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**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 09.10.2018 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No.497/7/HDB/2018
NAME OF THE COMPANY	Atlanti Spinning & Weaving Mills Ltd
NAME OF THE PETITIONER(S)	International Asset Reconstruction Pvt Ltd
NAME OF THE RESPONDENT(S)	Atlanti Spinning & Weaving Mills Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
Mr. V.V.S.N. RAJU	Advocate	vraju@jwisprime.com 9866446467	
Mr. A.B.N. RAI	Advocate	9100077262	

Counsel for Respondent(s):

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

ORDER

Orders pronounced vide separate orders.


Member(Judl)

Pavani

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

CP (IB) No. 497/7/HDB/2018
U/s 7 of IBC, 2016
R/w Rule 4 of I & B (AAA) Rules, 2016

In the matter of

International Asset Reconstruction Company Private Limited
R/o. 709, 7th Floor,
Ansal Bhawan 16,
Kasturba Gandhi Marg,
New Delhi- 110 001,
Delhi.

Financial Creditor

VERSUS

M/s. Atlanti Spinning and Weaving Mills Limited
R/o. 05, Chenoy Tradem Centre,
116, Parklane,
Secunderabad,
Telangana- 500 003.

Corporate Debtor

Date of order: 09.10.2018

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Parties / counsels present:

For the Petitioner: Shri V.V.S.N.Raju, and Shri A.B.N.Raj
Advocates

For the Respondent: None appeared

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

Heard on 07.09.2018, 28.09.2018 & 09.10.2018.

ORDER

1. This petition is filed by, International Asset Reconstruction Company Private Limited which is the Financial Creditor

stating that, Atlanti Spinning and Weaving Mills Limited, Corporate Debtor herein had defaulted in repaying the amount of Rs. 70,22,04,757.31/- (Rupees Seventy Crores Twenty Two Lakhs Four Thousand Seven Hundred Fifty Seven and Thirty One Paise Only) as on May 15, 2018 with further interest at contractual rates, and hence 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, by Financial Creditor to initiate Corporate Insolvency Resolution Process, under the Insolvency and Bankruptcy Code, 2016.


2. Averments in Breif:

- A. Atlanti Spinning and Weaving Mills Limited(herein referred to as the corporate debtor) is a private limited company engaged in the business of textiles spinning and weaving. The corporate debtor was granted various financial assistances (Loans) under diverse loan and security agreements entered into and executed between the Corporate Debtor and Allahabad Bank, Ratnakar Bank Limited and Axis Bank Limited(Banks/Assignors).
- B. It is averred that the corporate debtor defaulted in payment of interest and the principal instalments of the Loans and further failed and neglected to clear the overdue amounts under the loans. As a result, the loans were classified as Non-performing Assets in the books of accounts of the Banks/Assignors in accordance with the existing guidelines of the RBI.
- C. It is averred that the said loans, were subsequently assigned by Allahabad Bank, Ratnakar Bank Limited and Axis Bank Limited under section 5 of the Securitization and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(SARFAESI Act, 2002) in favour of Internatioan Asset Reconstruction Company Private Limited(Financial Creditor/Assignee) in its capacity as a trustee of the IARF-II Trust Scheme-I vide registered Assignment Agreements dated 15.02.2014, 26.03.2014 and 29.03.2014 respectively registered at the office of Additional Registrar of Assurance- III, Kolkata, sub-Registrar at Surat City and Sub- Registrar at Quepem Vide documents no. 01057/2014, 384/2014 and 8602/2014 respectively.

- D. It is averred that the corporate debtor had intentionally delayed and defaulted in the payment of total outstanding dues as mentioned above and ignored the requests of the Financial Creditor with the intention to evade the payments to the financial creditor.
- E. The banks issued notices under section 13(2) of SARFAESI Act dated 18.08.2009. 02.09.2009 and 09.02.2009 by Allahabad Bank, Ratnakar Bank Limited and Axis Bank Limited respectively. IDBI, SBoP(now Invest ARC) , Allahabad Bank(now IARC) and Ratakar Bank(now IARC) filed O.A before the Debts Recovery Tribunal NO.3 at Mumbai vide O.A.No. 292/2010 and another O.A was filed by Axis Bank(now IARC) before DRT at Mumbai vide O.A No.79/2009.
- F. It is averred since December 2013 there have been several proposals by corporate debtor for OTS and the latest proposal for OTS being dated 23.09.2015, but none of them fructified.
3. I have seen the record. The notice was sent to the Corporate Debtor vide its order dated 07.09.2018 which is directed by the

Tribunal to the Financial Creditor. The financial creditor has also filed memo dated 28.09.2018 stating that notice was sent to the corporate debtor, and three others by R.P.A.D. The postal receipts along with postal tracking reports showing the delivery status are also filed. Consignment No. EN410630523IN, was delivered on 15.09.2018, Consignment No. EN410630537IN was delivered on 19.09.2018, Consignment No. EN410630545IN was delivered on 18.09.2018 and Consignment No. EN410630554IN was delivered on 26.09.2018 respectively. There was no representation for Corporate Debtor. Therefore, this Tribunal treated Corporate Debtor as absent and matter was listed for consideration. I have also seen the Demand Notice issued to the Corporate Debtor. There was no reply to the Demand Notice. Corporate Debtor did not raise any dispute.

4. The Financial Creditor filed Form-2. Financial creditor also filed the Assignment Agreements between the Assignor and Assignee which is annexed here with page no. 117-199. It is clear from the record that Financial Creditor issued Demand Notice which is annexed at page:431. Financial Creditor also filed the proposal of OTS by corporate debtor at Page:1336. Thus, Financial Creditor filed documentary proof in support of the claim and also placed evidence that Corporate Debtor committed default. Therefore, petition is liable to be admitted.
 5. The Financial Creditor proposes the name of Mr. Shaik Gouse, as Interim Resolution Professional. The proposed IRP has given written consent in Form-2 vide memo. He has also certified there are no disciplinary proceedings pending against him either with the Board or ICSI. He has enclosed certificate of Registration.
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6. The Adjudicating Authority is satisfied that the Corporate Debtor failed to discharge its liability mentioned in the Petition filed by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), resulting occurrence of default for an amount of Rs. . 70,22,04,757.31/- (Rupees Seventy Crores Twenty Two Lakhs Four Thousand Seven Hundred Fifty Seven and Thirty One Paise Only)/-.
7. 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 financial assistance 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 09.10.2018 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.
- (f) That this Bench hereby appoints Mr. Shaik Gouse, having registration number IBBI/IPA-002/IP-N00458/2017-18/11326 residing at Flat No. 401, Siddhartha Residency, Plot No. 56, Sy. No.48, Behind Hotel Best Western Jubilee Ridge, Kavuri Hills, Phase- I, Madhapur, Hyderabad- 500 034, as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

Accordingly, this Petition is admitted.


9.10.18
(RATAKONDA MURALI)
Member (Judicial)