

TIN THE NATIONAL COMPANY LAW TRIBUNAL,

SPECIAL BENCH (Court-I)

KOLKATA

C.P (IB) No. 145/KB/2024

An application under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

In the matter of:

Small Industries Development Bank of India.

... Financial Creditor

Versus

In the matter of:

M/s Karani Techtex Print Private Limited .

... Corporate Debtor

Order Pronounced on : 02/01/2025

Coram:

Mrs. Bidisha Banerjee, Member (Judicial)

Mr. D.Arvind, Member (Technical)

Appearance:

1. Mr.Nikunj Berlia, Adv.] For the Financial Creditor
2. Mr. Mosarat Reyaz, Adv.]
3. Ms.Urvashi Jain, Adv.]

ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. *The Court convened by hybrid mode today.*
2. *Ld. Counsel for the Financial Creditor was heard. None appeared on behalf of*

the Corporate Debtor since inception and despite repeated notices and therefore, the Corporate Debtor was set *ex parte* by order order dated 18th September 2024.

3. However, at the closure of hearing, we have permitted written notes of argument to be filed within three days. While the Financial Creditor chose to file written notes of arguments, Corporate Debtor did not, hence, we proceed to file the matter on the basis of materials available on record.

Brief Background

4. This C.P has been preferred under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by **Small Industries Development Bank of India**, (hereinafter referred to as the Financial Creditor) for initiation of Corporate Insolvency Resolution Process in respect of **M/s Karani Techtex Print Private Limited**, a corporate entity (hereinafter referred to as the Corporate Debtor).

Contentions of the Financial Creditor

5. The Financial Creditor had sanctioned financial assistance of Rs.2,21,00,000/- (Rupees Two Crore Twenty One Lakhs only) in three tranches to the Corporate Debtor by entering into three loan agreements which are, the following:

- i. Agreement dated 23rd day of March, 2017 for Rs. 40,00,000/- (Rupees Forty Lakh only) Annexure-F, page 55 to 63 of the application;
- ii. Agreement dated 8th day of December, 2017 for Rs. 40,00,000/- (Rupees Forty Lakh only) Annexure F- Page 64 to 73 of the application;
- iii. Agreement dated 3rd day of July, 2020 for Rs. 41,00,000/- (Rupees Forty One Lakh only(Annexure- F- Page 74 to 97 of the application) with the Financial Creditor.

6. The Financial Creditor issued a letter of Intent dated 24/02/2027 (Annexure E- Page 28 to 37 of the application) and a modified letter of Intent dated 13/03/2017 for sanction of loan of Rs.1,40,00,000/- (**Annexure E**), letter of Intent dated 07/12/20217 for sanction of term loan of Rs. 40,00,000/ **Annexure-E** along with letter of intent

dated 02/07/2020 for working Capital assistance under TWARIT scheme for Rs.41,00,000/- (Annexure E).

7. The said amounts were disbursed from the accounts of the lender to the Corporate Debtor as would be evident from the statements of accounts reflecting the disbursement of a sum of Rs. 2,21, 00,000/- (**Annexure-G**).

8. The Master data of the Corporate Debtor with the Ministry of Corporate affairs under the index of charges reflects the Loan amount of Rs.41,00,000/- and Rs. 2,41,50,000/- from the Charge Holder being the Financial Creditor (**Annexure-H**).

9. The Corporate Debtor vide three Balance Confirmations dated 18/07/2023 has duly acknowledged the dues payable to the Financial Creditor on 25/08/2023, Copies whereof are attached with the application as **Annexure-I**.

10. The details of the computation of amount of default are reflected in a tabular statement of the Financial Creditor which forms **Annexure-J** to the application.

11. The securities held from the Corporate Debtor are mentioned in a schedule of **Annexure-K** of the application.

12. Record of default with the information Utility has been submitted on 20/12/2023 as **Annexure L** to the application.

13. Copies of Statements evidencing payment and certificate under the Bankers Book Evidence Act, 1891 are also filed as in **Annexure- M** to the application.

14. By a Deed of Hypothecation dated 23/03/2017 made and executed between the Financial Creditor and the Corporate Debtor herein, the Financial Creditor gave financial assistance in the form of term loan of Rs. 140 lacs (Rupees One Hundred Forty Lakh only) together with interest, further interest, additional interest, penal

interest, costs, charges, expenses and all other monies as stipulated in the Loan Agreement to the Corporate Debtor (**Annexure- N**) to the application.

