

IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH, KOLKATA

CP (IB) No.1231/KB/2019

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process 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;
And

In the Matter of:

Allahabad Bank, having its Head Office at 2, Netaji Subhash Road, Calcutta-700001, and carrying on business through branch office at Stressed Asset Management Branch, 002, Jokhiram Chambers, Near Mahabir Tower, Main Road, Ranchi-834001, Jharkhand.

.....Financial Creditor

And

In the Matter of:

M/s Jharkhand Mega Food Park Pvt. Ltd. having its registered office at Plot No. 1596, Road No. 7, Hawaii Nagar, Mouza-Hinoo, P.S. Jagannathpur, Ranchi-834003, Jharkhand.

..... Corporate Debtor

Order Delivered on 10th January, 2020

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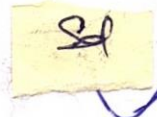
Shri Madan B. Gosavi, Hon'ble Member (Judicial)

Shri Harish Chander Suri, Hon'ble Member (Technical)

For the Financial Creditor

: 1. Mr. Ramesh Ch. Prusti, Advocate
2. Mrs. M. Ghosh, Advocate





ORDER**Per Shri Harish Chander Suri, Hon'ble Member (T)**

This CP (IB) No.1231/KB/2019 has been filed under Sec.7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Allahabad Bank, through its Chief Manager Ignatius Deep Chandra Tiru, authorized vide its Board resolution dated 8th January, 2018 (hereinafter referred to as the Financial Creditor) seeking Corporate Insolvency Resolution Process against M/s Jharkhand Mega Food Park Pvt. Ltd. (hereinafter referred to as the Corporate Debtor) a corporate entity, having its registered office at Jharkhand on the ground that the Corporate Debtor has committed default in paying its financial debt of Rs.46,25,83,785/-.

2. It is submitted in the application that on the request of the Corporate Debtor, the Financial Creditor Bank had granted term loan and cash credit facilities to the Corporate Debtor initially for Rs. 33.95 Crores on 10th May, 2012, for which, the Corporate Debtor executed demand promissory note, and other requisite documents on 27th July,2012. It is submitted that to secure the further credit facilities sanctioned by the Financial Creditor to the Corporate Debtor from time to time, thereafter, the Corporate Debtor created equitable mortgage over its properties, land and building mentioned in the mortgage deeds. It is submitted that the Financial Creditor further granted sanction of term loan to the tune of Rs. 12.50 lakhs vide sanction letter dated 16th January, 2016 and the Corporate Debtor executed various documents in favour of the Financial Creditor including demand promissory notes, form of acknowledgement of security relating to advance against hypothecation of its movable properties.



3. It is further submitted that the Corporate Debtor failed to operate the loan accounts as per terms of sanction and the accounts became irregular in course of time. The Financial Creditor gave reminders to the Corporate Debtor for regularizing the loan accounts but the Corporate Debtor failed to do so and thus was ultimately classified as a non performing assets on 1st September, 2017 as per the norms of RBI. A notice dated 26th February, 2018 under Section 13(2) of the SARFAESI Act, 2002 was issued to the Corporate Debtor demanding a sum of Rs. 39,21,83,559/- with contractual rate of interest and further interest charged at the agreed rate till the date of realization. The Corporate Debtor failed and neglected to pay Financial Creditor's dues. A possession notice dated 23rd May, 2018 for taking symbolic possession of the security was also issued. It is further submitted that the Financial Creditor finally issued a demand notice dated 1st July,2019 to the Corporate Debtor demanding an aggregate sum of Rs. 46,25,83,785/- along with contractual rate of interest. The Corporate Debtor has committed default as defined under section 3(12) of the Insolvency and Bankruptcy Code, 2016 with regard to the aforesaid financial debt owed by it to the Financial Creditor. It is submitted and found that the debt payable by the Corporate Debtor is very much within the period of limitation.

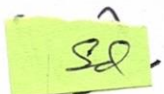
4. The Financial Creditor has filed on record all the relevant documents like sanction letters, demand promissory notes, letters for waiver presentment of pronote limit of Rs. 33.95 crores dated 10th May, 2012, the letter for waiver presentment of pronote of Rs. 33.95 crores dated 27th July, 2012 in favour of the Financial Creditor, letter for deficit of margin dated 27th July, 2012 in favour of the Financial Creditor, term loan agreement dated 27th July, 2012. In addition to this the Financial Creditor has also placed on record mortgage confirming the deposit of the Title Deed dated 9th July, 2012, and letter for

