

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH**

**PRESENT: HON'BLE SHRI K. ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 28.11.2018 AT 10.30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) NO. 326/7/HDB/2018
NAME OF THE COMPANY	Khaitan Electricals Ltd
NAME OF THE PETITIONER(S)	Bank Of India
NAME OF THE RESPONDENT(S)	Khaitan Electricals Ltd
UNDER SECTION	7 OF IBC

**Counsel for Petitioner(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
Salvaji Rajashanker P.N. Reddy Rao.	Adv.	8187873158	P.N. Reddy
Ramesh Chandra Pusti	Adv.		J

**Counsel for Respondent(s):**

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

**ORDER**

Order pronounced in open court. Petition is admitted & IRP appointed  
vide separate order.

  
MEMBER JUDICIAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.326/07/HDB/2018

U/s 7 of the IBC, 2016 and Rule 4 of I&B  
(Application to Adjudicating Authority) Rules, 2016

**In the Matter of Khaitan Electricals Limited**

M/s Bank of India

Having its Head Office at 'Star House', C-5, Block-'G',  
Bandra Kurla Complex, Bandra (East), Mumbai – 400 051  
Branch Office at Kolkatta Mid Corporate Branch at 5,  
B.T.M Sarani, P.S. - Hare Street,  
Kolkata – 700 001.

**...Petitioner/Financial Creditor**

**Versus**

M/s. Khaitan Electricals Limited,  
Having its Regd. Office at A-13,  
Co-Operative Industrial Estate, Balanagar,  
Hyderabad – 500 037,  
Telangana.

**...Respondent/Corporate Debtor**

Order Delivered on: .11.2018

**Parties/Counsel present:-**

**For the Petitioner/Financial Creditor:**

Shri. Ramesh Chandra Prushti, Shri. Sai Rama Murthy and Shri.  
Raja Shekar Rao Salavaji, Advocates.

**For the Respondent/Corporate Debtor:**

Shri. K. Vijay Kumar, AGM Finance, (Party in Person).



**PER: K. ANANTHA PADMANABHA SWAMY, MEMBER JUDICIAL**

**ORDER**

1. Under Consideration is an Application filed by Bank of India (hereinafter referred to as '**Financial Creditor**') against M/s. Khaitan Electricals Limited (hereinafter referred to as '**Corporate Debtor**') under section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as **I B Code, 2016**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
3. The Learned Counsel for the Petitioner submitted that the Corporate Debtor had initially granted credit facility to the Respondent on 23.03.2010 and later extended it from time to time. The amount of debt granted by the Petitioner was Rs. 20,00,00,000/- (Rupees Twenty Crores Only) and the amount in default is Rs.15,48,41,056/- (Rupees Fifteen Crores Forty Eight Lakhs Forty One Thousand and Fifty Six Only). The account was classified as Non-Performing Asset on 31.12.2016 and is still continuing as an NPA account.
4. Petitioner has placed on record various documents in support of its claim such as:
  - a. Copy of Ledger Account of the Corporate Debtor.
  - b. Copy of CIBIL Report of the Corporate Debtor.




- c. Copy of Sanction Letters dated 23.03.2010 along with letters of acceptance by the Corporate Debtor & Modification of sanction terms dated 29.03.2010 duly accepted by the Corporate Debtor.
- d. Copy of Demand Promissory Note dated 29.03.2010.
- e. Copy of Loan Bearer Letter dated 29.03.2010.
- f. Copy of Declaration cum Undertaking dated 29.03.2010.
- g. Copy of Non-Receipt of commission by Guarantor of the Corporate Debtor 29.03.2010.
- h. Copy of Continuing Security Letter dated 29.03.2010.
- i. Copy of Declaration dated 29.03.2010.
- j. Copy of Deed of Guarantee dated 29.03.2010 executed by Corporate Debtor.
- k. Copy of Sanction letter dated 13.11.2010 duly accepted by the Corporate Debtor.
- l. Copy of Demand Promissory Note dated 04.12.2010 executed by the Corporate Debtor.
- m. Copy of Loan Bearer Letter dated 04.12.2010.
- n. Copy of Declaration cum Undertaking dated 04.12.2010.
- o. Copy of Continuing Security Letter dated 04.12.2010.
- p. Copy of Acknowledgment of Debts/Liabilities dated 04.12.2010 executed by Corporate Debtor.
- q. Copy of No objection Letter dated 09.12.2010.
- r. Copy of Sanction of Credit Facilities dated 30.04.2012.

