

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
“CHANDIGARH BENCH, CHANDIGARH”**

(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)

**CP (IB) No.116/Chd/Hry/2017**

**Under Section 7 of IBC, 2016**

**In the matter of:**

**State Bank of India**

having its corporate office at  
Corporate Centre, State Bank Bhawan,  
Madame Cama Road, Nariman Point,  
Mumbai – 400021 acting through its  
Industrial Finance Branch,  
1, Tolstoy Marg, 14-15 Floor,  
Jawahar Vypaar Bhawan, Janpath,  
New Delhi.

...Petitioner-Financial Creditor

Vs.

**Castex Technologies limited**

having its registered office at  
Village Narsinghpur, Mohammadpur,  
Old Manesar Road,  
Gurgaon-122001(Haryana).

...Respondent-Corporate Debtor

**Judgement delivered on : 20.12.2017**

**Coram: Hon’ble Mr.Justice R.P.Nagrath, Member (Judicial)**

For the Petitioner: 1. Ms. Misha, Advocate.  
2. Mr.Sidhant Kant, Advocate

For the Respondent: Mr.Vaibhav Sharma, Advocate

**JUDGEMENT (ORAL)**

This petition has been filed by the State Bank of India established  
pursuant to the State Bank of India Act, 1955 incorporated on 01.07.1955 vide

notification No. S.R.O. 1077 dated 14.05.1955, having its corporate office at Corporate Centre, State Bank Bhawan, Madame Cama Road, Nariman Point, Mumbai – 400021. It has its Industrial Finance Branch at 1, Tolstoy Marg, 14-15 Floor, Jawahar Vypaar Bhawan, Janpath, New Delhi. The petition is filed to initiate insolvency resolution process against the respondent-corporate debtor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for short to be referred here-in-after as the 'Code'), in application Form 1 as prescribed in Rule 4 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, the 'Rules'). The registered office of the respondent-corporate debtor is at Gurgaon (Gurugram) and, therefore, the matter falls within the territorial jurisdiction of this Tribunal.

2. It is stated that Mr. Braj Nandan Jha, Deputy General Manager, State Bank of India is empowered in terms of the authorization dated 16.06.2017 Annexure-2, issued by the Chairman of State Bank of India in accordance with Section 27 of the State Bank of India Act, 1955 read with the State Bank of India General Regulations, 1955 and the Gazette notification dated 27.03.1987. Copy of the relevant part of the Act, Regulation 77 and the Gazette Notification are at Annexure-3 (colly). There is the affidavit of Mr. Braj Nandan Jha in support of the contents of the application.

3. The respondent-corporate debtor was incorporated on 02.12.1983 and allotted CIN L65921HR1983PLC033789 with authorized capital of ₹97,00,00,000/- (Rupees ninety seven crore only) and paid-up capital of ₹80,62,46,000/- (Rupees eighty crore sixty two lac and forty six thousand only). Annexure-4 (colly) is the Memorandum and Articles of Association of the

company with which Certificates of Incorporation and fresh Certificates issued regarding change of the name issued by the Registrar of Companies are also annexed.

4. It is further stated that with effect from 01.04.2017 with the sanction of the Central Government and the Reserve Bank of India, the petitioner bank acquired by way of amalgamation, the business including the assets and liabilities of all the following banks:-

(a) State Bank of Bikaner and Jaipur

(b) State Bank of Hyderabad

(c) State Bank of Mysore

(d) State Bank of Patiala

(e) State Bank of Travancore

Gazette notification dated 22.02.2017 in this regard is at Annexure-1.

5. The respondent-corporate debtor was granted various loan facilities under various loan agreements by the State Bank of India, including its erstwhile associate banks. Details regarding disbursement made against each facility as mentioned in point-5 of Part-V of the application are given in Annexure-6. As per the details Annexure-10 the financial-creditor granted term loan of ₹300 crore on 22.07.2013. Another sanction letter of this term loan of ₹300.00 crore whereby an additional condition of providing personal guarantee of Mr. Arvind Dham was issued on 20.11.2013. The corporate debtor executed loan agreement for overall limit on 20.11.2013, copies of which have been annexed.

