

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD

FREE OF COST COPY

CP(IB) No. 52/10/HDB/2017
U/S 9 of IBC, 2016
R/w Rule 6 of I&B (AAA) Rules, 2016

In the matter of

M/a Rama Road Lines
M/s Reliable Industrial Equipment Services
M/s Reliable Paper Products
All 3 represented by its Proprietor
Sri Venna Kishore Babu
1-1-148/A, Petrol Pump
SirpurKagaznagar,
Telangana-504296

.... Petitioner/Operational Creditor

Versus

The Sirpur Paper Mills Ltd
5-9-22/1/1, First Floor, Adarsh Nagar
Hyderabad - 500 063

.. Respondent/Financial Creditor

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL



Date of order: 18.09.2017

CORAM:

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Shri RavikumarDuraismy, Member (Technical)

Parties/ Counsels present

For the Corporate Debtor:

Shri SharadSanghi, along with
Ms.Siripreeti Duggirala,
Advocates

For the Respondent

Shri Ch. Kameswara Rao,
Adv.along with T.Shyam
Sunder, Senior Legal Manger

Per: Rajeswara Rao Vittanala Member (Judicial)

ORDER

1. The present Company Petition bearing CP (IB) No.52/9/HDB/2017 is filed by M/s Rama Road Lines and others (Petitioners / Operational Creditors) U/s 9 of the Insolvency and Bankruptcy Code, 2016, R/w Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by inter-alia, seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of Sirpur Paper Mills Limited, (Corporate Debtor) under the provisions of IBC.
2. Brief facts, leading to filing of the present company petition, are as under:-
 - (a) M/s Rama Road Lines Limited is a sole proprietor Operational Creditor having three entities viz. M/s Rama Road Lines, M/s Reliable Industrial Equipment Services & M/s Reliable Paper Products concerns represented by its Proprietor Mr. V. Krishna Babu.
 - (b) Sirpur Paper Mills, the Corporate Debtor is a company registered under the Companies Act on 17th November, 1938. Its authorised share capital is 35,00,00,000/- and paid up capital is Rs. 16,98,50,000/-
 - (c) The Operational Creditor consisting of above three entitled have extended various services like transportation of Furnace Oil (raw material for Company' boilers for generating power for production of paper and paper Board furnace oil from MRPL Malgalore to Sirpur paper Mills , Kaghaknagar by tankers etc , , lifting of heavy items and coal feeding to Boilers by using its Hydra(Crane, Loader Machine tin like Hydra(crane,



loader Machine , transportation & Conversion of Reels to Sheets(finished product of paper in customised sheets etc Accordingly, a total amount of Rs. 51,86,975 fell due on account of those services during various periods, to the petitioner concerns.

(d) When the Respondent failed to pay outstanding dues, the Petitioner/ Operational Creditor issued three separate demand notices of even no dated 6th February, 2017, on behalf of all three entities as mentioned supra, under Rule 5 of I&B (Application to Adjudicating Authority) by demanding them to pay the outstanding amount within 10 days of receipt of the letter with a condition that they would initiate CIRP in respect of the Respondent. The first Demand notice issued by M/s Rama Road Lines (page No. 6 & 7) for total amount is Rs. 29,92,440/- ; the second demand notice issued by M/s Reliable Industrial Equipment Service(page no. 21 & 22) for total amount of Rs. 23,13,662.09 which includes Rs. 15,53,662.09 towards freight charges and Rs. 7,60,000/- towards security deposit, and the third demand notice issued by M/s Reliable Paper Products(page nos. 34 & 35) for total amount of Rs. 6,40,873.37. So grand total for the above three demand notices is Rs. 51,86,975/

(e) When the respondent failed to pay the said outstanding debt, the present Company petition is filed by seeking to initiate CIRP against the respondent.

3. M/s Sirpur Paper Mills Ltd (Respondent/Corporate Debtor), has filed its reply dated 13th May,2017 by contending as follows:

a) The respondent demanded documentary proof supporting the bills /invoices etc of the petitioner and in the absence of proper proof, they cannot confirm invoices of the petitioners.



- b) The respondent Company stopped its production since September, 2014 due to various reasons such as acute shortage of cash flows and inability of the Company to procure raw materials coupled with continuous losses etc
- c) The lenders of the Company initiated recovery proceedings against the Company under SARFESI Act, 2002 and also taken physical possession of the factory situated at Kaghaznagar including other assets of the company in October and November 2016. Also the financial records of the Company which are maintained at the factory premises situated at Kaghaznagar have also been also been in possession of the lenders and sealed by them. The Company has also filed a reference before BIFR vide case No. 30 of 2015 under the Sick Industrial (Special Provisions) Act, 1985(SICA) . However SICA has been repealed and BIFR dissolved by the Act notified no. SO 3568(E) and 3569(E) on 1.12.2016.
- d) However, they stated they are putting their best efforts in resolving the issue and is working for restarting the factory by arranging sufficient funds for which the Company is in discussions with several interested parties. It is further stated that as soon as the factory is restarted and if the lenders of the company allows carrying out of operations, the Corporate Debtor will reconcile the dues and will arrange payments thereof in consultation of Operational Creditors. Ultimately, they have stated that the Company is not denying/disputing the payments in question but explained its difficulties. Therefore, they prayed the Tribunal to direct the Operational Creditor to support the respondent Company in the present difficult situation.