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confirming deposit of the Title Deed dated 27th July, 2017, letter of Promissory Note limit of Rs.77.00 lacs dated 03.04.2014, sanction letter dated 10.02.2015, Board Resolution dated 03.12.2015, letter of Loan application dated 02.01.2016, letter of sanction letters dated 16.01.2016, the Corporate Debtor executed Demand Promissory Note of Rs.12.50 lacs dated 18.01.2016 in favour of the Financial Creditor. The Corporate Debtor executed Declaration for Allahabad Bank Car Finance Scheme dated 18.01.2016 in favour of the Financial Creditor. The Corporate Debtor further executed form of Acknowledgement of Security relating to advance against Hypothecation of Movable properties dated 18.01.2016 in favour of the Financial Creditor. The Corporate Debtor also executed Hypothecation Agreement limit of Rs.12.50 lacs dated 18.01.2016 in favour of the Financial Creditor, and Letter of Guarantee limit of Rs. 12.50 lacs dated 18.01.2016 in favour of the Financial Creditor. Notice dated 26.02.2018 issued under Section 13(2) of the SARFAESI Act, 2002. Letter of Possession Notice dated 23.05.2018. Letter of Demand Notice dated 01.07.2019. Statement of Term Loan Account No. 50118588757 and Term Loan Account No. 50317256204 of the Corporate Debtor under the Banker's Books Evidence Act, 1891. Copy of the Annual Audited Statement of Accounts of Corporate Debtor as on 31.03.2017. Copy of CIBIL Report and Valuation report dated 29.07.2013 and 18.08.2018.

5. This Adjudicating Authority issued notice to the Corporate Debtor vide its order dated 6th August, 2019 but on the next date i.e. 4th October, 2019, the Track Consignment showed that the notice was returned unserved with the remarks "Addressee left" but it was noticed that the e-mail had not bounced back and the service of notice for email was satisfactorily proved. It was, however, directed that the Financial Creditor would repeat notice by post as well as by publication after complying with Rule 35 of the NCLT Rules, 2016 when



the matter was listed on the next date i.e. 13th December, 2019, the learned counsel for the Financial Creditor filed an affidavit proving service of notice by way of publication post as well as email. It was however noticed that the service sent through post had once again returned unserved for want of correct address and notice sent by way of email was seen bounced back. The publication of notice had been done in Economic Times, English Daily and local Vernacular Newspaper. This Adjudicating Authority thus was satisfied with the delivery of notice, and the name of Corporate Debtor was called out, found absent and declared ex-parte.

6. The matter was thus listed for hearing on 8th January, 2020.

7. We have heard learned counsel for the Financial Creditor. He has taken us through all the documents placed on record. We find that the loan and other cash credit facilities were sanctioned and disbursed and were duly acknowledged by the Corporate Debtor, for which all the requisite documents had been executed by the Corporate Debtor which were confirmed and acknowledged by its Board of Directors vide their declaration and acknowledgement placed on record. The Corporate Debtor, however, has failed to adhere to the terms and conditions of the loan agreements with the Financial Creditor and in spite of repeated reminders by the Financial Creditor. Thus, the account of the Corporate Debtor was declared as NPA on 1st September, 2017. In addition to the notice under section 13(2) and notice of symbolic possession of its immovable properties mortgage with the Financial Creditor, the Financial Creditor has moved the present application under section 7 of Insolvency and Bankruptcy Code, 2016 for seeking initiation of Corporate Debtor Insolvency and Bankruptcy Resolution Process against the Corporate Debtor.

8. The Financial Creditor has proposed the name of the Insolvency Professional namely **Mr. Niraj Agrawal**, who has also sent a written

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communication dated 5th July, 2019 giving his consent to accept the appointment of an IRP, if the application is admitted.

9. After going into all the details and hearing learned counsel for the Financial Creditor, we find it to be a fit case for admission and passed the following orders:-

ORDER

- 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 Debtor, M/s Jharkhand Mega Food Park Pvt. Ltd. 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);

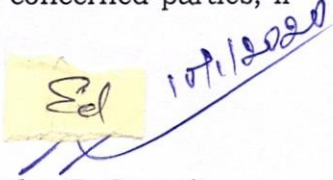
- d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- v. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.
- 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. Shri Niraj Agrawal having registration No.IBBI/IPA-001/IP-P00130/2017-2018/10272 email id niraj@execonservices.com 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. 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 **11/02/2020** 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.


(Harish Chander Suri)
Hon'ble Member (Technical)


(Madan B. Gosavi)
Hon'ble Member (Judicial)

Signed on 10th January, 2020

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