

10 2 11

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – I, CHENNAI**

**IBA/1045/2019 and IBA/1169/2019**  
filed under Section 7 of the Insolvency  
and Bankruptcy Code, 2016 r/w Rule 4  
of the Insolvency and Bankruptcy  
(Application to Adjudicating Authority)  
Rules, 2016

In the matter of ***M/s. Easun Reyrolle Limited***

**IBA/1045/2019**

**Canara Bank,**  
Having its Head Office at  
No.112, J.C.Road,  
Bengaluru, Karnataka-560 002.

Having its Hosur Main Branch at  
M.M.Reddy Complex,  
Old Bangalore Road,  
Hosur – 635 109.

*... Financial Creditor*

-Vs-

**M/s. Easun Reyrolle Limited,**  
“Temple Tower”, 6<sup>th</sup> Floor,  
No.672, (Old No.476), Anna Salai,  
Nandanam, Chennai – 600 035

*...Corporate Debtor*

**IBA/1169/2019**

**State Bank of India,**  
Stressed Assets Management Branch,  
Rep. by Assistant General Manager,  
Montieth Road,  
Egmore, Chennai.

*... Financial Creditor*

-Vs-

**M/s. Easun Reyrolle Limited,**  
“Temple Tower”, VI Floor, 476,  
Anna Salai, Nandanam,  
Chennai – 600 035

Q

Also at  
'A' Block Pasupathinath,  
26, Desika Road, Mylapore,  
Chennai – 600 004

...Corporate Debtor

CORAM :

**R. VARADHARAJAN**, MEMBER (JUDICIAL)  
**ANIL KUMAR B**, MEMBER (TECHNICAL)

In IBA/1045/2019

For Financial Creditor : T.Ravichandran, Advocate  
For Corporate Debtor : T.K.Bhaskar, Advocate

In IBA/1169/2019

For Financial Creditor : K.Chandrasekaran, Advocate  
For Corporate Debtor : T.K.Bhaskar, Advocate

### **COMMON ORDER**

**Per: R. VARADHARAJAN, MEMBER (JUDICIAL)**

Order Pronounced on 05-05-2020

1. These Applications have been filed by the Financial Creditors invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code, 2016 ("I&B Code-2016") r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "AAA Rules") against *M/s. Easun Reyrolle Limited* (hereinafter referred to as 'Corporate Debtor').

The prayers made in the Applications are to admit the Applications, to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP).

Since both the Applications filed by the Financial Creditors are in relation to the same Corporate Debtor, both are taken up together to be disposed of by way of a common order, as the proceedings under IBC, 2016 in relation to CIRP being a proceeding in rem.

2. Heard the Learned Counsel for the Financial Creditors and the Learned Counsel for the Corporate Debtor and perused the pleadings including the documents placed on the case file.

3. The brief facts of the case of the Financial Creditor namely Canara Bank in IBA/1045/IB/2019 are as follows:

i. The outstanding amounts claimed by the Financial Creditor in IBA/1045/IB/2019 against the



Corporate Debtor is Rs.59,31,10,589.42p with interest till 18.07.2019. The amount claimed to be in default is set out in a tabular column at page 26 of the typed set filed with the Application, a perusal of which shows that the default is said to have arisen in relation to the overdraft cash credit facility granted by the Financial Creditor to the Corporate Debtor.

ii. The Financial Creditor states that the Corporate Debtor is engaged in the business of providing complete range of Power Management Products, Systems, Solutions and Services spread across generation, transmission, distribution and industrial application.

iii. The Corporate Debtor approached the Financial Creditor with the request to sanction an Over Draft Cash Credit facility of Rs. 30.00 Crores to mete out their working capital requirements. Considering the request made by the Corporate Debtor, the Financial Creditor sanctioned the Over Draft Cash facility of Rs.30.00 Crores to the Corporate Debtor vide Sanction

