

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
SPECIAL BENCH, CHENNAI**

**IBA/216/2019**

*Under Section 7 r/w Rule 4 of the IBC, 2016*

**In the matter of M/s. Sri Venkataram Spinners Private Limited**

**STATE BANK OF INDIA**

**---Financial Creditor**

**V/s**

**M/s. Sri Venkataram Spinners Private Limited**

**---Corporate Debtor**

**Order delivered on: 09.08.2019**

**Coram:**

**B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**ANIL KUMAR. B, MEMBER (TECHNICAL)**

For the Financial Creditor : *Shri. K. Ramesh, Advocate*

*For M/s. Ramalingam & Associates*

For the Corporate Debtor : *Ms. Geethanjalli.T, Advocate*

*For M/s. Aidyar & Dolia*

**ORDER**

**Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**Heard and dictated in Open Court on: 08.08.2019**

It is an Insolvency and Bankruptcy Application (IBA) filed u/s 7 of the Insolvency & Bankruptcy Code ("the Code") by State Bank of India ("the Creditor Bank") for initiation of Corporate Insolvency Resolution Process (CIRP) against Corporate Debtor viz., Sri



Venkatram Spinners Private Limited on the ground that it has defaulted repaying an amount of ₹40,02,87,000.16 paise as on 31.12.2018 as against the loans availed by the Corporate Debtor.

2. On perusal of this Application, it appears that this Corporate Debtor has availed financial assistance from this Applicant on 06.09.2007 and thereafter another sanction limit on 22.03.2016. The entire facility was revised on 22.03.2016 with fresh sanction letter revising credit facilities as mentioned below:-

Facility	Existing limit (₹)cr	Revised limit (₹) cr	Remarks
CC*	14.00	14.00	Renewal of existing facility
Total FBWC Limit	14.00	14.00	
Corporate Loan	5.00	5.00	Existing Term Loan (Corporate Loan)
Total Term Loan	5.00	5.00	
Total FB Limit	19.00	19.00	
NFB WC LC*	7.00	7.00	Renewal of existing facility
Total NFB	7.00	7.00	
<b>Total FB &amp; NFB limits</b>	<b>26.00</b>	<b>26.00</b>	

\* Continuation of 50% one-way interchangeability from LC to CC to the extent of Rs.3.50 Cr.

3. In pursuance of the sanctioned letters provided in the table above, the Corporate Debtor herein provided securities and guarantees as mentioned below:

**Security**

Facility	Details of Security
Cash Credit & LC	Pari Passu charge on the entire current assets of the Company viz., raw materials, stocks in process, finished goods, spares, consumables & stores and receivables with BOB, Rajapalayam.

**Collateral**

Facility	Details of Security	Type of charge by SBI	Owned by
All facilities	Plant & Machinery i. RSB Draw Frame LRSB 851 supplied by M/s LMW Coimbatore – 1 Nos. ii. Speed Frame LF 1400A-Simplex machine supplied by M/s. LMW Coimbatore – 2Nos. iii. Testing equipments supplied by M/s.	Paripassu First charge	Sri Venkatram Spinners Pvt. Ltd.

	Premier Evolvuce Pvt. Ltd. – 1 No. iv. Manual Cone winding Machine & Accessories supplied by M/s. Eurokone Textile Industries – 1 No.		
All facilities	Plant & Machinery other than mentioned as above.	Paripassu second charge	Sri Venkatram Spinners Pvt. Ltd.
All facilities	EM over land and building at Cholapuram Village, Rajapalayam Taluk in S. Nos.1269/1, 1270, 1272/3A, 1272/3B, 1273/3B, 1274 to an extent of 7.65 acres	Paripassu second charge	Sri Venkatram Spinners Pvt. Ltd.
All facilities	EM over land at Koonamkulam Road, Cholapuram Village in S.Nos.1239/2A, 1 to an extent of 3.20 acres.	Paripassu second charge	Sri Venkatram Spinners Pvt. Ltd.
All facilities	EM over land at Ayaankollankondan in S. Nos.11, 135, 981/2, 167, 6/1, 14/4, 14/5, 14/6 to an extent of 11.975 acres.	Paripassu charge with BOB, Rajapalayam	Sri S. Srinivasan

