

IN THE NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH

Company Petition No.(IB)140/ALD/2017  
(Under Section 7 of Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

**ASREC (INDIA) LIMITED**  
(Having its Registered Office at:  
Solitaire Corporate Park  
Building No.2 Unit No.201-202A & 200-202B  
Ground Floor, Ghatkopar Link Road  
Chakala, Andheri (East)  
Mumbai-400093

.....Financial Creditor/ Applicant

*VERSUS*

**M/S SHASHI OILS AND FATS PVT. LTD.**  
(Having its Registered Office at  
Goel Dal Mill  
Opposite Budhna Road, GT Road,  
Khatauli, Muzaffarnagar, Uttar Pradesh-251201

.....Corporate Debtor

**JUDGMENT/ORDER DELIVERED ON 20<sup>th</sup> March 2018.**

**CORAM :**

Sh. V.P. Singh, Hon'ble Member (Judicial)  
Ms. Saroj Rajware, Hon'ble Member (Technical)

For the Applicant/ Financial Creditor: Sh. Abhishek Anand, Advocate  
For the Respondent/ Corporate Debtor: Sh. Abhishek Mishra, PCS

AS PER: Saroj Rajware, Member(Technical)

**ORDER/JUDGMENT**

1. The present petition is filed under Section 7 of Insolvency and Bankruptcy Code,2016 read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule,2016 by the Applicant i.e. **ASREC(India) Limited** for initiation of Corporate Insolvency Resolution Process against the respondent/ corporate debtor company "**Shashi Oils and fats Pvt.Ltd.**

2. The Applicant **ASREC (India) Limited** is Public Limited Company incorporated under the Companies Act, 1956 and had been granted a certificate of registration by RBI to carry out activities under Securitisation



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and Reconstruction of Financial Assets, and Enforcement of Security Interest Act, 2002, Identification No is U67100MH2003PLC143291. Sh. Manash Kumar Das, Chief Manager, has filed this application on behalf of ASREC (India) Limited by authorisation letter dated 04.10.2017.

3. The respondent/Corporate Debtor "**M/s Shashi Oils and Fats Pvt.Ltd.**" is a company incorporated under the provision of Companies Act,1956, bearing Identification Number U15142UP2005PTC030056. The Authorized Share Capital of corporate debtor company is 5,00,00,000/- (Five Crore) divided into 50,00,000/- (Fifty Lacs) Equity shares of Rs.10/- (Rupee Ten Each) and Paid-up Share Capital is Rs 4,10,00,000/- (Rupee Four Crore and Ten Lacs) divided into 41,00,000/- (Forty-one lac) equity shares of Rs 10/- (Rupee Ten Each.)

4. Brief facts related to petition are as follows:

(i) The Corporate Debtor **M/s Shashi Oils and Fats Pvt. Ltd.** approached Allahabad Bank seeking financial assistance for Term Loan Facility of Rs.300 Lacs and Working Capital Limit of Rs.1200 lacs, Allahabad bank sanctioned the amount requested by the corporate debtor as per the terms and condition stipulated in the sanction letter dated 18.11.2009, the sanction letter dated 18.11.2009 is placed on record and marked as Annexure A-14.

(ii) The corporate debtor by their board resolution dated 20.11.2009 accepted the terms and conditions of the credit facilities sanctioned by the Allahabad Bank and executed the loan and security documents by the terms of sanction letter in favour of Allahabad Bank.



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*[Signature]*

- (iii) The Corporate debtor again approached the Allahabad Bank for review of the existing facilities for enhancement and Allahabad Bank further sanctioned 2<sup>nd</sup> Term loan of Rs.1.30 Crore by sanction letter dated 24.09.2010.
- (iv) Corporate Debtor defaulted in repayment of dues of the Allahabad Bank and Allahabad Bank in terms of the RBI guidelines declared the account of the Corporate Debtor as Non-Performing Asset, subsequent to which Allahabad bank issued a Demand Notice dated **27.06.2011** under Section 13(2) of the SARFAESI Act, 2002 to the Corporate Debtor and the guarantors requesting it to discharge its liabilities in full within 60 days, Allahabad Bank took symbolic possession of the immovable properties of the Corporate Debtor under the Provision of section 13(4) of the SARFAESI Act, 2002 by its possession notice dated **30.09.2011**.
- (v) In the meantime, a Deed of Assignment dated 30.03.2013 was executed between Allahabad Bank and the Applicant (ASREC (India) Limited), Allahabad Bank Assigned all its right, title interest and benefits in respect of the debts against the Corporate Debtor Company, copy of such deed of assignment is marked as **Annexure A-10** in the petition.
- (vi) After that, Applicant (ASREC (INDIA) Limited filed Original Application(OA) No-27/2014 before Debt Recovery Tribunal (DRT), Lucknow for recovery.
- (vii) Applicant took symbolic possession of the immovable properties of the guarantors IN TERMS the powers conferred upon Allahabad



