

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**


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PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 11.07.2019 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No.357/7/HDB/2018
NAME OF THE COMPANY	Sai Leelagar Power Genertion Ltd
NAME OF THE PETITIONER(S)	Axis Bank Ltd
NAME OF THE RESPONDENT(S)	Sai Leelagar Power Genertion Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
H. Rajesh Kumar	Adv.	9000 29 29 70	

Counsel for Respondent(s):

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

ORDER

Orders passed vide separate orders.

CP admitted.



Member(Judl)

Pavani

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

CP (IB) No. 357/7/HDB/2019
U/s 7 of IBC, 2016
R/w Rule 4 of I & B (AAA) Rules, 2016

IN THE MATTER OF SAI LILAGAR POWER GERNERATION LIMITED

M/s. Axis Bank Limited

Registered Office:

“Trishul”, 3rd Floor, Opp. Samartheshwar Temple,
Law Garden, Ellis Bridge, Ahmedabad- 380006.

... Petitioner/Financial Creditor

VERSUS

M/s. Sai Lilagar Power Generation Limited,

Registered Office:

8-2-293/82/A/431/A, Road No. 22,
Jubilee Hills, Hyderabad- 500033.

... Respondent /Corporate Debtor

Date of order: 11.07.2019

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Parties / counsels present:

For the Petitioner: H.Rajesh Kumar, A. Sanjay Kishore, Advocate.

For the Respondent: Trivikrama Rao, G.Giridhar, Advocates.

Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)




Heard on: 04.06.2019, 26.06.2019.

ORDER

1. This petition is filed by M/s. Axis Bank Limited, which is the Financial Creditor stating that M/s Sai Lilagar Power Generation Limited, Corporate Debtor herein had defaulted in repaying a sum of Rs. **3,83,05,52,074.07** .This petition is filed under Section 7 of Insolvency and Bankruptcy Code, 2016, R/w Rule 4 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the Petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.
2. The brief averments made in the petition are as follows:
 - a) It is averred that the Corporate Debtor, M/s. Sai Lilagar Power Generation Limited, formerly known as M/s. Sai Lilagar Power Limited was originally incorporated as M/s. Arasmeta Captive Power Company Limited had availed financial facilities from the Financial Creditor.
 - b) The Corporate Debtor availed the following financial facilities:
 - i. Working Capital of INR 50 Crores during March 2015, being Cash Credit limit of INR 35 Crores out of which it has Letter of Credit of INR 13.60 Crores and the balance amount of INR 15 Crores in the form of Bank Guarantee.;
 - ii. Term Loan of INR 225 Crores during September 2015;
 - iii. Interchange of the Bank Guarantee limit of INR 5 Crores to Letter of Credit with existing BG limit of INR 15 Crores.
 - c) It is averred that as per the terms of the sanction letter dated 18th March, 2015 the said credit facility is to be secured by way of:



- i. First charge by way of hypothecation of all present and future the Corporate Debtor's current assets including revenues, receivables, and Escrow Amount;
 - ii. Pledge of 30% shares of the Borrower, in line with Banking Regulation Act;
 - iii. Second charge on fixed assets of the Company;
 - iv. Corporate Guarantee of KSK Energy Ventures Limited.
- d) It is averred that the Corporate Debtor to meet its business requirements approached the Financial Creditor for Term Loan of an amount of INR 225 Crores. The Financial Creditor on the representation provided by the Corporate Debtor agreed to provide the Term Loan. The Rupee Term Loan was sanctioned by the Applicant herein vide its sanction letter Ref.No. AXISB/CO/CRG/SFG/2015-16/21121 dated 28th September, 2015. The tenure of the Term Loan is for 10.5 years (6 months moratorium + 10 years of debt repayment) at interest rate calculated at Base Rate + 2.65% i.e payable monthly while the current rate of interest is 1-year MCLR + 2.75%. per annum . As per the terms of the sanction letter Term Loan shall be repaid in 40 equal quarterly installments commencing from 30th June, 2016 and end on 31st March, 2026.
- e) It is averred that the Corporate Debtor issued an Acknowledgment of Debt on 8th December, 2017 wherein it acknowledged that an amount of INR 2,37,36,95,506.82 was due as on 7th December, 2017. The total outstanding as on 27th March, 2019 is INR. 3,83,05,52,074.07.
- f) It is averred that Corporate Debtor has been irregular in servicing the loan account. The account of the Corporate Debtor turned NPA with effect from 1st April, 2018.
- g) It is averred that the Financial Creditor issued a letter on 30th October, 2018, to the Corporate Debtor for recall of credit facilities sanctioned to the Corporate Debtor. The Financial Creditor informed that a total of INR 2,37,52,18,506.50 was
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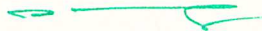
due as on 30.09.2018 and the same ought to have been paid within 7 (seven) days from the date of issuance of the notice. The Corporate Debtor failed to make the payment by 7th November, 2018 and all amounts due remain outstanding as on date.