15. By another Deed of Hypothecation dated 08/12/2017 made and executed between the Financial Creditor and the Corporate Debtor herein, the Financial Creditor gave financial assistance in the form of term loan of Rs.40 lacs (Rupees Forty Lakh only) and bank guarantee limit of Rs. 11.50 lakh (Rupees Eleven Lakh Fifty Thousand only) together with interest, further interest, additional interest, penal interest, costs, charges, expenses and all other monies as stipulated in the Loan Agreement to the Corporate Debtor as in **Annexure –N** to the application.

16. The Financial Creditor has issued a recall notice dated 7th June 2023 (**Annexure-N**) upon the Corporate Debtor demanding the payment of Rs.1,75,93,515.43 along with interest, but despite receipt of the recall notice dated 7th June 2023 the Corporate Debtor has not paid the outstanding loan amounts.

17. The total default as on 10th February 2024 stands at Rs. 1,66,48,991.75/- and the Corporate Debtor was declared NPA on 8/11/2021.

18. The Financial Creditor filed this present application on 08/03/ 2024 and had duly served the application upon the Corporate Debtor, the matter appeared before this Tribunal for the first time on 22nd May,2024, when this Tribunal was pleased to direct the registry to issue notice to the Corporate Debtor and to file reply affidavit by the Corporate Debtor, the matter was again listed on 18/09/2024 where despite notice none appeared for the Corporate Debtor, and accordingly the matter was fixed ex-parte and listed for hearing on 11/11/2024.

19. The date of default is **8th November 2021** being date of declaration of Corporate Debtor as a Non Performing Asset by the Applicant.

20. The Corporate Debtor is in default of payment of financial debt amounting to Rs. 1,66,48,991.75 as on 10th February, 2024.

21. As such, the claim of the Applicant is within limitation. Accordingly, this application may be admitted.

Analysis and Findings

22. We have considered the submissions made by Ld. Counsel Mr. Nikunj Berila appearing for the Financial Creditor and considered the materials on record which are neither denied nor disputed or controverted by the Corporate Debtor and should be deemed to be admitted on the basis of doctrine of *non-traverse*.

23. The Financial Creditor has been successfully able to establish its claim of Rs. 1,66,48,991.75 as on 10th February 2024, which is way above the threshold. The Financial Creditor has been able to establish that the Corporate Debtor was declared NPA on 08/11/2021 and therefore this petition filed in March 2024 is well within the period of limitation prescribed under Article 137 of the Limitation Act.

24. Further, it is evident that vide three balance confirmations as Annexure-I, the Corporate Debtor has duly acknowledged its dues payable to the Financial Creditor and therefore both the “debt” as well as the “default” is established.

25. That there is no iota of dispute in regard to the nature of debt being the “financial debt” as the disbursement from the accounts of the lender to the corporate debtor is established.

26. In view of such, we admit the present petition and pass the following orders:-

ORDER

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- i. The application filed by the Financial Creditor under section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate is hereby admitted.
- ii. Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15.
- iii. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:
- 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 any of its 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 Securitization 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.

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- v. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.
- vi. The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vii. The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii. Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- ix. Necessary public announcement as per Section 15 of the IBC, 2016 may be made.
- x. The Financial Creditor has proposed the name of **Mr. Madhur Agarwal** having registration No.IBBI/IPA-001/IP—P00653/2017-2018/11127 mobile no. 9830066008 is hereby appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.

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- xi. The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution of the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.
- xii. *The Financial Creditor/Applicant is directed to deposit Rs. 3,00,000/- (Rupees Three Lakhs Only) with the IRP appointed hereinabove within three days from this order. IRP can claim the preliminary expenses and fees subject to the approval by the CoC and after constitution of CoC.*
- xiii. Registry is hereby directed under section 7(4) of the I.B.Code, 2016 to communicate the order to the Financial Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.
10. List the matter on 10/02/2025 for the filing of the **Progress Report**.
11. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(D.Arvind)
Banerjee)
Member (Technical)
(Judicial)

(Bidisha
Member

IN THE NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH-I, KOLKATA

C.P (IB) No.145/KB/2024

Order signed on this, the 2nd day of January , 2025

PJ.