The State Bank of India further granted additional facility of corporate loan of ₹50.00 crore on 06.08.2015 for which sanction letter was issued on 07.08.2015. The corporate debtor executed Memorandum of Agreement for additional loan facility of ₹50.00 crore. The petitioner-financial creditor also relies upon *inter se* Agreement dated 28.03.2016, executed amongst the JLF Lenders nominating State Bank of India as Lead Bank, and Letter of Authority of even date executed by JLF Lenders in favour of State Bank of India. There are Framework Agreement for Corrective Action Plan and Trust and Retention Account Agreement dated 17.08.2015, the copies of which have also been annexed.

6. It is further stated that State Bank of Hyderabad sanctioned term loan of ₹100.00 crore on 30.12.2013 for which the corporate debtor executed loan agreement for overall limit on 31.12.2013, and they executed consortium agreement for grant of term loan aggregating to ₹200.00 crore on 25.10.2014. Thereafter, State Bank of Hyderabad sanctioned corporate loan of ₹30.00 crore vide sanction letter dated 24.09.2015 and agreement of loan for overall limit of the even date.

7. Further, the State Bank of Mysore issued sanction letter for ₹110.00 crore on 30.06.2015 for capex requirement and shoring up of net worth capital for which the loan agreement for overall limit of ₹110.00 crore was executed on the said date. The State Bank of Patiala granted loan of ₹150.00 crore for ongoing/regular capital expenditure on 26.06.2013 and agreement of loan for overall limit was executed by the corporate debtor on 28.06.2013.

8. The State Bank of Bikaner and Jaipur granted corporate loan of ₹15.00 crore on 14.09.2015 for part financing of critical capital expenditure etc. for which the corporate debtor executed agreement of loan under the Framework Agreement for Corrective Action Plan on 22.09.2015.

9. Further the State Bank of Hyderabad also issued a sanction letter for refinancing of existing term loan of ₹98.16 crore on 24.09.2015. The corporate debtor had executed Master Joint Lenders Forum Agreement dated 19.05.2015 executed between 30 banks forming the Joint Lenders Forum and erstwhile associate banks. The corporate debtor also executed Framework Agreement dated 28.03.2016, Corrective Action Plan with the JLF Lenders providing for ₹1667.50 crore for capital expenditure and shoring up of Networth Capital, refinancing of JLF Term Loan Facilities to the extent of ₹920.86 crore. In this regard the corporate debtor has executed various documents and loan agreements for implementation and execution of the Framework Agreements for Corrective Action Plan.

10. The details of working capital consortium agreement for ₹1323 crore granted by consortium of lenders have also been given. These details are given in column No. I of Annexure-10. These documents relate to the years 2014 to 2016 as detailed in the tabulated form at page 160 of the Paper Book. All the documents referred to in the application have been annexed by the petitioner-financial creditor.

11. It is stated that the total amount of debt granted by the financial creditor to the corporate debtor is ₹1191,54,00,000/- (Rupees one thousand one

hundred and ninety one crore and fifty four lac) and the details of the disbursement made against each loan facility as mentioned in Part-V of the petition as at Annexure-6. The amount of default is ₹572,44,81,139/- (Rupees five hundred and seventy two crore forty four lac eighty one thousand one hundred and thirty nine only) as on 09.10.2017 and further interest is to be added on this amount. The details regarding all the loans and the dates of defaults in respect of different loan facilities granted by the financial creditor to corporate debtor have been provided in Annexure-7.

12. The details of security including moveable and immoveable assets of the company are as per the details given in Annexure-9 (colly) and list of the financial facilities granted to the corporate debtor are given in Annexure-10.

13. Notice of this petition was issued to the corporate debtor and despite sufficient time granted, reply/objections have not been filed. It is rather submitted by the learned counsel for the respondent-corporate debtor that reply is not to be filed by the respondent.