4. Heard Shri Sharad Sanghi, Learned Counsel along with Ms Sripreeti Duggirala learned counsels for the Petitioners and Shri Ch. Kameswara along with T.Shyam Sunder, Learned Counsel for the Respondent.
 5. The Learned Counsel for the Respondent has reiterated the contentions raised in their reply dated 13th May, 2017 by explaining the financial distress of the Company and prayed the Tribunal to direct the Operational Creditor to support the Respondent Company in the present difficult situation for revival of the Company. He did not deny or dispute the outstanding amount in question.
 6. The Learned Counsels for the Petitioner submit that the Petitioner is fulfilling all the requisite conditions as prescribed under Section 9 of the IBC by filing the petition in the prescribed format, demand notices in prescribed format been issued, no dispute raised by the respondent. Moreover, the respondent has not denied outstanding amount in question as demanded in three notices of even dated 06.02.2017. They have relied upon the following decisions in support of their case:
 - a) M/s Ashok Commercial Enterprises Vs. Parekh Aluminex Limited, in CP No. 136 of 14 , 2017 SCC Online Bombay
 - b) Kirusa Software Private Ltd. Vs. Mobilox Innoations Private Ltd. Company Appeal (AT)(Insolvency) 6 of 2017 NCLAT
 - c) Sublime Agro Ltd. Vs. Indage Vinters Limited in CP No. 960 of 2009 by the Honble High court of Judicature at Bombay
- Therefore, the learned counsel for the petitioner's urged the Tribunal to initiate Corporate Insolvency Resolution Process (CIRP) as prayed for.



7. It is not in dispute that the respondent failed to pay the outstanding amounts in question and they are not in a position to resolve the issue by virtue of various claims made by financial/operational creditors as detailed supra. So whether the company can be revived or not can be resolved only through process initiated under the provisions of IBC. Therefore, it is a fit case to initiate CIRP to resolve the issue. Moreover, by initiating CIRP, the company can make its own efforts with the assistance of Interim Resolution Professional (IRP) to revive the company as proposed. As stated supra, the Learned Counsel for the Respondent did not oppose the admission of the case. We are convinced that the Petitioner is fulfilling requisite conditions as prescribed under Section 9 of the IBC to initiate CIRP and initiating CIRP will not come in the way of the efforts of the Company for its revival. The IRP will also analyse the issue and make every effort for revival of Company, and as the last resort only, the Company will go for liquidation. The IRP will manage bare affairs of the company, submits a Resolution Plan or otherwise to this Tribunal within a stipulated period. Thus, initiation of CIRP will not jeopardise the efforts of the Respondent Company for its revival. Therefore, it is a fit case to admit so as to see whether any resolution plan is likely to happen for reviving the Company in question.
8. In view of the facts and circumstances of the case, the Company Petition bearing CP(IB) No.52/9/HDB/2017 is admitted by invoking powers conferred on this Tribunal under section 9(5) of IBC , and by invoking the powers under Sections 10,12,13,14,15,16, 17, 18, 19, 20, 21, 22 and 25 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016, we passé the following orders :-



- (a) We hereby appointed Shri Mahadev Tirunagari, (Certificate No. IBBI/IPA-002/IP-N00320/2017-18/10925), # R/o 201, Lake View Towers. Safari Nagar, Kondapur, Hyderabad - 500084 as Interim Resolution Professional by exercising powers under section 16 of IBC, 2016;
- (b) We hereby declared the following Moratorium by prohibiting the following actions:-
- i) 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;
 - ii) Transferring , encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - iii) Any action to foreclose, recover or enforce any security interest created by the Corporate debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002) ;
 - iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;
 - v) Supply of essential goods or services to Corporate Debtor shall not be terminated or suspended and interrupted during the moratorium period.



vi) Direct to cause a public announcement of the initiation of Corporate Insolvency Resolution Process immediately as prescribed under section 15 (1) and (2) of Insolvency and Bankruptcy Code, 2016, on www.ibbi.gov.in (designated website of Insolvency and Bankruptcy Board of India, circulated vide IBI/IP/PUBLIC ANN/221 dated 01.02.2017) in addition to other accepted modes of publication immediately and call for submission of claims as per Section 15 of the IBC read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Company is also directed to publish the same in their Official website.



vii) We direct the Interim Resolution Professional to constitute a Committee of Creditors, after collation of all claims received against the Corporate Debtor and determination of financial position of Corporate Debtor, as per Section 21 of IBC. The First meeting of the committee of creditors, shall be held within 7 days of the constitution of committee of creditors and their decision has to be communicated to the Tribunal as per Section 22 of the IBC.

viii) Direct the personnel of Sirpur Paper Mills Limited and its promoters or any other person associated with the management of Sirpur Paper Mills Limited, to assist and cooperate with Interim Resolution Professional to provide access to documents and records and management of the affairs of the Company.

ix) We direct the Interim resolution professional to strictly adhere to all extant provisions of the Insolvency and Bankruptcy Code, 2016 and Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and shall report his actions promptly to this Tribunal by way of sworn affidavit.

x) Post the case on 24.10.2017 for report of IRP



Sd/-
Ravikumar Duraisamy
Member (Technical)

Sd/-
Rajeswara Rao Vittanala
Member (Judicial)

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

for Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY

केस संख्या
CASE NUMBER. CP(IB) No. 52/10/HDB/2017
निर्णय का तिथि
DATE OF JUDGEMENT. 18-9-2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON. 22-9-2017