IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV

CP (IB) No.2833/MB/C-IV/2019

Under section 7 of the Insolvency & Bankruptcy Code, 2016

In the matter of

Oriental Bank of Commerce
…Financial Creditor

Versus

Perfect Industries Private Limited
[CIN: U15122MH2011PTC213748]
…Corporate Debtor

Order pronounced on 10.06.2020

Coram:

Mr. Rajasekhar V.K.	:	Hon'ble Member (Judicial)
Mr. Ravikumar Duraisamy	:	Hon'ble Member (Technical)

Appearances:

For the Financial Creditor	:	Mr Anup Khaitan, Advocate
For the Corporate Debtor	:	Mr Raghav Tiwari i/b Radhe Agrawal, Advocate

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This is a Company Petition filed under section 7 of the Insolvency & Bankruptcy Code, 2016 **(IBC)** by Oriental Bank of Commerce(Financial Creditor), seeking to initiate Corporate

Insolvency Resolution Process (CIRP) against Perfect Industries Private Limited (Corporate Debtor).

2. The Corporate Debtor is a private company limited by shares and incorporated on 18.02.2011 under the Companies Act, 1956,with the Registrar of Companies, Maharashtra, Mumbai. Its Corporate Identity Number (CIN) is U15122MH2011PTC213748. Its registered office is at Shop No.222, Shriram Shyam Tower, Kingsway, Nagpur440 001, within the State of Maharashtra.Therefore, this Bench has jurisdiction to deal with this petition.

3. The present petition was filed on 25.07.2019 before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of ₹6,19,00,000.00 (Rupees six crore nineteen lakh only)as principal and ₹2,09,24,101.79(Rupees two crore nine lakh twenty-four thousand one hundred and one and paise seventy-nine only)as interest as on 31.08.2016, which is the date of default.

4. The case of the Financial Creditor is as follows: -

   (a) The Financial Creditor had extended cash credit facility of Rs.32.00 lakh on 29.06.2015, Term Loan facility of Rs.2.03 crore on 29.06.2015, Working Capital Term Loan of Rs.2.68 crore on 29.06.2015, Funded Interest Term Loan (FITL) of Rs.40.00 lakh on 29.06.2015, and FITL-2 of Rs.76.00 lakh on 29.06.2015 (Table at page 4 of the Petition);

(b) The account was declared Non-Performing Asset (NPA) on 31.08.2016. (para 2 at page 4 of the Petition);

(c) The Financial Creditor has filed OA No.406/2017 before the Debts Recovery Tribunal, Nagpur, in which an order has been passed on 31.08.2018 (Part V, para 2 at page 4 of the Petition).

5. The underlying financial agreements has been placed on record as **Exhibit '4 to 14'**at pp.33-146.Bank statements are also attached as**Exhibit'19'**at pages240-281. The total debt due and payable to the Financial Creditor is ₹8,28,24,101.79 (Rupees eight crore twenty-eight lakh twenty-four thousand one hundred and one and paise seventy-nine only), as mentioned at page 11 of the Petition.

6. The Corporate Debtor has not submittedany reply in the matter.

7. We have heard the arguments of the learned counsel for the Financial Creditor and perused the records.

8. Copy of the Petition was served on the Corporate Debtor by hand, which has been received by one "Riddhi Maniyar". Email was also sent in this regard on 11.11.2019.

9. Court Notice dated 09.09.2019 was attempted to be served on the Corporate Debtor. But the same has been returned undelivered with the remarks "Left. Return to Sender" by the postal authorities.

10. Paper publications were issued in Business Standard, Mumbai Edition in English on 10.10.2019, and Hitavada, Nagpur Edition in Marathi on 10.10.2019.

11. After receipt of notices, there was appearance by Mr Raghav Tiwari i/b Radhe Agrawal, Advocate, on behalf of the Corporate Debtor on 28.11.2019. On that date, time was granted to file vakalatnama, board resolution and reply on behalf of the Corporate Debtor. However, none of these documents came to be filed.

12. Intimation of further date of hearing in the matter was given by the Petitioner's Counsel to the Respondent's counsel on 12.12.2019 stating that the matter is scheduled to be heard on 06.01.2020. However, on that date also, there was no representation on behalf of the Corporate Debtor. The matter was, thereafter, posted to 15.01.2020.

13. On 15.01.2020, when the matter was finally heard, there was no representation once again on behalf of the Corporate Debtor.

14. The Financial Creditor has proposed the name of **MrNaren Sheth,** Reg. No.IP/P-00133-IBBI/IPA-001/IP-00133/2017-18/10275, as the Interim Resolution Professional of the Corporate Debtor. He has filed his written communication in Form 2 as required under rule 9(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 along with a copy of his Certificate of Registration.

15. The application made by the Financial Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount of one lakh rupees stipulated under section 4(1) of the IBC at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.

16. It is, accordingly, hereby ordered as follows: -

    (a) The petition bearing **CP (IB) No.2833/MB/C-IV/2019** filed by **Oriental Bank of Commerce,** the Financial Creditor, under section 7 of the IBC read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Perfect Industries Private Limited [CIN:U15122MH2011PTC213748],** the Corporate Debtor,is **admitted**.

    (b) There shall be a moratorium under section 14 of the IBC, in regard to the following:

        (i) 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;

(ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

(iii) 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 (Sarfaesi) Act, 2002;

(iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

(c) Notwithstanding the above, during the period of moratorium,-

(i) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;

(ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;

(d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating

Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

(e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(f) **MrNaren Sheth,** Registration No.IP/P-00133-IBBI/IPA-001/IP-00133/2017-18/10275, having address at 1014-1015, Prasad Chambers, Tata Road No.1, Opera House, Charni Road (East), Mumbai 400004[email: nvsheth@mkindia.com, Mobile: +919821133426], is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as perthe IBC. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.

(g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC.The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

(h) The IRP/RP shall submit to this Adjudicating Authority periodical reports with regard to the process of the CIRP in respect of the Corporate Debtor.

(i) The Financial Creditor shall deposit a sum of ₹3,00,000/- (Rupees three lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

(j) In terms of section 7(5)(a) of the IBC, the Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post, emailand WhatsApp (wherever feasible) immediately, and in any case, not later than two days from the date of this Order.

(k) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this

Court **within seven days** from the date of receipt of a copy of this order.

Sd/-	Sd/-
Ravikumar Duraisamy	Rajasekhar V.K.
Member (Technical)	Member (Judicial)
10.06.2020	