Q

Letter dated 08.03.2013. Copy of Sanction Letter dated 08.03.2013 is placed at page 32 to 41 of the typed set filed with the Application. The Financial Creditor has also placed on record the copy of the Board Resolution dated 17.04.2013 at pages 42 and 43 of the typed set filed with the Application, authorising the Corporate Debtor to avail the Fund Based facility of Rs.30 Crores in the form of various credit facilities from the Financial Creditor.

iv. In order to secure the above facility, the Corporate Debtor executed (i) the Demand Promissory Note for a sum of Rs.30 Crores and (ii) Common Hypothecation Agreement in favour of the Financial Creditor, on 19.06.2013 as security for due repayment of the loan. Copies of the documents dated 19.06.2013 are placed at pages 44 to 77 of the typed set filed with the Application.

v. In addition, the Corporate Debtor executed the Memorandum Confirming the Extension of Equitable Mortgage in favour of the Financial Creditor on

A

16.09.2013, copy of which is placed at pages 78 to 91 of the typed set filed with the Application. Besides above, the Corporate Debtor deposited the title deeds with the Financial Creditor in respect of the property mentioned therein by executing memorandum relating to Deposit of Title Deeds, copy of the same is placed at pages 92 to 100 of the typed set filed with the Application.

vi. The Corporate Debtor vide letter dated 17.02.2014 has requested the Financial Creditor to renew the Cash Credit Facility, copy of which is placed at page 101 of the typed set filed with the Application. The said request was considered and the Cash Credit Facility was renewed by the Financial Creditor vide Sanction Letter dated 24.09.2014, copy of which is placed at pages 102 to 112 of the typed set filed with the Application.

vii The Corporate Debtor had executed various documents in favour of the Financial Creditor in view of the renewal of the facility. Besides that, the



Corporate Debtor executed Acknowledgement of Debt and Security dated 15.10.2014 in favour of the Financial Creditor, copy of which is placed at page 113 of the typed set filed with the Application.

viii. The Corporate Debtor after availing the loan and executing the loan documents in favour of the Financial Creditor had become irregular in repayment of both the principal and interest amounts due to the Financial Creditor. On account of the continued default committed by the Corporate Debtor, the Financial Creditor vide its communication dated 28.10.2015, requested the Corporate Debtor to clear the entire overdue immediately, copy of which is placed at page 114 of the typed set filed with the Application. Since no amount was forthcoming, the Financial Creditor issued a recall notice dated 31.10.2015 to clear the entire liability, copy of which is placed at pages 115 and 116 of the typed set filed with the Application.

ix. On 02.03.2017, the Corporate Debtor executed Acknowledgement of Debt and Security in favour of the

Q

Financial Creditor acknowledging the outstanding amount due to the Financial Creditor, copy of which is placed at page 117 of the typed set filed with the Application.

x. The Corporate Debtor has failed to pay the amounts legitimately due to the Financial Creditor even after repeated requests made by the Financial Creditor. Therefore, the account of the Corporate Debtor was classified as Non Performing Asset (NPA) on 29.09.2017. Thereafter, the Financial Creditor had issued a Legal Notice dated 07.09.2018 calling upon the Corporate Debtor to discharge their entire liability under various agreements executed by them in favour of the Financial Creditor as against the Cash Credit facility. Copy of Legal Notice is placed at pages 118 to 121 of the typed set filed with the Application.

xi In addition, the Financial Creditor has placed the CRILC Report dated 16.07.2019 issued by the RBI at pages 122 to 124 of the typed set filed with the Application. Besides above, the Financial Creditor has filed the statement of account for the period from



01.01.2012 to 15.07.2019 at pages 125 to 445 of the typed set filed with the Application and the Certificate issued under the Bankers' Books Evidence Act, 1981 is placed at page 445 of the typed set filed with the Application.

