

IN THE NATIONAL COMPANY LAW TRIBUNAL

COURT NO. V, MUMBAI BENCH

C.P (IB) -13/(MB)/2019

Under section 10 of IBC, 2016

In the matter of

Cantronics Office Equipment Private
Limited

Gala No. 3, 4, Kantharia Industrial Estate,
Opp. Sopara Police Station, Sopara Phata,
Village Pelhar, Vasai (East), Dist. Palghar-
401208.

....Corporate Applicant

Order Reserved on: 31.03.2022

Order Pronounced on: 20.04.2022

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

For the Petitioners: Mr. Rohan Rajadhyaksha, Advocate.

For the Operational Creditor DGFT: Mr. M. S. Bhardwaj, Advocate

Per: Anuradha Sanjay Bhatia, Member (Technical)

ORDER

1. This Company Petition is filed by Cantronics Office Equipment Private Limited (hereinafter called "Corporate Applicant"), under Section 10 of Insolvency and Bankruptcy Code 2016 ("the Code") read with Rule 7 of

Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, for initiation of Corporate Insolvency Resolution process.

2. The Corporate Applicant submits that its registered office is at Gala No. 3, 4, Kantharia Industrial Estate, Opp. Sopara Police Station, Sopara Phata, Village Pelhar, Vasai (East), Dist. Palghar-401208 and the Company was incorporated on 29.12.1994 vide CIN U32109MH1994PTC084138 on the file of Registrar of Companies Maharashtra.
3. The Corporate Applicant was hitherto engaged in manufacturing and trading of spares and consumables for Copiers, Fax Machines and Barcode Printers, Thermal Transfer and Barcode Ribbons, Thermal Papers, Labels, Remanufactured toner Cartridge etc. Corporate Applicant was exporting remanufactures toner cartridges to USA and was conferred a status of “Star Trading House” by the Director General of Foreign Trade.
4. Unfortunately, in FY 2010-11, the USA patent office imposed a ban on import of remanufactured toner cartridges in USA, which led to sharp fall in the business of the Corporate Applicant. Pursuant to this ban, all the USA clients cancelled their orders for remanufactured toner cartridges. As this item was major revenue earner and also a highly profitable one, the Corporate Applicant got huge jolt due to this ban. The inventory of toner and cartridges, which had limited usable shelf life and which could not be sold in the domestic market, lost their intrinsic value. Customised packaging material for these cartridges for USA based customers like International Toner Corporation, Illinois, Copy Technologies Inc, Atlanta and Printer Essentials Inc, Nevada etc also added to the Inventory loss. In addition, thermal Transfer Ribbon business of the Corporate Applicant was also adversely affected due to sudden and huge increase in raw material prices. Thermal Transfer Ribbon plant imported by the Corporate Applicant also became

unviable. Consequently, the Corporate Applicant suffered a huge loss of about 12 crores in FY 2010-11.

5. Sensing bleak future for the Corporate Applicant, in light of continuing adverse business environment, coupled with severe liquidity crunch, large number of key employees from manufacturing and marketing division along with employees in administrative and accounts department, left the organization.
6. It is cliché/ trite that losses in a business bring with it various unintended consequences. The huge loss suffered by the Corporate Applicant put it into severe liquidity crunch, which resulted into defaults in servicing of loans granted by Oriental Bank of Commerce, Mumbai. Corporate Applicant's Loan(s) accounts were classified as Non-Performing Assets (NPA's) and a notice under SARFAESI, Act, 2002 was issued by the said lender. The Bank recalled its entire outstanding loan(s) and the Corporate Applicant was asked to repay outstanding loan amount within 60 days of the issuance of notice, by liquidating its assets offered as security.
7. Corporate Applicant liquidated all its assets (except TTR Coating Plant which could not be sold), the Managing Director/ his family members liquidated their personal assets to repay the loans obtained from Oriental Bank of Commerce. The Bank, considering the genuineness of the reasons for loss suffered by the Corporate Applicant, sincere efforts of Managing Director to repay back loan, even by liquidating/ selling his personal assets, agreed for One Time Settlement by which outstanding loan amount was settled.
8. After conclusion of SARFAESI proceedings, Corporate Applicant registered itself with BIFR under Registration No. 38/2015.
9. The management has sincerely settled majority of its financial as well as operational creditors with the help of unsecured loans from its Managing Director. Out of the government liability of Rs. 1,47,25,207/-

under VAT/CST/ Profession Tax, only Rs. 15,42,100/- is towards principal amount of tax and balance amount of Rs. 1,24,53,601/- is towards interest on delayed payment of tax and penalty. Out of liability of Rs. 3,68,94,585/- payable to DGFT, Rs. 1,28,90,541/- is towards duty amount and balance Rs. 2,40,04,044/- is towards interest which has arisen because of failure of the Corporate Applicant to meet its export obligations due to circumstance which were beyond control.

