

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH-II, CHENNAI**

IBA/1263/2019 filed under Section 7
of the IBC, 2016 read with Rule 4 of
the Insolvency and Bankruptcy
(Application to Adjudicating
Authority) Rules, 2016

In the matter of M/s. Ultra Tile Private Limited

M/s. Kotak Mahindra Bank Limited
27BKC, C2, G Block, Bandra Kurla Complex,
Bandra(E), Mumbai-400051.

---Financial Creditor

V/s

M/s. Ultra Tile Private Limited
(CIN: U26960TN1993PTC025667)
KPM's SAPPHIRE, No. 26,
11th Avenue, Ashoke Nagar,
Chennai-600083.

---Corporate Debtor

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

For the Financial Creditor: *Shri. N.P. Vijay Kumar, Advocate*
Shri. R. Radeep, Advocate

For the Corporate Debtor: *Shri. A. Prasanna Venkat, Advocate*
For M/s. APR Associates

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced On: 30.03.2021



Under adjudication is an application filed under Section 7 of the Insolvency and Bankruptcy Code read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by M/s. Kotak Mahindra Bank Limited (hereinafter referred as “**Financial Creditor**”) for initiation of Corporate Insolvency Resolution Process against M/s. Ultra Tile Private Limited (hereinafter referred as “**Corporate Debtor**”) on the ground that it has defaulted in repaying an amount of Rs.8,19,21,359.06 (Rupees Eight Crores Nineteen Lakh Twenty One Thousand Three Hundred and Fifty Nine and Six Paise only) as on 23.09.2019 along with interest due on working capital term loan.

2. The learned counsel for the Applicant submitted during the argument as well as the averments made in the Application are as follows:

- i) The Applicant/Financial Creditor vide letter dated 14.02.2018, sanctioned an amount of Rs.11,10,00,000/- (Cash Credit Rs.6,00,00,000/- and Working Capital Term Loan Rs.5,10,00,000/-) repayable on demand with



floating interest of 6M MCLR @ 8.45 + 4.55% totalling 13% per annum under a Master Facility Agreement dated 20.02.2018.

- ii) The Working Capital term Loan is repayable in 60 monthly instalments with first year 12 monthly instalments of Rs.5 lakh each, second year 12 monthly instalment of Rs.8 lakh each and balance in 36 monthly equal instalments.
- iii) The Corporate Debtor availed loan by a Deed of Hypothecation of movable properties in favour of Applicant Bank on 20.02.2018, Memorandum of Entry (Deed of Mortgage) dated 30.04.2018 and 18.06.2018. Totally four personal guarantors have signed a Deed of Guarantee in favour of the Applicant Bank. The Borrower has also issued Demand Promissory Notes in favour of the Applicant Bank that the Corporate Debtor shall pay the money on Demand made by the Applicant Bank.



- iv) The Borrower has registered the charge on 14.07.2018 and the same is also modified by the Borrower, which was registered with RoC, Chennai and Certificate of Registration for modification obtained.
- v) Since the Corporate Debtor defaulted repayment of Rs.8,19,21,359.06 in violation of the agreed terms and account became Non-Performing Asset (NPA) on 23.09.2019 as per Section 13(2) of the SARFAESI Act, 2002.
- vi) During pendency IBA proceedings, the Corporate Debtor paid a sum of Rs.5,14,98,810/- to the Applicant. As on 31.03.2020, the balance payable by Corporate Debtor was Rs.3,17,25,439/- and further interest payable by Corporate Debtor.

3. The learned counsel for the Corporate Debtor has filed counter on 16.10.2020 has stated that they have availed financial facility to the tune of Rs.11,10,00,000/-. On obtaining prior sanction from the Applicant, the Respondent sold the asset of the company



and paid the entire proceeds towards the liability of the Applicant Bank and thus the total liability had been reduced to Rs.7,63,00,000/- from Rs.11,10,00,000/-.

4. It is further submitted that the Applicant Bank held substantial amount under suspense account without giving credit to their account inspite of several reminders and also inflated interest and made other charges to make it appear that the Respondent's account became NPA.

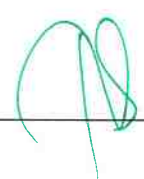
5. It is also further submitted that the Corporate Debtor Company is now carrying on effective business and would be in a position to honors the commitments of the loan agreement by selling one of the assets of the company.

6. On perusal of documents, it appears that the Financial Creditor has proved existence of debt and default and there being no denial from the Corporate Debtor with respect to outstanding due against the Corporate Debtor, Insolvency and Bankruptcy Application IBA/1263/2019 stands **admitted** by appointing Mr.




Lingumgunta Venkata Shyam Sundar having Regn. No. IBBI/IPA-002/IP-N00262/2017-18/10775 as Interim Resolution Professional looking at the consent given by him with 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 **30.03.2021** 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. Lingumgunta Venkata Shyam Sundar** having Regn. No. IBBI/IPA-



002/IP-N00262/2017-18/10775, No.17, 3rd Floor, Gandhi Road, Alwarthirunagar, Chennai-600 087 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.

7. Accordingly, this Petition is **admitted**.

8. 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.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

KNP