4. The brief facts of the case of the Financial Creditor namely State Bank of India in CP/1169/2019 are as follows:

i. The outstanding amounts claimed by the Financial Creditor namely **State Bank of India** in IBA/1169/IB/2019 against the Corporate Debtor is to the tune of Rs.204,89,03,878.20p as on 31.08.2019 with further interest and other charges, less recoveries if any.

ii. The Financial Creditor states that the Corporate Debtor namely M/s Easun Reyrolle Limited approached the Financial Creditor, Overseas Branch, Bangalore, for credit facilities for their business of manufacturing Relays and control panels. At the



request of the Corporate Debtor, Financial Creditor sanctioned the Fund Based Cash Credit Limit of Rs.13.25 Crores and Non-Fund Based Limits of Rs. 12.25 Crores, totalling to Rs.25.50 Crores to the Corporate Debtor for their business. Copy of Sanction Letter dated 01.01.2000 is placed at pages 21 to 25 of the typed set filed with the Application.

iii. The Financial Creditor has placed on record the Resolution dated 21.01.2000 passed by Board of Directors of the Corporate Debtor on accepting the terms and conditions of the sanction letter. Copy of Board Resolution dated 21.01.2000 is placed at page 26 to 31 of the typed set filed with the Application.

iv. After availing the loan, the Corporate Debtor executed the following documents in favour of the Financial Creditor on 19.02.2000 as security for due repayment:-

- (a) Agreement of Loan for Overall Limit,
- (b) Agreement of Hypothecation of Goods and Assets,

Q

- (c) Deed of Guarantee for overall limit,
- (d) Letter Regarding the Grant of Individual Limits within the Overall Limit

v. The Financial Creditor from time to time renewed/revised Fund Based Working Capital, Non-Fund Based Limits to the Corporate Debtor vide Sanction Letters dated 13.11.2001, 29.01.2003, 19.02.2004 and 25.08.2004 for their business. Copies of Sanction Letters are placed at pages 128 to 146 of the typed set filed with the Application.

vi. In order to secure the said renewed/revised sanctions, the Corporate Debtor executed the following documents on 30.08.2004 in favour of the Financial Creditor as security for due repayment:-

- a. Letter regarding the grant of individual limits within the overall limit and

- b. Revival letter

vii. Again, the Financial Creditor vide Sanction Letter dated 06.12.2004, copy of which is placed at

Q

pages No.158 to 163 of the typed set filed with the Application, sanctioned/renewed the Fund Based Working Capital of Rs.13.50 Crores and Non-Fund Based limit of Rs. 12.75 Crores, totalling to Rs.26.25 Crores to the Corporate Debtor for their business. In this connection, the Resolution dated 10.12.2004 passed by the Board of Directors of the Corporate Debtor is placed at page 164 of the typed set filed with the Application.

viii. For the renewed facilities sanctioned by the Financial Creditor, the Corporate Debtor executed the following documents in favour of the Financial Creditor, as security for due repayment, on 10.12.2004:-

- a. Supplemental Agreement of loan for increase in the overall Limit,
- b. Supplemental Agreement of Hypothecation of goods and assets for increase in overall limit,
- c. Supplemental Deed of Guarantee for increase in the overall Limit and

①

d. Letter regarding the grant of individual limits within the overall limit.

ix. Likewise, the Financial Creditor now and then accorded the sanction/renewal of Fund Based Working Capital and Non Fund Based Limits to the Corporate Debtor on 21.10.2005, 18.01.2006, 18.10.2006, 23.06.2007, 04.11.2008, 05.02.2009, 04.11.2009, 18.11.2010, 12.04.2013, 08.03.2014 and 28.2.2015 to the Corporate Debtor for their business.

x. Besides executing the security documents such as Supplemental Agreement of Loan for increase in Overall Limit and Supplemental Agreement of Hypothecation of Goods and Assets for increase in Overall Limit from time to time in favour of the Financial Creditor, the Corporate Debtor has created equitable mortgage by deposit of title deeds in respect of various properties situated at Hosur on 14.11.2006 and also executed a Memorandum relating to Deposit of Title Deeds on 04.12.2008 and 22.4.2009 in favour of the Financial Creditor. Similarly, the charges over



the property in respect of the Corporate Debtor have also been registered with Registrar of Companies.

