated that the Corporate Applicant is a Private Limited bearing CIN: U65921TN1995PTC104933 and the Registered Office of the Corporate Applicant as per the application is situated at No.6/13, North Avenue, Kesavaperumalpuram, Chennai – 600028.

3. In Part-II of the application, the Corporate Applicant has proposed one Mr. S.S.Ravichandran as the IRP and has also filed his written consent in Form-2. However, vide memo dated 27.09.2023, it is stated that Mr.S.S. Ravichandran has withdrawn his consent and accordingly the Applicant has proposed one Mr. Gopinath as IRP. Subsequently the said Mr. Gopinath has also withdrawn his consent.

4. Part-III of the application, discloses the details of the total amount of default with respect to Financial Creditors as Rs.912,36,41,347.14/- (Rupees Nine Hundred and Twelve Crore Thirty Six Lakhs Forty One thousand



three hundred and forty seven and paisa fourteen Only) and the total amount of default with respect to Operational Creditors as Rs.96,350/- (Rupees Ninety Six Thousand three hundred and fifty only). The list of documents to prove the existence of debt is as follows:

- (i) Notice dated 22.09.2014 u/s 13 (2) of SARFAESI Act issued by Punjab National Bank to the Corporate Applicant in its capacity as Corporate Guarantor of M/S.SBQ Steels Ltd. Annex I (a);
- (ii) Notice dated 11.02.2015 u/s 13 (2) of SARFAESI Act issued by State Bank of India to the Corporate Applicant in its capacity as Corporate Guarantor of M/s.SBQ Steels Ltd. Annex I(b);
- (iii) Application u/s 19(1) of RDBFI Act in O.A. No.40 of 2015 filed by SBI. Annex I(c);
- (iv) Application filed by Edelweiss Asset Reconstruction Co. Ltd. O.A.No.40 of 2015 in seeking substitution of SBI. Annex I(d);
- (v) Application u/s 19 of RDBFI Act in O.A.No.216 of 2015 filed by PNB and UBI. Annex I(e);
- (vi) MA/200/2019 in I.A.Sr.No.5635 (subsequently numbered as MA/12/2021) of 2018 in O.A.No.400 of 2015 (subsequently renumbered as TA/72/2022) filed by BOB. Annex I (f);
- (vii) Note on BOB cases before DRT with Orders dated 09.11.2022 and 30.11.2022 passed by DRT Chennai in TA/72/2022. Annex I(g);
- (viii) Note Guarantee on details of Corporate given by Corporate Applicant with respective case statuses before DRT. Annex I(h);
- (ix) Copy of relevant books of accounts of the Corporate Debtor evidencing default Annex IV; to creditors.



- (x) Copies of audited financial statements of the Corporate Debtor for the last two financial years and provisional unaudited financial statement for the period from 31.03.2022 upto 30.04.2023. Annex V;
- (xi) Updated statement of affairs as on 30.04.2023. Annex VI.

5. The Applicant has filed audited financial statements for the year ended 31.03.2022 & 31.03.2023 reflecting the default of payment to the Financial Creditor.

6. The Applicant Company has placed on record the Board resolution dated 26.04.2023 for initiating Corporate Insolvency Resolution process under Section 10 of the Code against the Corporate Applicant. Apart from this, the Corporate Applicant has filed a Special Resolution dated 26.04.2023 for approval of members / shareholders to initiate the CIRP against the Corporate Applicant.

7. On this application, this Tribunal vide order dated 11.10.2023 directed the applicant to serve the copy of the application to the Secured and Unsecured Creditors of the Corporate Applicant and file affidavit of



Service. The Applicant has filed an Affidavit of Service dated 23.10.2023 complying with the order of this Tribunal.

8. Heard the submissions made by the Learned Counsel for the Applicant and perused the record.

9. From the documents filed along with the type set of document, more particularly the balance sheet records, it is seen the Corporate Debtor has committed 'default in repayment of amount to certain Financial Institutions.

10. In view of the same, we are of the view that this Company application is required to be admitted u/s 10 of the Code. We order accordingly.

11. The Corporate Applicant has proposed the name of **Mr. S. Kangayan** having **Registration No. IBBI/IPA-002/N00866/2019-2020/12770** as the Interim Resolution Professional (IRP) who has also filed his written consent in Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016. We therefore



appoint **Mr. S. Kangayan** as the IRP in the present application. The IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

12. As a consequence of the Application being admitted in terms of Section 10 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent 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 respondent.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance 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 or a similar grant or right during moratorium period;

13. However during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

- (2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- (2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of 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 or in such circumstances as may be specified.

- (3) The provisions of sub-section (1) shall not apply to
- (a) 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;
 - (b) a surety in a contract of guarantee to a corporate debtor.

14. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

15. The Corporate Applicant is directed to pay a sum of **Rs.2,00,000/- (Rupees Two Lakh Only)** to the Interim Resolution Professional to meet out the expenses and to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



16. Based on the above terms, the Petition stands **admitted** in terms of Section 10 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

SANJIV JAIN
MEMBER (JUDICIAL)

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