

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH – II, CHENNAI**

**IBA/581/2019**

*(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* **STERA ENGINEERING (INDIA) PRIVATE LIMITED**

**STERA ENGINEERING (INDIA) PRIVATE LIMITED**

Avadi Main Road,  
Viraraghavapuram,  
Chennai, Tamil Nadu 600 077.

*... Applicant/  
Corporate Applicant*

*Order Pronounced on* **07<sup>th</sup> March 2024**

**CORAM**

**SHRI JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)  
SHRI RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)**

*Present:*

*For Appellant*

*:Mr.Subhang P. Nair, Advocate*

*Ms. Varsha Balasubramanian. Advocate*

**ORDER**

Under Consideration is an Insolvency & Bankruptcy Application filed u/s 10 of the Insolvency & Bankruptcy Code, 2016 (“**the Code**”) by **STERA ENGINEERING (INDIA) PRIVATE LIMITED** (hereinafter referred to as “**the Corporate Applicant**”) for initiation of Corporate Insolvency Resolution Process (CIRP) under Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as, ‘**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-6.

2. From Part-I of the application, it is seen that the Corporate Applicant is a Private Limited company incorporated on 10.09.2008 bearing CIN: U27100TN2008PTC069231 and the Registered Office of the Corporate Applicant as per the application is at Bharati Villas 26B, Jawaharlal Nerhu Salai, Ekkaduthangal, Guindy, Industrial Estate, Chennai – 600 032.

3. From Part-II of the application, it is seen that the Corporate Applicant has proposed one Mr.Madhu Desikan as the Interim Resolution Professional and has also filed his written consent in Form-2.

4. Part-III of the application, discloses the details of the total amount of default of Rs.19,54,27,845/-.

5. It is stated that the Corporate Applicant was engaged in the business of mechanical and electromechanical assemblies in the segments of elevator parts, telecommunication, antenna parts, health care etc. Due to unfavourable market the increase in the operational cost the Corporate Applicant received multiple loans from its promoter group.

6. It is stated that the Corporate Applicant had entered in to a Loan Agreement dated 04.01.2019 with Stera Group OY for 0.3

Million Euro i.e. Rs.2,33,10,000/-. As per the loan agreement the entire loan was to be re-paid by July 2021. As on date of this Application the Corporate Applicant has not paid any amount to Stera Group OY. Apart from the above the Corporate Applicant defaulted in repaying its instalments to Finnish Fund for Industrial Corporation Ltd and also received demand notice from the Income Tax Department.

7. It is submitted by the Ld. Counsel for the Applicant that the entire capital of the Corporate Applicant was lost and no business was carried on over a year. The Applicant with all its fixed assets and inventory has repaid some of its outstanding dues. In this backdrop the Applicant preferred this application to initiate CIRP against itself.

8. Heard the Ld. Counsel for the Applicant and perused the documents on record.

9. In the course of hearing this Tribunal directed the Applicant to file latest financial statements of the Applicant and have also directed to server notice to the creditors and the Statutory Authorities.

10. Complying the same the Applicant filed an affidavit dated 14.10.2021 along with the copies of Audited Financial Statements as on 31.03.2019, 31.03.2020 & 31.03.2021 and Provisional Financial Statements as on 05.10.2021. In addition to that filed

Affidavit of Service dated 07.03.2023 substantiating the service of notice to the following Statutory Authorities,

- a) Additional Director General of Foreign Trade.
- b) The Registrar of companies, Chennai.
- c) The National Security Depository Limited.
- d) The Principal Chief Commissioner of GST and Central Excise.
- e) The Joint Commissioner, Chennai (east) Division, Commercial Taxes Department.
- f) The Income Tax Department.
- g) Employee Provident Fund Organisation.

11. Despite opportunities given to the Creditors of the Corporate Applicant and the Statutory Authorities, none filed their objection or reply. Therefore, this Tribunal proceeded to hear the case in their absence.

12. After perusal of the Audited and provisional Financial Statements of the Corporate Applicant it is noticed that the debt they owe to the Financial Creditors and other Creditors are reflected in the said Financial Statements.

13. The Corporate Applicant has placed a copy of Form No.MGT-14, which shows that the shareholders of the Corporate Applicant in the meeting held on 08.04.2019 passed a special resolution to authorise the director the Applicant to present application under section 10 of IBC, 2016.

14. It is seen that the in the Loan Agreement dated 04.01.2016, the Corporate Applicant had received € 300000 (Euro) from Stera Group OY. In the loan agreement, the Corporate Applicant agreed to repay the entire loan by 17.07.2021. Ld. Counsel for the Applicant admitted that the Corporate Applicant defaulted in repaying the aforesaid loan. In addition to that we noticed that the Income Tax Department vide Demand Notice dated 19.03.2019 imposed a penalty of Rs.40,00,000/- on the Corporate Applicant.

15. Thus, it is clear there is debt and default on the part of the Corporate Applicant. The debt amount is more than 1 crore. From the submissions of Ld. Counsel for the Applicant and considering the Financials of the Corporate Applicant we find it is just and necessary to initiate CIRP against the Corporate Applicant.

16. Though the Corporate Applicant has proposed the name of **Mr.Madhu Desikan**. This Tribunal hereby appoints **Ms.Satyadevi**, having **Registration No. IBBI/IPA-002/IP-N00071/2017-18/10205 (e-mail: satyadevifcs@gmail.com) (Mob: 9444373373)** as the Interim Resolution Professional (IRP) from the latest panel (January 1, 2024 to June 30, 2024) released by the IBBI. 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.

17. 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;*

18. 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.*

19. 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.*

20. 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.

**Sd\-**

**RAVICHANDRAN RAMASAMY**  
MEMBER (TECHNICAL)

**Sd\-**

**JYOTI KUMAR TRIPATHI**  
MEMBER (JUDICIAL)