xi. In addition, the Corporate Debtor has acknowledged the liability in writing by executing Revival Letters in favour of the Financial Creditor now and then on 30.08.2004, 29.10.2005, 27.02.2006, 22.04.2009, 11.11.2009, 14.03.2012, 04.03.2015 and 10.02.2018,

xii. After availing the above facilities and executing the security documents in favour of the Financial Creditor, Corporate Debtor failed to regularize the account. Hence, the Financial Creditor issued Legal Notice dated 19.06.2018 calling upon the Corporate Debtor to repay the outstanding amount due to the Corporate Debtor, copy of which is placed at pages 716 to 718 of the typed set filed with the Application to which the Corporate Debtor has not sent any reply.

xiii. Despite several reminders, the Corporate Debtor failed to repay the liability owed by it to the Financial

A

Creditor. Therefore, the Financial Creditor was constrained to classify the account of the Corporate Debtor as Non-Performing Asset (NPA) on 28.10.2015. At this juncture, the Financial Creditor states that after the classification of the loan account of the Corporate Debtor as NPA, the Corporate Debtor executed two Revival Letters dated 10.02.2018, copies of which are placed at pages 705 to 708 of the typed set filed with the Application, acknowledging the outstanding balance amount due to the Financial Creditor.

xiv. Further, the statement of accounts and the Certificate issued under the Banker's Books Evidence Act, 1876 are placed pages 748 to 751 of the typed set filed with the Application. It is also stated that the OA No. 426 of 2019 filed by the Financial Creditor before the DRT-2, Chennai is pending.

5. Counter Affidavit filed by the Corporate Debtor

i. The Chief Financial Officer of the Corporate Debtor filed Counter Affidavit in IBA/1045/2019 on 19.11.2019 wherein it is stated that the present

Q

Application has been preferred by the Financial Creditor seeking to initiate CIR Process against the Corporate Debtor in respect of a claim of Rs. 59,31,10,589.42p in relation to an Over Draft Cash Credit facility availed by the Corporate Debtor on 08.03.2013 to an extent of Rs. 30 Crores, which was subsequently renewed on 15/10/2014.

ii. It is further stated that the Corporate Debtor is an entity incorporated on 29.08.1974 under the name and style of Easun Reyrolle Relays and Devices Limited. The name of the Company was subsequently changed to its current name 'Easun Reyrolle Limited', and a fresh certificate of incorporation consequent to change of name was issued on 11.11.1997. The Corporate Debtor is a Public Limited Company with around 13,400 public shareholders and the shares of the Corporate Debtor are listed on National Stock Exchange and Bombay Stock Exchange.

iii. The Corporate Debtor is engaged in the business of electrical power management, morefully concerning



the manufacturing, importing, exporting and dealing with all kind of relays, protective devices, test kits and accessories thereof used in connection with power and control systems.

iv. The Company has its manufacturing units located in SIPCOT Industrial Estate, Hosur, Krishnagiri District, Tamilnadu wherein the assembly, testing and packing unit has been set up for the products/ systems business namely Electrical Relays (Electro-Mechanical and Digital- Communicable / non-communicable) and control panel systems, and in Harohalli, Ramnagara District, Karnataka, the manufacturing unit at Harohalli has been set up primarily for the Enclosures that can be used for the ERL products / systems such as numeric relays, control panels, ring main units, etc.

v. It is averred that taking into account the Company's viability in the industry, a need for restructuring was felt in the light of the changing market scenario. In that connection, a number of



recommendations were made to effectively restructure the Company and several projections were made in relation to the Company of its future capabilities.

vi. The Corporate Debtor, though has been a pioneer in the industry and the relevant product market it deals in, there were certain setbacks which brought down the performance of the Company. The company had to face loss for the past few years which is mainly on account of its working capital that had been affected. Further, the trends of the industry shifted to offering turn key projects leaving the independent equipment manufacturing entities to a back stage. As a result, the Company's main focus has shifted to undertaking turn key projects. Some of the projects were delayed for over a period of five years and some other had to come to a standstill because of certain extraneous factors like security issues, issues with right of way clearances for lines, etc. As a result of the same, the sub-contractors also suffered substantially leading to minimal bids in the subsequent projects. In fact, as on date a sum of Rs. 103,88,77,875/- is due to