6/

- s. Copy of Letter of Acknowledgment of Debts/Liabilities dated 25.02.2015.
- t. Copy of Annual Review of credit facility dated 07.04.2016.
- u. Copy of Letter dated 14.09.2017 by the Financial Creditor.
- v. Copy of Acknowledgment and confirmation Letter dated 21.09.2017 by the Corporate Debtor.
- w. Copy of Demand Notice dated 16.02.2018 issued by the Financial Creditor to the Corporate Debtor.

And placed many other Documents in support of its claim against the amount defaulted by the Corporate Debtor as evidence on record.

5. Respondent in its reply stated that Corporate Debtor do admit that the current financial position is very much tight and has deteriorated continuously over past 3 years.
6. The facility provided by the Applicant/Financial Creditor is towards Vendor Bill Discounting. Respondent/Corporate Debtor is in the final stage of negotiation with some potential buyer and has also proposed OTS (One Time Settlement) to Secured Lenders and seeks time of Four to Six weeks for settlement.
7. Petitioner/Financial Creditor in its written submission stated that Respondent/Corporate Debtor had admitted its Liability by way of acknowledgement dated 14.09.2017, and that the Respondent/Corporate Debtor had not disputed the debt due to the Petitioner/Financial Creditor but simply sought time for settlement. Petitioner/ Financial Creditor prayed to allow the Present Petition. 


8. Heard both the sides and perused the record.
9. After hearing submissions of the Counsel for the Petitioner/FC and Counsel for Respondent/CD and having perused the record, this Adjudicating Authority is satisfied that the Petitioner has clearly made out a case by establishing that the Corporate Debtor has defaulted on payment dues on various occasions to the Petitioner which the Corporate Debtor was responsible to pay. The Corporate Debtor neither disputed nor denied the default Debt but only expressed its inability to pay. Therefore, I am of the opinion that the amount in default committed by the Corporate Debtor is genuine and is supported by the documentary evidence placed before this Adjudicating Authority. In the Circumstances, having satisfied with the submission put forth by the learned counsel for the Petitioner, I am hereby inclined to admit the Instant Petition.
10. Accordingly, the Instant Petition is admitted and this Tribunal Order the Commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within 180 days, reckoning from the day of this order is passed.
11. This Adjudicating Authority hereby Appoint Mr. Kamallesh Kumar Singhania, as IRP as proposed by the Financial Creditor. There is no disciplinary proceedings pending against the IRP as evidenced from Form-2 and his name is reflected in IBBI website. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the Insolvency and Bankruptcy Code, 2016 within three days from the



date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

12. I declare the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process for the purposes referred to in Section 14 of the I&B Code, 2016. I order to prohibit all of the following, 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 Securitisation 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.*

13. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government. 

14. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016. Accordingly, the application is admitted.
15. The Petitioner/FC as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
16. The Registry is also directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
17. The details of the IRP are as follows:-

Mr.Kamlesh Kumar Singhanian  
Insolvency Resolution Professional,  
IP Registration No. IBBI/IPA-002/IP-N00023/2016-17/10050,  
AV Insolvency Professional Pvt Ltd.,  
Bajarang Kunj, Room No.412 & 413,  
2B, Grant Lane, 4<sup>th</sup> Floor,  
Kolkata - 700 012.  
West Bengal.



**K.ANANTHA PADMANABHA SWAMY**  
**MEMBER JUDICIAL**