All facilities	EM over land at Rajapalayam in S.Nos.81/2, 94/1, 95/1A, 96/1, 96/2, 57/1 to an extent of 2.135 acres	Paripassu charge with BOB, Rajapayalam	Sri S. Srinivasan
All facilities	EM over land at Rajapalayam in S.Nos.607 to 613 to an extent of 3.00 acres	Paripassu charge with BOB, Rajapayalam	Sri S. Srinivasan
All facilities	EM over land at South Venganallur, Cholapuram in S.Nos.593/1, 2 & 68/2 to an extent of 3.76 acres	Paripassu charge with BOB, Rajapayalam	Sri S. Srinivasan
All facilities	EM over residential house at D.No.265, Madurai Raja kadai Street, Rajapalayam, Ward No.23605/23 to an extent of 7.62 cents	Paripassu charge with BOB, Rajapayalam	Sri S. Srinivasan
All facilities	EM over residential house at Tenkasy Road, Singarajakottai, Pudupalayam village, Door No.1756 (old 573 & 574) constructed area of 110.40 sq.m.	Paripassu charge with BOB, Rajapayalam	Sri S. Srinivasan
All facilities	EM over land at Ayankollankondan village in S. Nos.10/1,	Paripassu charge with BOB, Rajapayalam	Smt. S. Lalitha

	2A, 131/1, 2, 3A to an extent of 3.16 acres.		
All facilities	EM over land at Rajapalayam in S. Nos.607/1B, 1C, 2A, 2B, 608/1, 620/1, 621/1, 596/2, 596, 573, 572, 574, 575/2, 595 to an extent of 11.96 acres.	Paripassu charge with BOB, Rajapayalam	Smt. S. Lalitha
All facilities	EM over residential property at INTUC Nagar, Pudupalayam village, Rajapalayam in S.No.271/3, constructed area of 12961.25 sq.ft.	Paripassu charge with BOB, Rajapayalam	Sri S. Srinivasan
All facilities	EM over land at South Veganallur, Cholapuram in S.Nos.67/1, 2, 3, 4, 611/1, 1A & 595 to an extent of 4.21 acres	Paripassu charge with BOB, Rajapayalam	Sri S. Srinivasan
All facilities	EM over factory land & building at Koonakulam Road, Cholapuram Village in S. Nos.1268/2, 3A, 4, 1B, 2B to an extent of 3.64 acres	Paripassu second charge	Sri Venkatram Spinners Pvt. Ltd.
All facilities	EM over land at Agraharam Street, Cholapuram Village in	Paripassu second charge	Sri Venkatram Spinners Pvt. Ltd.



	S. Nos.1225/1 to an extent of 11.48 cents.		
All facilities	EM over land at Koonakulam Road, Cholapuram Village in S. Nos.1268/3B1, 3B2, 1267/1B1, 1264/1A1, 2A2, 2A3, 2A4, 2A5, 2A6, 2A7, 2A8, 1267/2A, 2B, 2C, 2D & 2E to an extent of 3.21 acres	Paripassu second charge	Sri Venkatram Spinners Pvt. Ltd.
All facilities	EM over land at Vadi Village, Surandai SRO, Veerakeralam Pudhur Taluk, Tirunelveli District in S. Nos.253/1-3, 5 to an extent of 4.57 acres	Paripassu second charge	Sri Venkatram Spinners Pvt. Ltd.
All facilities	EM over agri land at Perumalpatti Village, Karivalamvandanallur Taluk in S. Nos.306/1, 2 & 30/4, 5, 6, 7, 243/1 to an extent of 11.94 acres	Paripassu charge with BOB, Rajapayalam	Sri S. Srinivasan

