

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-III

Item No.303
IB-683(ND)/2023

IN THE MATTER OF:

ALCHEMIST ASSET RECONSTRUCTION CO. LTD

.... **APPLICANT**

Vs.

ASSOCIATED COMPOSITE MATERIALS PVT. LTD

.... **RESPONDENT**

SECTION

U/s 7 IBC code 2016

Order delivered on 06.12.2023

CORAM:

SHRI BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. Nakul Mohta, Ms. Riya Dhingra, Advocates

For the Respondent : Mr. Udit Singh, Advocate

ORDER

PER : ORAL: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)

1. This application has been filed by Alchemist Asset Reconstruction Company Ltd, the Financial Creditor under Section 7 of IBC, 2016 seeking initiation of CIRP against Associated Composite Materials Pvt. Ltd., the Corporate Debtor herein for a total default of Rs. 16,76,80,767/- payable to the Applicant as on 20.07.2021.
2. The Corporate Debtor is a corporate guarantor for the debt owed by M/s Associated Lighting Systems Pvt. Ltd., as well as by M/s VNM Components Pvt. Ltd., who are the Principal Borrowers to M/s Karnataka Bank Ltd, who is the original lender. The original lender i.e., M/s Karnataka Bank Ltd had assigned the debt owed by the Principal Borrowers to the Financial Creditor herein vide Assignment Deed dated 22.03.2017.

3. Thus, the Financial Creditor herein has stepped into the shoes of the Original lender and thus, falls within the definition of "Financial Creditor" in terms of Section 5(7) of the IBC.
4. This Adjudicating Authority vide order dated 07.02.2018, initiated the Corporate Insolvency Resolution Process of M/s VNM Components Pvt. Ltd. Further, vide order dated 27.07.2018, this Tribunal initiated liquidation proceedings against the said M/s VNM Components Pvt. Ltd. Subsequently, the Applicant herein filed Section 7 application against M/s Associated Lighting Systems Pvt. Ltd., and vide order dated 21.10.2020, CIRP was initiated against M/s Associated Lighting Systems Pvt. Ltd.
5. The Applicant issued a Demand Notice under Section 13 (2) of the SARFAESI Act, 2002 on 20.07.2021 to the Corporate Debtor for paying the outstanding amount of Rs. 16,76,80,767/-
6. Ld. Counsel appearing for the Corporate Debtor has fairly conceded that the Corporate Debtor has admitted the default and submitted that CIRP be initiated against the Corporate Debtor.
7. In view of the submissions made by Ld. Counsel, we admit the present application filed under Section 7 and direct that CIRP be initiated against the Corporate Debtor. T
8. Thus, in view of the foregoing, we have no hesitation to hold that the contentions raised by the Corporate Debtor are not tenable in law or fact, and they cannot be taken as valid grounds for rejection of instant application. The Financial Creditor has placed adequate evidence to establish that there exists a Financial Debt of an amount exceeding the threshold provided u/s 4 of the Code, which the Corporate Debtor was liable to pay but defaulted in making such payment. Accordingly, we hereby admit the instant application filed by Financial Creditor u/s 7 of the IBC, 2016.
9. The Financial Creditor has proposed the name of the IRP, therefore this Adjudicating Authority hereby appoints Mr. Shamsher Bahadur Singh

having IBBI Registration No. IBBI/IPA-003/0341/2021-2022/13623 as IRP. The Written Consent alongwith Authorization for Assignment (AFA) to be valid up to 06.06.2024 are on record. The said IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is also directed to cause public announcement under Section 15 of the IBC, 2016, within three days from date of receiving the copy of this order and call for submissions of claim in the manner as prescribed.

10. The moratorium is declared which shall have effect from the date of this order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is ordered to prohibit all of the following, namely:
 - 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's 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 (54 of 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.
 - e. The explanation below Section - 14 (1) also stipulates "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, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period”.

11. The supply of essential goods or services of the said project of Corporate Debtor shall not be terminated, suspended or interrupted during moratorium period. However, the provisions of sub-section (1) of Section 14 of IBC, 2016 shall not apply to such transactions, as notified by the Central Government.

12. The IRP shall comply with the provisions of Sections 13(2), 15, 17 and 18 of the code. The Directors of the Corporate Debtor, its promoters or any person associated with the management of the Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under Section 19 for discharging his function under section 20 of the IBC, 2016.

13. The Financial Creditor is directed to send the copy of this order to the IRP with immediate effect, so that he could take charge of the Corporate Debtor' assets etc., with respect to said project and make compliance with this order as per the provisions of IBC, 2016.

14. The Financial Creditor is directed to communicate this Order to the IRP and the Corporate Debtor with immediate effect. Further, Financial Creditor shall provide initial finance to the tune of Rs. 2,00,000/- to the aforesaid Interim Resolution Professional within a weeks' time from the date of this order as advance towards initial cost and expenses of CIRP process. The said advance of Rs. 2,00,000/- shall be adjustable as CIRP

cost by the Committee of Creditors immediately after its constitution by the IRP.

15. The Registry is directed to send a copy of this order to the Registrar of Companies concerned for updating the status of Corporate Debtor on the MCA-21 site of Ministry of Corporate Affairs for information of all concerned.

16. The application bearing IB -683/(ND)/2023 is ***allowed***.

Sd/-
(ATUL CHATURVEDI)
MEMBER (TECHNICAL)

Sd/-
(BACHU VENKAT BALARAM DAS)
MEMBER (JUDICIAL)