10. This Application has been filed by the Corporate Applicant for initiation of Insolvency Resolution Process on the ground that the financial position as well the commercial capacity of the Corporate Applicant has been underprivileged due to past losses and negative cash flow for past several years. Looking at the market scenario and business model of the Corporate Applicant it has not been possible for it to revive its business. The audited financial Statements of the Corporate Applicant also indicate rising liabilities on account of its operations remaining non-functional.
11. There are no outstanding dues of employees.
12. The Corporate Applicant has attached list of documents to the Petition to prove the existence of the debt, which are as follows:
 - i. Ledger copies of the Operational Creditors as per books of accounts of Cantronics Office Equipment Private Limited.
 - ii. Audited Financial Statement for the Financial Year 2016-17.
 - iii. Audited Financial Statement for the Financial Year 2017-18.
 - iv. Provisional Balance Sheet as at 12th December, 2018.
 - v. Statement of affairs as on 12th December, 2018.
 - vi. Certified true copy of the Special Resolution Passed at the Extra Ordinary General Meeting held on 15.12.2018.
 - vii. Certifies true copy of the Resolution passed at the Board Meeting held on 13.12. 2018.
 - viii. Affidavit of Mr. Ketan Arvind Desai.

“(vii) (a) The Company is not regular in depositing with appropriate authorities undisputed statutory dues including income tax, sales-tax, service tax, duty of customs, duty of excise, value added tax, and other material statutory dues applicable to it with the appropriate authorities.

Following statutory dues which are due since more than six months but still not paid:

Sr. No.	Particulars	Principal Amount	Interest/Charges
1	Custom Duty under Export Obligations	1,28,90,541	2,24,69,273
2	Maharashtra Value Added Tax	Nil	59,51,672
3	Central Sales Tax	Nil	31,17,844
4	Profession Tax	7,69,450	6,51,915
5	Telangana Value Added Tax	12,00,444	16,33,461
6	Telangana Value Added Tax- penalty	3,00,112	3,07,615

15. The Corporate Applicant in the Extra Ordinary General Meeting Held on 15.12.2018 resolved to initiate Corporate Insolvency Resolution Process by filing a Petition u/s 10 of the Code. The Board of Directors of the Corporate Applicant in their meeting held on 15.12.2018 authorised Mr. Ketan Arvind Desai, Managing Director of the Company, to act as a Corporate Applicant on behalf of the Company and to file necessary application under the Code.
16. The Corporate Applicant proposed Mr. Alok Kumar Mishra, having registration No. as IBBI/IPA-001/IP-P00600/2017-18/11059, having e-mail alok.akm@gmail.com as Interim Resolution Professional (IRP) to carry the functions as mentioned under the Code.
17. During the course of hearing, the Counsel for the DGFT orally raised objection with respect to the fact that their operational claim is of Rs. 2,24,69,273/-, however the same is admitted by the Corporate Applicant.

18. On perusal of the Petition and the documents annexed with the Petition, this Bench is of the considered view that there are debts and the Corporate Applicant has committed default in repayment of the debts and the Petition contains the particulars as required u/s 10 of the Code. Hence, this Bench hereby admits this Petition, declaring moratorium with consequential directions as mentioned below:

- (i) That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Applicant including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the Corporate Applicant any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Applicant in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant.
- (ii) That the supply of essential goods or services to the Corporate Applicant, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (iii) That the provisions of sub-section (1) of Section 14 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 pronouncement 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 or passes an

order for liquidation of Corporate Applicant under Section 33, 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 the Code.

(vi) That this Bench hereby appoints Mr. Alok Kumar Mishra, having registration No. as IBBI/IPA-001/IP-P00600/2017-18/11059, having e-mail alok.akm@gmail.com as Interim Resolution Professional to carry the functions as mentioned under the Code.

19. Accordingly, CP 13 OF 2019 is **admitted**.

20. The Registry is hereby directed to communicate this order to the Corporate Applicant and the IRP immediately.

SD/-

Anuradha Sanjay Bhatia
Member (Technical)

SD/-

Suchitra Kanuparthi
Member (Judicial)