

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH
C.P.(IB) 1767(MB)/2017

Under Section 7 of IBC, 2016

In the matter of

Union Bank of India Petitioner

vs.

Maharashtra Shetkari Sugar Ltd.... Respondent.

Order delivered on 30.08.2018

Coram: Hon'ble Shri B.S.V. Prakash Kumar, Member (Judicial)
Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

For the Petitioner: Adv. N. I. Bakali and Mr. Rohit Gupta

For the Respondent: Adv. Anuja Bhansali and Pratima Pratihari, i/b Raval Shah & Co.

Per Ravikumar Duraisamy, Member

ORDER

Order pronounced on 30.08.2018

It is a Company Petition filed by Union Bank of India u/s 7 of Insolvency and Bankruptcy Code, 2016 (IB Code) against the Corporate Debtor, namely Maharashtra Shetkari Sugar Ltd, for initiation of Insolvency Resolution Process for the Corporate Debtor Company has failed to repay the debt outstanding against the Corporate Debtor.

2. The Petitioner filed this Company Petition stating that this Corporate Debtor availed Term Loan – I of Rs.43.00 crores by entering into Term Loan Agreement on 12.1.2011. Thereafter, this Corporate Debtor availed Term Loan – II of Rs.6.33 crores by entering into Supplemental Agreement on 12.6.2012. The Corporate Debtor also availed Credit facilities of Rs.81.62 crores which was sanctioned on 28.3.2013 for which purpose the Common Loan Agreement was executed on 28.3.2013. The Corporate Debtor also availed Working Capital Demand Loan of Rs.4.85 crores for which purpose entered into Working Capital Demand Loan Agreement dated 13.11.2014 for



converting the overdue interest into Loan. Further an amount of ₹18.50 crores were sanctioned on 8.6.2012 towards Working Capital Facility.

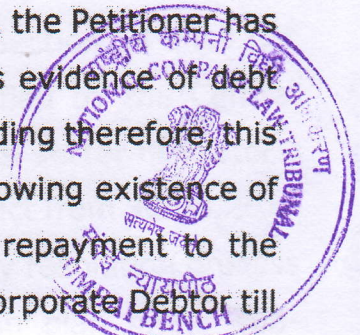
3. Apart from the above mentioned Loan Agreements, the Petitioner filed several other documents executed by the Corporate Debtor, executing the Composite Deed of Mortgage and Hypothecation Deed dated 12.1.2011 as modified on 12.6.2012 and 18.10.2012 creating a charge, Letter of Guarantee dated 28.3.2012 executed by the Guarantors of the Corporate Debtor. Apart from these documents, the Petitioner has also filed a statement of account.

4. When the Corporate Debtor failed to repay the same, this Financial Creditor alongwith other Financial Creditors filed original application with DRT, Aurangabad for the recovery of ₹354,90,83,837 plus interest. The DRT, Aurangabad vide an order dated 5.7.2017 adjudicated the claim of the Financial Creditors for an amount of ₹119,02,11,690 with further interest thereon till 12.5% p.a. from 18.12.2015 till realisation.

5. Besides these, the Financial Creditor also filed a copy of the CRILC Report dated 7.12.2017

6. Since the Corporate Debtor defaulted in making repayment of the loan, the Financial Creditor issued a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) stating due to default in payment of the debt, the account of the Corporate Debtor was classified as non-performing asset on 24.3.2015 as per Reserve Bank of India guidelines, demanding a sum of ₹99,92,81,341 plus applicable interest from 1.4.2015.

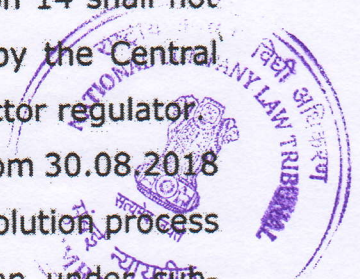
7. On perusal of these documents and statement of accounts filed by the Petitioner, this Bench has noticed that though record from Information Utility has not been filed by the Petitioner, the Petitioner has filed all financial contracts supported by financials as evidence of debt and the financial statements showing the debt outstanding therefore this Bench being satisfied with the proof of documents showing existence of debt and the corporate debtor defaulted in making repayment to the Petitioner and the same has not been repaid by this Corporate Debtor till



date. Further the Financial Creditor filed a copy of the CRILC report dated 7.12.2017 and moreover, the Corporate Debtor has not disputed the amount sanctioned/disbursed.

8. On perusal of the documents filed by the Creditor it is evident that the Corporate Debtor defaulted in repaying the loan availed and also placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional. The IRP has also submitted his consent in Form 2. Having this Bench noticed that debt and default has occurred and there being no disciplinary proceedings pending against the proposed resolution professional, the Application under sub-section (2) of section 7 is taken as complete, accordingly this Bench hereby admits this Application declaring Moratorium with the directions as mentioned below:

- I (a) that 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 (SARFAESI Act);
- (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 the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- (III) That the provisions of sub-section (1) of Section 14 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 30.08.2018 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-



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section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, 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 the Code.

(VI) That this Bench hereby appoints Mr. Rajendra K Bhuta, 1207, Yogi Paradise, Yogi Nagar, Borivali (West), Mumbai - 400 092, Registration No. IBBI/IPA-IP/00078/2016-17/1074 as Interim Resolution Professional to carry out the functions as mentioned under Insolvency & Bankruptcy Code.

9. Accordingly, this Petition is admitted.

10. The Registry is hereby directed to communicate this order to both the parties and IRP within seven days from the date order is made available even by way of email.

SD/-

RAVIKUMAR DURASAMY
Member (Technical)

SD/-

B. S. V. PRAKASH KUMAR
Member (Judicial)



Certified True Copy
Copy Issued "free of cost"
On 7/9/2018

Assistant Registrar
National Company Law Tribunal Mumbai Bench