



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP (IB) No. 36/MB/2023

Under section 10 of IBC, 2016

In the matter of

Unistar Tradelink Private Limited,
(CIN- U74120MH2011PTC212550)

2, Krishna Dham, Raheja Township L.S.
Raheja Marg, Malad (East) Mumbai-
400097, Maharashtra India

....Corporate Applicant

Order delivered on: 19.05.2023

Coram:

Mr. Prabhat Kumar

Hon'ble Member (Technical)

Mr. Kishore Vemulapalli

Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicants

:

Mr. Nikhil Rajani, Advocate

ORDER

Per: Kishore Vemulapalli, Member Judicial

1. This Company Petition is filed by Unistar Tradelink 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.

- 1.1 The Corporate Applicant says that its registered office is at 2, Krishna Dham, Raheja Township L.S. Raheja Marg, Malad (East) Mumbai- 400097, Maharashtra India, incorporated on 19/01/2011 vide CIN U74120MH2011PTC212550 on the file of Registrar of Companies, Mumbai, having paid up share capital of Rs. 1,00,00,000/-.
- 1.2 The Corporate Applicant is engaged in the Legal, Accounting, book-keeping and auditing activities; tax consultancy; market research and public opinion polling; business and management consultancy business.
- 1.3 The Corporate Applicant availed of credit facilities from The Cosmos Co-Operative Bank Ltd. and the repayment thereof was secured by mortgage and hypothecation of the immovable and movable assets of the Corporate Applicant. The Corporate Applicant has annexed the Sanction letter dated 27.05.2011 bearing No. MRO- A1/222/2010-11 evidencing sanction of Bill Discounting facility of Rs. 1000 Lacs and Letter of Credit of Rs. 1450 lacs as Exhibit "M" to the petition.
- 1.4 However, the Corporate Applicant failed to maintain its financial discipline and thus the loan account of the Corporate Applicant was classified as NPA by the Financial Creditor of the Corporate Applicant on 12.11.2012. The Corporate Applicant vide its Statement of outstanding dues has disclosed that a sum aggregating to Rs. 54,10,50,000/- is due to 1 Financial Creditor (secured creditor) and 9 Sundry Creditors which is in default. The Debt was incurred on 12.11.2012 for the Financial Creditor when the loan was sanctioned.
- 1.5 Subsequently, Cosmos Co- Operative Bank Ltd., issued a notice u/s. 13(2) of Securitisation And Reconstruction of



Financial Assets and Enforcement of Security Interest Act, 2002 Act.

- 1.6 The Corporate Applicant states that the business operations of the Corporate Applicant have been shut down and the it is unable to repay the outstanding debts despite its bonafide intentions and efforts to pay off its debts.
- 1.7 The Petitioner has submitted a copy of Special Resolution passed by the Members in their Annual General Meeting held on 14.10.2022 for initiating Corporate Insolvency Resolution Process u/s 10 of Insolvency & Bankruptcy Code. The Board of Directors of the Corporate Applicant in their meeting held on 02.09.2022 authorised Mr. Divyakumar Jain, Director of the Company, to file necessary application under the Code.
- 1.8 The default in payment and the inability of the Company to pay any of its debt has led to the application by the Corporate Debtor for initiating Corporate Insolvency Resolution Process in the matter of self and it has sought approval of its members for filing section 10 petition under the Code vide Special Resolution passed in the Annual General Meeting (AGM) of the Company convened on 14.10.2022. (Copy of on Special Resolution attached as Exhibit F). The Company has stated the details of Creditors in the list of Creditors whose debt is outstanding and unpaid as on date.
- 1.9 Further, the Corporate Applicant has also enclosed the audited financial statements for the years, 2019-2020, 2020-2021 and 2021-2022. The Company is unable to pay the Creditors the amounts due to them and thus has defaulted on the Debt payment to the 9 Operational Creditors and 1 Financial Creditor of the Company.

- 1.10 The Corporate Applicant has given leasehold land bearing Plot No. 6005 in Ankleshwar Industrial Area consisting of Revenue S. No. 166, 145, 152 within the village limits of Sarangpur, Taluka Ankleshwar, Dist Bharuch containing by admeasurement 10,050 sq. mtrs., along with structure of factory building constructed / to be constructed thereon admeasuring approximately 10050 sq. mtrs. belonging to M/s. KA Malle Pharmaceuticals Limited, who is a Corporate Guarantor to the Corporate Applicant, as security for the said loan.
- 1.11 All the hypothecated plant and machinery, raw material, Furniture & fixtures at factory premises is as per Composite Deed of Mortgage and Hypothecation for creation of additional charge dated 01.08.2011. The Composite Deed of Mortgage and Hypothecation for creation of additional charge dated 01.08.2011 is annexed as Exhibit "J" and a copy of the Deed of Hypothecation of Stock/ Book Debts / Goods / Machinery and other movable properties dated 09.06.2011 is annexed as Exhibit "K" to the petition. The copy of Certificate for Registration of charge dated 30.07.2013 is annexed as Exhibit "L" to the petition. The copy of the Sanction letter dated 12.11.2012 bearing Ref No. MRO-A1 / Unistar 459 /2012-13 evidencing sanction of Foreign Bill Discounting facility of Rs. 24,50,00,000 is annexed as Exhibit 'S' to the Petition.
2. On reading the Petition and the supporting documents annexed with the Petition, this Bench is of the view that the Corporate Applicant has committed default and the Petition contains the particulars as required u/s 10 of the Code and that the Corporate Debtor is not

disqualified U/s 11 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 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 the proposed Resolution Professional after perusing the written communication in Form 2 dated 22.09.2022 by the RP, **Mr. Kailash Shah**, having address at 505, 21st Century Business Center, Near World Trade Centre Ring Road, Surat- 395002, Gujarat having **IBBI Registration No. - IBBI/IPA-001/IP-P00267/2017-2018/10511** and Email- ipktshah@gmail.com as Interim Resolution Professional to carry the functions as mentioned under the Code.
3. The Registry is hereby directed to communicate this order to the Applicant. The Learned Counsel for the Petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith within 10 days of the order being uploaded on the website.

Sd/-
Prabhat Kumar
Hon'ble Member (Technical)
//LRA- AKSHATA//

Sd/-
Kishore Vemulapalli
Hon'ble Member (Judicial)