3. The brief averments made in Counter are as follows:
 - a) It is averred that for the development of the Project, the Corporate Debtor availed credit facilities from the Applicant by entering into various financial facility agreements ("Credit Facilities").
 - b) It is averred that Corporate Debtor had diligently tried to fulfil its commitment under various financial facility agreements, however, due to peculiar facts and circumstances surrounding the power sector as a whole with regard to unavailability of coal and other such mitigating factors this power plant has pushed the Corporate Debtor and power sector at large to the extent of minimal or no generation operations and resultant default in the repayment of credit facilities availed from its lenders.
 - c) It is averred that even though the Corporate Debtor has been facing severe cash flow issues, the Corporate Debtor managed to fulfil its obligations under the financial facility agreements to the best possible extent. As the cash flow situation continued to remain worse, the Corporate Debtor business has landed in a bad condition on account of number of factors and circumstances that are beyond its control.
 - d) It is averred that the debt was due to the Financial Creditor which cannot be disputed as the same being an admitted liability
 - e) It is averred that that the Corporate Debtor business has landed in to this situation on account of a number of facts and circumstances that are beyond its control.
4. I have heard the Counsel for Financial Creditor and also the Counsel for Corporate Debtor.

5. The present petition is filed under Section 7 of the Code by the Financial Creditor stating that the corporate debtor had defaulted in payment of Rs. **3,83,05,52,074.07**.
6. The Learned Counsel for Financial Creditor contended that Financial Creditor granted various Financial Facilities to the Corporate Debtor from time to time. The Counsel contended the Corporate Debtor committed default of Rs. Rs. **3,83,05,52,074.07**.
7. The Financial Creditor in order to prove its Claim has relied on Annexure -1 to Annexure -54 filed along with the Petition.
8. The Corporate Debtor acknowledged the debt on 8.12.2017. I have seen the acknowledgement of debt. The Petition is well within the Limitation. The account of the Corporate Debtor is treated as NPA from 1st April, 2018 by the Financial Creditor.
9. The Learned Counsel for Financial Creditor submitted that the present petition is filed independently not on the basis of RBI Circular dated 12.02.2018.
10. The Corporate Debtor not disputed the debt due and default. The Corporate Debtor admitted the liability in the Counter.
11. Before admitting the Petition filed under Section 7 of IBC, this Tribunal has to see whether there is a debt due and if it is in default. *Hon'ble Apex Court held in "Innoventive Industries Ltd Vs. ICICI Bank and Ors (2018) 1 SCC 407 that "The moment the Adjudicating Authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the Applicant to rectify the defect within 7 days of receipt of notice from the Adjudicating Authority"*
12. The Corporate Debtor admitted the default. The present petition is well within the Limitation. The Petition is in order. The petition is complete and therefore deserves to be admitted.
13. The Financial Creditor has suggested the name of IRP who has given consent in Form-2 and there is no disciplinary action pending against present IRP. The account of Corporate Debtor is treated as NPA and there are grounds to admit the petition.

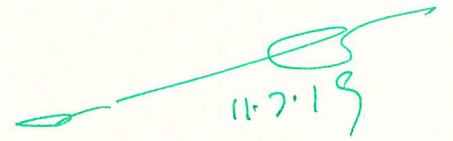


14. Hence, the Adjudicating Authority admits this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:

- a) The Bench hereby prohibits 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; Transferring , encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor.
 - b) 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.
 - c) 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.
 - d) That the order of moratorium shall have effect from 11.07.2019 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, whichever is earlier.
 - e) That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the code.
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f) That this Bench hereby appoints Ram Singh Setia as IRP having registration number IBBI/IPA-001/IP-P01189/2018-19/11935 residing at 1803, Vista 1, LBS Road, Ghatkopar West, Mumbai- 400086

Accordingly, this Petition is admitted.



RATAKONDA MURALI
MEMBER (JUDICIAL)

VISWARAJ

(LAW RESEARCH ASSOCIATE)