

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL**COURT NO. IV, NEW DELHI****C.P. NO. IB-1789 (ND)/2019**

{Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016}

IN THE MATTER OF:**CANARA BANK****...FINANCIAL CREDITOR/APPLICANT****VS.****Ms. Gopalsons Steels Pvt. Ltd.****...CORPORATE DEBTOR/RESPONDENT****Order delivered on: 20.01.2020****CORAM:****DR. DEEPTI MUKESH****HON'BLE MEMBER (J)****SHRI HEMANT KUMAR SARANGI****HON'BLE MEMBER (T)**

**For Applicant : Mr. P.B.A. Srinivasan, Adv.
Mr. Avinash Srinivasan, Adv.
Mr. Deepak Goyal, Adv.**

For Respondent:

MEMO OF PARTIES**CANARA BANK****HEAD OFFICE:**

112, J.C. Road, Bengaluru

Karnataka- 560002

BRANCH:

Canara Bank

Mid Corporate Brank

A-8, Ist Floor. Nehru Ground,

NIT Faridabad - 1210001

...Applicant/Financial Creditor

VERSUS**M/s GOPALSONS STEEL PVT. LTD.****REGISTERED OFFICE:**

31/6, New Rohtak Road,

New Delhi – 110005

...Respondent/Corporate Debtor

ORDER**Dr. Deepti Mukesh, Member(J)**

1. The present application is filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Canara Bank (for brevity 'Applicant') through Mr. Deepak Goyal duly authorised vide Power of Attorney dated 24.01.2014 praying to trigger Corporate Insolvency Resolution Process against Ms. Gopalsons Steels Pvt. Ltd (for brevity 'Corporate Debtor').
2. The Applicant, Canara bank, is a Public Limited banking company incorporated under Banking Companies Act 1949. Sector Bank having its head office at 112, J.C. Road, Bengaluru Karnataka- 560002. The corporate debtor, is a company incorporated on 30.11.1972 under the Companies Act, 1956 having its registered office at 31/6, New Rohtak Road, New Delhi – 110005 bearing CIN U74899DL1972PTC006381 as per master data. The authorised share capital of the company is Rs. 2,00,000/- and the Paid-up share capital is Rs.1,80,000/-.
3. It is the case of the applicant that the corporate debtor had approached the applicant for seeking credit facility (OCC (Hypothecation), CBD, ILC/FLC, adhoc limit) and term loan for the purpose of construction of

building, purchase of machinery and meeting general corporate needs of the company. Pursuant to that, A board resolution dated 27.10.2004 was passed by the corporate debtor authorizing the managing Director to borrow money otherwise than on debentures from the applicant.

4. It is submitted by the applicant that in pursuance of sanctioning of term loan and credit facilities in favour the corporate debtor, several security and loan documents i.e.: The common Hypothecation Agreement, Agreement: Collateral Security Machinery, irrevocable letters of Inland Credit and Guarantee Agreements etc were executed between the parties. Copies of all the above-mentioned agreement(s) and letters are annexed with the application. In terms of the said agreement corporate debtor had availed financial assistance with an express undertaking executed by the Corporate Debtor to repay the total due amount as per the terms and conditions of the said agreement.
5. The applicant disbursed a total sum amounting to Rs 2,913 Lakhs on various dates mentioned in the Form-I. The entire term loan was to be repaid in 84 monthly installments along with interest as and when due @ 13.95% with compounded monthly rates in addition to the penal interest @ 2% p.a. in case of default. The credit facility was disbursed to the corporate debtor to be repaid as per the demand raised by the applicant along with the interest @ 11.60% with compounded monthly rates in addition to penal interest @ 2% p.a. in case of default. However,

the corporate debtor has failed to honour the demands and /or repay the scheduled EMI's on time and are in the gross violation of the terms and conditions of the agreement(s) executed between the parties.

6. The applicant submits that several reminders and requests were made to the corporate debtor for repayment of default amount but the corporate debtor has not replied to such requests or repaid any amount in default. The default was made by the Corporate Debtor in OCC/ODBD account no. 0330261010.658 and term loan account no. 50597730000009 and finally the account was declared NPA on 01.05.2018 by the applicant. Hence, the applicant was left with no other option and issued

- Notice u/s 13(2) of the SARFAESI Act, 2002 dated 13.07.2018 to the Corporate Debtors and the Guarantors,
- Legal-cum-recall Notice Dated 10.07.2018 and
- Possession Notice Dated 22.11.2018 and 28.01.2019 to recall the entire loan amount/Credit as was sanctioned by the applicant.

7. The total amount claimed by the applicant amounts to a sum of Rs. 33,46,382.65 (as on 30.04.2019) on account of the credit facility and the term loan sanctioned in favour of the Corporate Debtor which became due and payable by the corporate debtor as per Form 1 'Part IV'.

8. The default has occurred on 01.05.2018 and the present application is filed on 23.07.2019. Hence, the application is filed within time and is not barred by limitation.
9. The registered office of the Corporate Debtor is situated at Delhi and therefore this tribunal has jurisdiction to entertain and try this application.
10. The Corporate Debtor has been duly served as per service affidavit filed by the applicant and choose not to file any reply even after giving various opportunities and the matter was heard.
11. It is evident from the record that the application has been filed on the proforma prescribed under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 read with Section 7 of IBC. This Tribunal is satisfied that a default has occurred and the application under Section 7 is complete.
12. As a sequel to the above discussion, this application is admitted and Mr. Kanti Mohan Rustagi with the address E-7, Kailash Colony, New Delhi-110048 and email-id kanti.rustagi@patanjali.associates.com Mobile No. 9871306829 and having registration number IBBI/IPA-002/IP-N00097/2017-18/10240 is appointed as the Interim Resolution Professional. The IRP is required to file consent in form-2 of the Insolvency & Bankruptcy Board of India (Application to Adjudicating Authority) Rule 2016 and make disclosures as required under IBBI

(Insolvency Resolution Process for Corporate Person) Regulation, 2016 within a period of one week from this order.

13. We direct the Financial Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional namely Mr. Kanti Mohan Rustagi to meet out the expense to perform the functions assigned to him in accordance with regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days for the date of receipt of this order by the Financial Creditor. The amount however be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the applicant.
14. In terms of above order, the application stands admitted in terms of Section 7 of IBC, 2016. A copy of the order shall be communicated to the applicant as well as to the Corporate Debtor above named by the Registry. applicant is also directed to provide a copy of the complete paper book with copy of this order to the IRP. In addition, a copy of the order shall also be forwarded to IBBI for its records and to ROC for updating the master data. ROC shall send compliance report to the Registrar, NCLT.

Sd/-

HEMANT KUMAR SARANGI
MEMBER (TECHNICAL)

sd/-

DR. DEEPTI MUKESH
MEMBER (JUDICIAL)