Q

be received from various state utilities like Andhra Pradesh Power Utility Corporation, Assam Power Distribution Company, Bangalore Electricity Supply Corporation Limited, Eastern Power Distribution Limited, Indian Oil Corporation Limited, Karnataka Power Transmission Corporation Limited, Power Grid Corporation of India, Tamil Nadu Electricity Generation Corporation, etc. This situation further led to a cash crunch and liquidity issues, as the receivables could not be materialised.

vii. Though the Corporate Debtor has suffered certain setbacks in the past, it has always displayed its capacity to turnaround the set back and achieved a profitable position. In fact, in 1987, the Company was declared sick by the Board for Industrial and Financial Reconstruction ('BIFR') and a scheme of rehabilitation was sanctioned in April, 1990. In 1990, the company renewed its license agreement with its collaborators turned around and posted a net profit of Rs. 70.36 Lakh in 1990-91. This improved to Rs. 182.05 Lakh in 1993-94. The Central Electricity Generating Board has



also acknowledged the Corporate Debtor's equity partner Reyrolle's adherence to the highest engineering standards.

viii. It is further averred that a substantial worth of inventories of the Corporate Debtor were in transit lying at customs bonded warehouse to the extent of Rs. 517.65 Lakhs. As mentioned in the disclosure in the auditor's report for the year ended 31<sup>st</sup> March, 2018, stocks to the extent of Rs. 314.78 Lakhs are pending clearance from the customs warehouse for more than 3 years. Thus, these factors eventually crippled the working and thriving of the business of the Corporate Debtor.

ix. Despite the same, the Corporate Debtor has certain key potentials which are distinct and highly imperative in the electrical power market. The Corporate Debtor is known for its distinct automation of the electrical grids. The Company has developed multiple products to suit the transmission and distribution segments, both in India and abroad and

A

has substantially brought down the cost of the products, to achieve a higher EBITDA. Therefore, the Corporate Debtor has been taking substantial steps to improve its position over time.

x. The Corporate Debtor also has a significant projected turnover as observed in the viability report. In fact, the following table depicts a substantial turnover achieved by the Corporate Debtor from the sale of its products for a period of five years from 2012 till 2016:

DESCRIPTION	12 months ending March 31, 2012 (In Lakhs)	12 months ending March 31, 2013 (In Lakhs)	12 months ending March 31, 2014 (In Lakhs)	12 months ending March 31, 2015 (In Lakhs)	12 months ending March 31, 2016 (In Lakhs)
Sale of Products	28,448.53	22,780.47	18,715.34	6265.30	3,456.31
Relays and Control Panels	16,222.36	10,971.08	6562.69	3392.51	2913.19
Substation Automation/ Meters	2,606.64	143.08	50.87	--	--
RMU	--	--	--	461.86	20.76
Switchgear	3044.01	2250.18	1079.68	41.17	102.51
Projects	1291.27	8093.77	10,009.95	2,081.12	278.11

xi. In addition, the Corporate Debtor has been receiving and executing various orders from time to time. The Corporate Debtor has current orders worth Rs.34.29 Crores in relation to its protection system business and orders worth Rs.5.93 Crores in relation to protection products business, in addition to orders worth Rs.1.75 Crores in the switch gear business. As estimated and recorded in the viability report of the Corporate Debtor, the Company has a projected total possible market opportunity of Rs.242 Crores for the year 2020-21 with up to Rs. 337.9 Crores in the year 2026-27.

xii. During 1997-98, the Company has received ISO-9002 accreditation from Electricity Association Quality Assurance Limited, UK for the quality systems in Hosur and Bangalore factories. The Corporate Debtor has been actively working in relation to revival of the Company. Recently in April 2017, at the behest of one of the bankers of the Corporate Debtor namely State Bank of India, a forensic review was conducted in relation to the Corporate Debtor. It was concluded that

