

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

IBA/243/2019

Under Section 7 r/w rule 4 of the IBC, 2016

In the matter of M/s. Thiru Arooran Sugars Private Limited

State Bank of India

---Financial Creditor

V/s

M/s. Thiru Arooran Sugars Private Limited

---Corporate Debtor

Order delivered on: 07.06.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor : *Shri. E. Om Prakash, Sr. Advocate*
Shri. P. Elayarajkumar, Advocate
Shri. V. Raghuraman, Advocate
For M/s. Ramalingam & Associates

For the Corporate Debtor : *Shri. Gautam S. Raman, Advocate*

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and Pronounced on: 07.06.2019

It is an application filed u/s 7 of Insolvency and Bankruptcy Code, 2016 ("the Code") to initiate Corporate Insolvency Resolution Process for having the Corporate Debtor failed to repay an amount of

₹ 149,36,46,297.17 to the Financial Creditor namely State Bank of India.

2. On perusal of the record, it appears that on 30.06.2016 consortium of Banks namely Punjab National Bank, IDBI Bank Limited, UCO Bank, Union Bank of India, Standard Chartered Bank led by State Bank of India (financial creditor) granted financial assistance in the nature of credit facility to the Corporate Debtor consisting of various working capital limits for an amount of ₹ 159.94crores with break up as below:

Facility	Sanctioned limit (₹ Crores)
CC – Sugar	15.00
CC Distillery	10.00
EPC/PCFC (sub-limit of CC sugar)	(10.00)
Letter of Comfort	104.55
Bank Guarantee	1.50
Term Loan (SEFASU)	28.39
CEL	0.50
Total	159.94

3. The Financial Creditor has placed the documents below mentioned reflecting what documents the Corporate Debtor

executed in favour of the Financial Creditor at the time of granting loan facility, which are as follows:

Sl.No.	Documents
1	Deed of Hypothecation executed by the Corporate Debtor to the Financial Creditor for the Credit facilities availed is mentioned as Annexure-8 in Part-V of the application.
2	Deed of Hypothecation executed by the Corporate Debtor in favour of the Consortium Banks – Annexure 9 in Part-V of the application.
3.	Declaration and Undertaking executed by the Corporate Debtor confirming the creation of Charge or Mortgage over the Secured Assets – Annexure 10 in Part-V of the application.
4.	Undertaking by the Corporate Debtor to comply with term and conditions is Annexure 11 in Part-V of the application.
5.	Lenders agent agreement among the Applicant and the other Consortium Lenders of the Corporate Debtor is Annexure 12 in Part-V of the application.
6.	Certificate of Registration of Charge created by Applicant (as a agent of the other Consortium Lenders) with the RoC dated 30.09.2016 for sum of ₹294.83 Crores - Annexure 13 in Part-V of the application.
7.	Certificate of Registration of Charge created by Applicant (as a agent of the other Consortium Lenders) with the RoC dated 30.09.2016 for sum of ₹10 Crores - Annexure 14 in Part-V of the application.
8.	Letter given by the Trustee Company Ltd (on behalf of the Financial Creditor) to the Corporate Debtor for confirmation of holding of documents - Annexure 15 in Part-V of the application.

9.	Legal Notice issued by the Financial Creditor to the Corporate Debtor for the repayment of outstanding dues - Annexure 16 in Part-V of the application.
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4. Apart from these documents, the Financial Creditor filed Declaration of Understanding dated 26.12.2016 executed by the Corporate Debtor confirming the creation of charge/mortgage over the secured assets. As repayment was not made as agreed, the account was already declared as NPA on 31.03.2018.

5. After the Account was declared as NPA, though the Financial Creditor on 22.11.2018 issued a legal notice to the Corporate Debtor for repayment of the outstanding dues, the corporate debtor failed to repay the dues outstanding against the Corporate Debtor. In addition to the documents confirming the existence of Debt and Default, the Financial Creditor has also filed documents disclosing initiation of DRT proceedings against this Corporate Debtor in respect to this Account. The Financial Creditor filed Annual Report of the Corporate Debtor for the financial year 2015-16 reflecting the dues outstanding against the Corporate Debtor.

6. When we have asked the Corporate Debtor counsel as to whether any defence is lying with the Corporate Debtor, he has not disputed the existence of debt and default. Since no defence has come from the Corporate Debtor side regarding existence of debt and default, we are of the considered view that it is a fit case for admission, whereby, this Bench hereby admits this Company Petition to initiate CIRP against the Corporate Debtor with the following directions by appointing Mr. R. Ragavendran as Interim Resolution Professional basing on the consent given by him.

- I. That Moratorium is hereby declared prohibiting all of the following actions, 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 Securitization and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

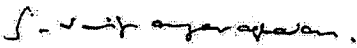
d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.


- II. That Supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of IBC 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 07.06.2019 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, 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 IBC.
- VI. That this Bench hereby appoints Mr. R. Ragavendran, having Reg.No: [IBBI/IPA-001/IP-P00211/2017-18/10411], Flat No: 3, Dr. Rajendraprasad Raod, Tatabad, Coimbatore-641012,

Email: ragacarp@gmail.com, Mobile No: 9363105841 as Interim Resolution Professional to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

7. Accordingly, this Petition is **admitted**.

8. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by way of email.


(S. VIJAYARAGHAVAN)
MEMBER (Technical)


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

TJS/SR