14. I have heard learned counsel for the parties and perused the record with their able assistance.

15. Perusal of the application in Form 1 would show that complete information has been supplied by the bank in respect of all the requirements prescribed under sub-section (3) of Section 7 of the Code which reads as under:-

*“(3)The financial creditor shall, along with the application furnish —  
(a) record of the default recorded with the information utility or  
such other record or evidence of default as may be specified;*

*(b) the name of the resolution professional proposed to act as an interim resolution professional; and*  
*(c) any other information as may be specified by the Board.”*

16. Under sub-clause (b) of Section 7(3), it is mandatory for the financial creditor to propose the name of Resolution Professional to be appointed as the Interim Resolution Professional. The petitioner bank has proposed the name of Mr. Dinkar Tiruvannadapuram Venkatasubramanian as Resolution Professional bearing registration No.IBBI/IPA-001/IP-P00003/2016-2017/10011. The proposed Resolution Professional has furnished written communication in Form 2 giving his consent for being appointed as Interim Resolution Professional. It is stated that there are no disciplinary proceedings pending against him. He is Interim Resolution Professional/Resolution Professional and Liquidator relating to three proceedings. Learned counsel for the petitioner submits that in one of the case, liquidation order has been passed and that is a small company. In another case of Amtek Auto, it is submitted that the corporate debtor is a group company of the said company. In the 3<sup>rd</sup> case, the Resolution Professional has submitted his report before the Committee of Creditors for consideration. Learned counsel for the petitioner submits that basic reason for proposing the name of this Resolution Professional is that he is already appointed as Resolution Professional in Amtek Auto and the corporate debtor is part of the same group company.

17. The other requirement is whether the financial creditor has furnished the record of default recorded with Information Utility or such other evidence or record of default as may be specified. Learned counsel for the

petitioner submits that information utility has not yet started functioning, however, there is a report of the Central Repository of Information on Large Credits (CRILC) as at Annexure-11.

18. The amount in default in respect of all the facilities is ₹572,44,81,139/- as on 09.10.2017. The details of the outstanding amount in default in respect of all the facilities are given in the document Annexure-7 at page 130 of the Paper Book. There is abundant evidence on record produced by the petitioner-financial creditor with regard to the sanction letters, the documents of loan and the balance confirmation letters etc. executed by the corporate debtor. Copies of revival letters dated 24.09.2015 and 20.05.2016 are at Annexure-8 and balance confirmations at Annexure-13 (colly) executed from time to time from. It is not the case of Corporate Debtor that it is either not in default nor it could be shown that the application is either incomplete or defective. In case there is any dispute about the exact amount in default, that of course is for the Resolution Professional to determine.

19. As per sub section (4) of Section 7 of the Code the Adjudicating Authority is to ascertain the existence of a default from the records of an Information Utility or on the basis of other evidence furnished by the financial creditor. In the instant case the financial creditor has also filed copies of various statements of accounts of the respondent-corporate debtor with respect to different facilities. These Statements of Account are at Annexure-12 (colly) and have been duly certified under the Bankers Books Evidence Act, 1891. The account of corporate debtor was declared as N.P.A on 27.07.2015 on account of the default in making

payment of principal as well as the interest. Final notice was issued on 29.09.2017 which is part of Annexure-13 (colly).

20. In view of the above discussion, the petitioner bank-financial creditor has fulfilled all the requirements of Section 7 of the Code and, therefore, the instant petition deserves to be admitted.

21. The petition is, therefore, admitted and the moratorium is declared prohibiting all of the following in terms of sub-section (1) of Section 14 of the Code:-

- 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 Securitisation 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.

22. It is further directed that the supply of essential goods or services to the corporate-debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) of

Section 14 shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

23. The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section(1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33 as the case may be.

24. The matter be posted on 22.12.2017 for passing formal order to appoint Insolvency Resolution Professional with further directions. Copy of this order be communicated to both the parties.

Sd/-  
(Justice R.P.Nagrath)  
Member (Judicial)  
Adjudicating Authority

December 20, 2017  
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