



IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.201
CP(IB)/30(MP)2022

Proceedings under Section 7 IBC

IN THE MATTER OF:

Prem Kumar Bajaj

.....Applicant

V/s

Midland Polymers Ltd

.....Respondent

Order delivered on 06/01/2023

Coram:

Dr. Madan B. Gosavi, Hon'ble Member(J)
Kaushalendra Kumar Singh 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.

Sd/-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

Braj Mohan

Sd/-

**DR. MADAN B. GOSAVI
MEMBER (JUDICIAL)**



**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH**

CP(IB) 30 of 2022

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the Matter of:

Prem Kumar Bajaj

S/o Late Mangilal Bajaj,
R/o Flat No., 309, MSK Towers,
Street No. 11, Himayat Nagar,
Hydrabad-500029, Telangana

**Applicant/
Financial Creditor**

Versus

Midland Polymers Limited

101 First Floor 251 Nayapura
(Pathar Gogam)
Indore MP 452001

**Respondent/
Corporate Debtor**

**Order reserved on: 23.12.2022
Order pronounced on: 06.01.2023**

**Coram: Dr.Madan B. Gosavi, Member (J)
Kaushalendra Kumar Singh, Member (T)**

Present:

For the Applicant: Ld. Adv. Ms. M.V. Laxmi

For the Respondent: Ld. Adv. Mr.Anand Prabhawalkar

ORDER

1. The instant Application is filed on 11.04.2022 by the financial creditor Prem Kumar Bajaj (**Applicant**) under Section 7 of the Insolvency & Bankruptcy Code, 2016 (**Code**) read with Rule 4 of the IBC Application to Adjudicating Authority Rules, 2016 for initiation of Corporate Insolvency Resolution Process (**CIRP**) against the corporate debtor Midland Polymers Limited (**respondent**) for the default amount



of Rs.2,21,51,840/- (Principal amount is Rs.2,00,00,000/- and interest of Rs.21,51,840/-). The date of default is 13.12.2021.

2. The financial creditor submitted that a short-term loan of Rs.2,00,00,000/- was given to the corporate debtor in the year 2021 (Rs.40,00,000/-, Rs.50,00,000/-, Rs.50,00,000/-, Rs.30,00,000/- and Rs.30,00,000/- on 16.08.2021, 24.08.2021, 27.08.2021, 06.09.2021 and 24.09.2021 respectively) for which a loan agreement dated 13.08.2021 and an addendum to the loan agreement dated 24.09.2021 was entered into between the financial creditor and the corporate debtor based upon which the corporate debtor had to repay the said amount along with interest on or before 31st December, 2021. However, even after several requests, the corporate debtor failed to repay the said amount, therefore, the financial creditor issued notice on 12.02.2022 for repayment of the said amount.

Further it is also submitted that the corporate debtor had issued five promissory notes dated 16.08.2021, 24.08.2021, 27.08.2021, 06.09.2021 & 24.09.2021 in favour of the financial creditor and also issued a post-dated cheque for 31.12.2021 for an amount of Rs.2,12,25,479/-. However, the said cheque was dishonoured on 27.01.2022 due to insufficient funds. Thus, the financial creditor filed the present application under Section 7 of the Code.

The name of G. Madhusudhan Rao having registration No. IBBI IPA-001/IP-P00181/2017-18/10360 is proposed as Insolvency Resolution Professional (IRP) and the consent of the same is also placed on record.

3. The corporate debtor through its reply dated 10.06.2022 submitted that the corporate debtor is unable to repay the debt borrowed from the financial creditor due to financial crises which arose due to Covid-19 pandemic scenario. It is further stated that the



corporate debtor is ready and willing to repay the debt, however, the company had very negligible business in the last two financial years and therefore, requests for a further period of 18 months to repay the outstanding dues in a phased manner.

4. We heard the learned counsel for the financial creditor as well as for the corporate debtor and perused the relevant documents available on record. It is noted that the financial creditor advanced total amount of Rs.2,00,00,000/- in the year 2021 (Rs.40,00,000/-, Rs.50,00,000/-, Rs.50,00,000/-, Rs.30,00,000/- and Rs.30,00,000/- on 16.08.2021, 24.08.2021, 27.08.2021, 06.09.2021 and 24.09.2021 respectively) to the corporate debtor for which loan agreement dated 13.08.2021 & addendum dated 24.09.2021 was entered into between the financial creditor and the corporate debtor.

5. It is further noted that the corporate debtor had issued various promissory notes in favour of the financial creditor and also issued a post-dated cheque amounting to Rs.2,12,25,479/-. However, the said cheque was dishonoured due to insufficient funds. The corporate debtor accepts its liability saying that it is undergoing financial crises due to pandemic Covid-19 and needs some time to repay the debt claimed by the financial creditor.

6. Considering the facts of the case it is clear that the debt is undisputed and admitted. The corporate debtor is unable to repay the same due to its poor financial condition. In view of the above we are of the considered view that there exists financial debt which is payable and defaulted by the corporate debtor. The debt is within the threshold as per Section 4 of the IBC. This application is filed within limitation and is defect free; and as such the application deserves to be admitted.



7. In view of the above, we admit this application and pass the following order as under:

ORDER

(i) The Corporate Debtor Midland Polymers Limited is admitted in Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016.

(ii) The moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

- 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 Securitisation 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.*

(iii) 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 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 of



the Insolvency & Bankruptcy Code, 2016, as the case may be.

(iv) We hereby appoint G. Madhusudhan Rao, Registration No. IBBI/IPA-001/IP-P00181/2017-18/10360, having address at: 7-1-285, Flat NO. 103, Sri Sai Swapna Sampada Apts, Balkampet, Hyderabad 500 038 to act as an Interim Resolution Professional under Section 13(1)(c) of the Code. She shall conduct the Corporate Insolvency Resolution Process as per the provisions of Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

(v) The IRP shall perform all her functions as contemplated, inter-alia, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extending 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 IRP, do not assist or co-operate the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

(vi) This Adjudicating Authority directs the IRP to make a public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1)(b) of the Code.

(vii) It is further directed that the supply of goods/service to the Corporate Debtor Company, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.



(viii) The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' and manage the operations of the Corporate Debtor as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Financial Creditor is directed to pay an advance of **Rs.1,00,000/-** (Rupees One Lakh Only) to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

(ix) The Registry is directed to communicate a copy of 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 seven working days and upload the same on website immediately after pronouncement of the order.

8. Accordingly, **CP(IB) 30 of 2022** stands admitted.

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Kaushalendra Kumar Singh
Member (Technical)

-sd-

Dr.Madan B. Gosavi
Member (Judicial)

Swati