



SL.No.3

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

PHYSICAL HEARING

**CORAM: JUSTICE TELAPROLU RAJANI – HON’BLE MEMBER (J)
CORAM: SHRI CHARAN SINGH - HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 27.03.2023 AT 02:30 PM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition IB/16/2023
NAME OF THE COMPANY	XL Energy Ltd
NAME OF THE PETITIONER(S)	Invent Assets Securitization and Reconstruction Pvt Ltd
NAME OF THE RESPONDENT(S)	XL Energy Ltd
UNDER SECTION	7 of IBC

ORDER

This application is allowed, vide separate orders.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)



IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II

CP(IB) No. 16/2023
U/s. 7 of IB Code, 2016

In the matter of:

M/s. Invent Assets Securitisation and
Reconstruction Private Limited,
Suite B, Ground Floor,
`Bakhtawar' Ground Floor,
225, Nariman Point,
Mumbai – 400 021.

Vs

.... Applicant/
Financial Creditor

M/s. XL Energy Limited,
(Formerly known as M/s. Excel Telecom &
Energy Limited),
H.No.19-66/11/D-4, Laxmipuram Colony,
Opp: Dr. A.S. Rao Nagar, ECIL, Kapra,
Hyderabad – 500 062.

....Respondent/
Corporate Debtor

Date of order: 27.03.2023

CORAM:

Hon'ble Justice Smt. Telaprolu Rajani, Member (Judicial)

Hon'ble Sri Charan Singh, Member (Technical)

Counsels present:

For the Applicant : Ms. Raina Birla, Advocate

For the Respondent : Ms. Chintha Mrudula, Advocate

Heard on : 23.03.2023



[PER: BENCH]

- 1.0 This application is filed by the Petitioner M/s. Invent Assets Securitisation and Reconstruction Private Limited, Financial Creditor (FC) against the Respondent M/s. XL Energy Limited (Formerly known as M/s. Excel Telecom & Energy Limited), Corporate Debtor (CD), seeking to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor for the default that it has committed regarding the debt of Rs.37,54,18,48,101/- that is due to the Financial Creditor (FC).
- 2.0 Briefly, the facts as set forth in the synopsis filed along with the application, are as follows:
- 2.1 The Applicant is a company incorporated under the Companies Act, 1956. The Respondent is in the business of manufacturing Telecom cable jointing kits and Solar Photovoltaic Modules etc. and is also in the business of setting up Backward integration project for manufacturing of solar cells and expansion of facilities for SPVM at FAB City SEZ, Ranga Reddy District.
- 2.2 The CD approached various Banks with a request for finance for its business. The consortium of banks having State Bank of Hyderabad, State Bank of Mysore, IDBI Bank, State Bank of Bikaner and Jaipur, Canara Bank, Bank of India, Vijaya Bank, Federal Bank and ICICI Bank had granted various financial credit facilities.



- 2.3 The Applicant had assigned their share of debts along with the securities in favour of Invent Assets Securitisation & Reconstruction Pvt. Ltd. (INVENT), acting in its capacity as a trustee of Invent. The CD approached the Banks with a request for finance. The Applicant on such request and in consideration of the commitments to restructure its business to improve its operations, the CD has been referred to the Corporate Debt Restructuring Forum, a non-statutory voluntary mechanism setup under the aegis of Reserve Bank of India, for the efficient Restructuring of Corporate Debt (CDR). The Corporate Debt Restructuring Empower Group, at the meeting held on 30.12.2009, has approved a restructuring package in terms of which the existing financial assistance given by the Banks to the CD is to be restructured as set out in the Letter of Approval dated 23.01.2010.
- 2.4 In consideration of the sanction of credit facilities of Rs.785.56 crores, Rs.82.78 crores of working capital fund based, Rs.51.15 crores of letter of credit (Non fund based) and Rs.56.98 crores of Bank Guarantees (Non fund based) as advised and approved by the Corporate Debt Restructuring Cell in its approval letter dated 23.01.2010, the CD and the Banks have executed the Master Restructuring Agreement on 27.03.2010.
- 2.5 The CD had been granted financial assistance and executed the loaning and security documents. There were guarantors also for the said loans. The Applicant sold the assets mortgaged with them, under SARFAESI Act, 2002.