①

there is no diversion of funds, or any malicious intent and also highlights certain reasons behind the set back faced by the Company.

xiii. It is averred in the Counter Affidavit that the Corporate Debtor has also been taking substantial efforts to explore venues to settle and service the debt obligations to various bankers. Further, the Corporate Debtor has been in existence for over forty five years, with substantial public shareholding. The Corporate Debtor has a substantial potential of revival, and in relation to the same, the viability report specifically recommends a restructuring framework with a proposed repayment schedule in relation to various facilities obtained by the Corporate Debtor, with serviceability of the facilities being sourced by a combination of promoter's contribution and revenue inflows from business operations, with adequate monitoring systems in place for the restructuring scheme. The projections in relation to the profits sought to be achieved by the company are set out herein below, which are adequately sufficient to meet



the repayment obligations of the Company in the forthcoming years:

Description	2020	2021	2022	2023	2024	2025	2026	2027
Gross Profit	68.45	83.04	81.19	87.39	95.19	100.02	100.02	99.99
Selling and administrative expenses	28.96	30.54	19.49	21.41	23.52	23.52	23.52	23.52
Gross profit before interest	39.50	52.50	61.71	65.98	71.66	76.50	76.50	76.48
Retained Profit	10.71	51.41	28.91	33.96	40.59	46.93	49.75	45.81

xiv. It is stated that the Company is in the process of locating investors / other financial sponsors to take over some of the liabilities owed to the banks and the Corporate Debtor is in the stage of final discussions, in relation to the same and further that initiating CIR Process against the Corporate Debtor at this point would substantially affect the ability of the Company to effectively continue as a 'going concern'. The Corporate Debtor is also examining methods to recover various dues to the extent of 103.88 Crores, recoverable from various state utilities, so that the same can be utilized for settling the creditors of the Corporate Debtor.



xv. It is pleaded that the Corporate Debtor is not a fit Company to be subject to CIR Process, and the Company ought to be allowed to function in its current framework, especially in the light of the fact that various industries are dependent on the Corporate Debtor, the workforce, both in direct and indirect employment and the substantial public shareholding involved in the Company and especially on account of the fact that the Corporate Debtor is one of the largest suppliers for various state electricity projects. Therefore, if the company is subject to CIR Process, its growth potential and the interest of the stakeholders will be substantially crippled and prejudiced. Hence, the Corporate Debtor has prayed to dismiss the Application.

6. We have carefully considered the rival submissions as well as the pleadings and the documents as filed by the Counsel for the parties before this Tribunal. The Counter Affidavits filed by the Corporate Debtor in both the matters reveal that



though the Corporate Debtor has filed separate Counter Affidavits on different dates, the contentions raised therein by the Corporate Debtor are the one and the same. A perusal of the Counter Affidavit shows that the Corporate Debtor has nowhere denied the availing of the Over Draft Cash Credit facility from Canara Bank and Fund Based and Non-Fund Based Credit facility from State Bank of India and the subsequent renewal thereto by them on various dates.

7. The Learned Counsel for the Financial Creditor has drawn the attention of this Tribunal to the submissions made by the Learned Counsel for the Corporate Debtor during the course of arguments in relation to the offer made by the Corporate Debtor to settle the outstanding amounts due to the Financial Creditor under OTS, and submits that in itself amounts to the admission of liability by the Corporate Debtor.

8. Be that as it may; it is pointed out by the Learned Counsel for the Financial Creditor that the Hon'ble



NCLAT in the matter of **Dr. Esther Malini Victor -Vs- Oriental Bank of Commerce & Ors.** in *Company Appeal (AT) (Insolvency) No.822 of 2019*, wherein a similar set of issue came up for consideration before the Hon'ble NCLAT and the Hon'ble NCLAT, after examining the same, it was held that if the debt and default is proved, the Adjudicating Authority is bound to admit the Section 7 Application under I&B Code, 2016 and upheld the Order passed by NCLT, Chennai.