**Guarantees: Personal Guarantees of the persons mentioned below:**

Facility		Name
All facilities		S. Srinivasan
All facilities		S. Lalitha

**Margins and rate of interests are as follows:**

**Margin**

RM: Domestic	25.00%
RM: Imported	25.00%
Stock in process	25.00%
Finished goods	25.00%
Receivables (Cover 90 days)*#	25.00%
Letter of Credit	10.00%
BG*	25.00%
EPC	25.00%

\* 100% margin for disputed liability

# Receivables from associate concern may be included, subject to a cap of Rs.1.50 crores.

**Rate of Interest (to be charged as monthly rests):**

Facility	Pricing
Cash Credit (Hyp)	7.00% above base rate (present effective rate 16.30% pa) @
Corporate Loan	4.50% above base rate (present effective rate 13.80% pa) @
LC & BG	As per bank instructions

@ the rates are based on internally assessed rating process and your rating assessed at SB 12

4. Since the loan account has been continuing from 2007 onwards, the Creditor Bank was disbursing monies as per the arrangements, the Creditor Bank and the Corporate Debtor periodically entering into agreements. Since the loan account has become irregular on 27.06.2016, this debt has been classified as Non-

Performing Asset (NPA) as per the Reserve Bank of India guidelines as reflected from the document placed at Page No.43 of the Application.

5. As the Account became NPA, the Creditor Bank on 01.07.2016 issued demand notice u/s 13 (1) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 demanding Corporate Debtor to repay ₹26,82,00,723.83 paise on 27.06.2016, failing which, the Bank would reserve its right to call upon the debtor to repay the liabilities that arise under the outstanding Bills discounted, bank guarantees and Letter of Credit issued and established at the request of the Corporate Debtor. For supporting this claim, the Creditor bank has filed documents reflecting hypothecation of stocks and receivables of the Creditor Bank, Second Charge and Factory, Land and Building on all Cholapuram Village, Rajapalayam Taluk; second charge of hypothecation of plant and machinery; collateral security by mortgaging the Corporate Debtor property of the personal guarantor) and all securities held on paripassu with Bank of Baroda, Rajapalayam Branch either as first charge or second charge.

6. The Creditor Bank has also filed OA/42/2018 on the file of DRT, Coimbatore for total amount of ₹32,90,87,141.24 as on 30.11.2017 and the same is pending.

7. In furtherance of the demand notice given under Section 13 (2) of SARFAESI Act, the Creditor Bank has independently proved that this claim is within limitation by showing balance confirmation dated 04.04.2016 signed by the Corporate Debtor, whereby it is very much evident that this claim is within limitation.

7. Since this Corporate Debtor has failed to repay the claim mentioned in this Company Petition and there being no tenable argument from the Corporate Debtor side except stating that it has been maintaining business relation with the Corporate Debtor, and we are of the considered opinion that the Applicant has proved existence of enforceable debt and default against the Corporate Debtor, we hereby admit this Company Application by appointing Mr. CA. Mahalingam Suresh Kumar as IRP, looking at the consent given by him, with the directions as follows:-

- I. That Moratorium is hereby declared prohibiting all of the following actions, namely,
- 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;
  - 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.
- II. That Supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

- III. That the provisions of sub-section (1) of Section 14 of IBC 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 **08.08.2019** till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, 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 IBC.
- VI. That this Bench hereby appoints **Mr. Mahalingam Suresh Kumar, having Registration Number [IBBI/IPA-001/IP-P00110/2017-18/10217], No. 27/9, Nivedh Vikas, Pankaja Mill Road, Puliyakulam, Coimbatore-641045,** as Interim Resolution Professional to carry out the functions as

mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

8. Accordingly, this Petition is **admitted**.
9. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by way of email or whatsapp.

-SD-  
**ANIL KUMAR B**  
MEMBER (TECHNICAL)

-Sd-  
**(B. S.V. PRAKASH KUMAR)**  
**Member (Judicial)**

GHK/TJS