- 2.6 The CD also registered the charge on its assets in favour of the Security Trustee for the benefit of the Banks, by filing Form No.8 with the Registrar of Companies.
- 2.7 The CD availed the credit facilities but failed to maintain financial discipline. The applicant was compelled to classify the account of the CD as NPA. The CD and the Bank Guarantors executed revival letter dated 10.01.2013.
- 2.8 The CD defaulted the repayment of the credit facilities. Hence, the Bank was constrained to initiate proceedings under the SARFAESI Act, 2002. OA No.922 of 2013 was filed before the DRT. The Applicant issued possession notice u/s 13(4) of the SARFAESI Act to the Corporate Debtor and the Personal Guarantor. As on 09.12.2022, an amount of Rs.37,54,18,48,101/- is due and recoverable from the CD.
- 2.9 A recall notice was issued by the INVENT on 09.12.2022, inspite of which, the CD have failed to liquidate the debt, hence the applicant is constrained to file this present application.
- 3.0 The CD filed counter which is nothing but admission of debt and default. It is stated that due to the downfall of the market for CDMA handsets and related products, the company had suffered losses, though it had a certified track record for almost a decade. The company wanted to expand its business and therefore was in a process of setting up the backward integration project, availed various loans and borrowed the amounts from the Applicant. Later, the accounts were classified as Non Performing Assets (NPA).



4.0 Except putting forth the facts which are already stated by the Applicant, there is absolutely no ground taken by the Corporate Debtor on the basis of which, the application can be dismissed. Moreover, the CD seeks only for passing an order on merits, he does not even seek for dismissal of the application.

5.0 Hence, in view of the admitted debt and default, the application is allowed with the following directions:

ORDER

- a) The Application is admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process, which shall ordinarily be completed within the timelines stipulated in the Code, 2016 (as amended), reckoning from the date on which this order is passed.
- b) The Applicant has proposed the name of Mr. Vijay Pitambar Lulla as the Interim Resolution Professional (hereinafter referred to as the "IRP"). Accordingly, this Adjudicating Authority appoints Mr. Vijay Pitambar Lulla, Registration Number of IP : IBBI/IPA-001/IP-P00323/2017-18/10593, 201, Satchitanand Bldg., 2nd Floor, 12th Road, Khar, Mumbai, Maharashtra - 400052, E-mail ID: vijayplulla@rediffmail.com as the Interim Resolution Professional. The IRP is directed to file Authorization for Assignment within three days from the date of this order.
- c) The IRP is directed to take charge of the management of the Corporate Debtor, immediately. He is also directed to cause



public announcement as prescribed under Section 15 of the Code, 2016, within three days from the date of receipt of this order, and call for submissions of claim in the manner as prescribed.

- d) Moratorium is, hereby, declared and shall have effect from the date of this order till the completion of the CIRP, for the purposes referred to in Section 14 of the Code, 2016. It is hereby ordered that all of the following are prohibited:
- 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 or 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 rights 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
 - iv. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.



- v. Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances 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, concessions, clearances or a similar grant or right during the moratorium period.
- e) The supply of essential goods or services to the Corporate Debtor shall not be terminated, suspended or interrupted during the moratorium period. Further, if the IRP considers supply of any 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. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to 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.
- f) The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code, 2106. The Directors, Promoters or any other person associated with the management of Corporate



Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 for discharging his functions under Section 20 of the Code, 2016.

- g) The Corporate Applicant as well as the Registry is directed to send the copy of this Order to the IRP, to enable him to take charge of the assets etc. of the Corporate Debtor, and comply with this order as per the provisions of the Code, 2016.
- h) The Registry is directed to communicate this Order to the Corporate Applicant.
- i) The Registry shall also communicate this Order to the Registrar of Companies, Hyderabad, for updating the status of the Corporate Debtor in the website of the Ministry of Corporate Affairs.

7.0 Accordingly, this **CP(IB) No. 16/2023** is allowed.

Sd/-

(CHARAN SINGH)
MEMBER (TECHNICAL)

Sd/-

JUSTICE TELAPROLU RAJANI)
MEMBER (JUDICIAL)

VL