9. Moreover, as consistently held by Hon'ble Supreme Court both in ***Innoventive Industries Ltd. - Vs- ICICI Bank and another***, (2018) 1 SCC 407 as well as ***Mobilox Innovations Pvt. Ltd.. -Vs- Kirusa Software Pvt. Ltd.*** (2018) 1 SCC 353, after going through the Scheme of I&B Code, 2016 in depth in relation to an Application under Section 7 filed by a Financial Creditor where there is an existence of a 'financial debt' and its 'default' in excess of Rs.1,00,000/-, this Tribunal is bound to admit the Application and as a consequence trigger the CIR Process. The plea of the Corporate Debtor that the

Q

Company is a solvent and 'going concern', cannot be made a ground for delaying the initiation of CIR Process or to keep in abeyance the instant Application as sought for as this Tribunal is required in case of a 'financial debt' which is due and in the event of 'default' as defined under I&B Code, 2016, is perforce required to admit the Application and the parties including the Corporate Debtor can have recourse during CIR Process to submit a Plan for restructuring if otherwise not disqualified. It is evident from the documents filed by the individual Financial Creditor in their respective petitions the debt is also not time barred in view of acknowledgments given by the Corporate Debtor to each of the Petitioner banks as contemplated under Section 18 of the Limitation Act, 1963. In any case, there is no denial of liability owed to the individual Financial Creditor by the Corporate Debtor.

10. Thus, taking into consideration the facts and circumstances of the case as well as the position of law, we are of the view that the Applications, as filed by



the Financial Creditors are required to be admitted under Section 7 (5) of the I&B Code, 2016.

11. Both the Financial Creditors have proposed the names of Interim Resolution Professional (IRP) and written communications in the format prescribed under Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 have been filed by the proposed IRPs. However, in relation to the appointment of IRP, upon perusal of Part – IV of the Application, it may be seen that the debt due to the State Bank of India, *prima facie* appears substantially to be more than that of the Canara Bank and in such a circumstance, it is just and necessary for this Tribunal to appoint the IRP as suggested by the State Bank of India in IBA/1169 2019. As a result thereof, Mr. **B. PARAMESHWARA-UDPA**, whose Registration No. **IBBI / IPA-002 / IP-N00480 / 2017-2018 / 11445**, and Email: **beepeeyou@gmail.com**, Mobile No. **+91-9483712078**, is appointed as IRP. The IRP appointed shall take in this regard such other and further steps as are

A

required under the Statute, more specifically in terms of Sections 15, 17, 18 of the I&B Code, 2016 and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIR Process in relation to the Corporate Debtor in terms of the provisions of I&B Code, 2016.

12. As a consequence of the Applications being admitted in terms of Section 7 of the I&B Code, 2016, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

(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.”

13. However during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

- (2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- (2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of 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

Q

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 or in such circumstances as may be specified

- (3) The provisions of sub – section (1) shall not apply to such transactions, agreements or other arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.”

14. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process

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.”

15. Based on the above terms, the Applications stand **admitted** in terms of Section 7 of the I&B Code, 2016 and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Financial Creditors as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the IRP above named be also furnished with copy of this order forthwith by the Registry, who will also communicate the initiation of CIR Process in relation to the Corporate Debtor to the Registrar of Companies concerned.

-SD-

(ANIL KUMAR B)  
MEMBER (TECHNICAL)

-SD-


(R.VARADHARAJAN)  
MEMBER (JUDICIAL)

DAN  
AN  
AL)

P. ATHISTAMANI

Order pronounced by concord in terms of NCLT  
circular dated 14/04/2020 through video conferencing  
33 of 33  
CP.T.O)

platform. Member (T) present in person at Chennai and Member (T) through video conference from Kochi and the respective parties intimated to be present through video conferencing and after duly listing and uploading the cause list dated 05/05/2020 for Chennai Bench-I.

  
N. SRIRAMASUBRAMANIAN  
ASSISTANT REGISTRAR  
NATIONAL COMPANY LAW TRIBUNAL  
CHENNAI BENCH  
CORPORATE BHAVAN, 3rd FLOOR  
29, RAJAJI SALAI, CHENNAI-600001