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Bank and issued Possession notice dated 17.09.2014 against the corporate debtor company, i.e. (M/s Shashi Oils & Fats Pvt. Ltd.).

(viii) Further, Corporate Debtor approached the Applicant for One Time settlement (OTS) and competent Authority of the applicant approved OTS, Corporate debtor further sought an extension of time to adhere to the terms of OTS and make payment, but Applicant revoked/cancelled the OTS. Hence, the present petition.

5. Further, a perusal of record shows that amount claimed to be in default is of **Rs.36,14,04,262/- (Thirty-Six Crores Fourteen Lakhs Four Thousand Two Hundred and Sixty-Two Rupees Only)**. The Table in Form 1, Part IV shows as follows: -

PARTICULARS OF FINANCIAL DEBT		
1.	Total Amount of Debt Granted, Date(s) of Disbursement	<p>That originally Allahabad Bank has extended financial assistance to the corporate debtor by way of secured loan which was vide Deed of Assignment dated 30.03.2013 came to be assigned to the Applicant. A copy of Deed of Assignment dated 30.03.2013 is annexed herewith and marked as Annexure A-10</p> <p><b><u>Details of Financial Assistance</u></b></p> <p>That originally Allahabad Bank Sanctioned term loan facility of Rs.300 Lacs and Working Capital Limit of Rs.1200 lacs on 18.11.2009.</p>



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		In the year 2010, further Term Loan of Rs.1.30 crores were sanctioned by the Allahabad bank in favour of Corporate Debtor.	
2.	Amount Claimed to be in Default and the date on which Default Occurred.	<b>Account. No</b>	<b>Amount Claimed to be in Default(In. Rs.)</b>
		50022723772 (Principal Amount)	137,23,751
		Uncharged Interest from 01.05.2011* to 10.10.2017	19465462
		<b>Total</b>	<b>331,89,213</b>
		<b>Account. No</b>	<b>Amount Claimed to be in Default(In. Rs.)</b>
		50022723772 (Principal Amount)	116,44,543
		Uncharged Interest from 01.05.2011 to 10.10.2017	91,02,073
		<b>Total</b>	<b>207,46,616</b>
		<b>Account. No</b>	<b>Amount Claimed to be in Default (In. Rs.)</b>
		50022723772 (Principal Amount)	1271,38,303



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		Uncharged Interest	1803,30,130
		from 01.05.2011 to 10.10.2017	
		<b>Total</b>	<b>3074,68,433</b>

**Total Default Amount: Rs.36,14,04,262/-  
(Thirty-Six Crores Fourteen Lakhs Four  
Thousand Two Hundred and Sixty-Two  
Rupee Only)**

**Days of Default:2355**

**Days of Default Has been calculated from  
01.05.2011.**

Working sheet regarding computation of amount  
and days of default is annexed herewith and  
marked as **Annexure A-11.**

6. Ld. Counsel for the Financial Creditor submitted that in order to prove the Existence of the Financial Debt, they have annexed the Copy of Demand Notice under section 13(2) of the SARFAESI Act, 2002 dated **27.06.2011 (which is marked as Annexure A-31)**, A copy of Possession Notice under Section 13(4) of SARFAESI Act, 2002 dated **30.09.2011 issued by Allahabad Bank (Annexure A-34)** and a copy of Possession Notice under Section 13(4) of SARFAESI dated **17.09.2014 issued by Applicant, i.e. ASREC (INDIA) Limited (marked as Annexure A-35)**. Ld. Counsel further stated that there is also latest CIBIL Report evidencing default of corporate debtor company, such report is also available for the perusal of court record and marked as **(Annexure A-29)**.



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7. Ld. Counsel further informed that the Applicant had filed proceedings under section 19 of RDDBFI Act, 1993 before the Debts Recovery Tribunal, Lucknow being O.A No. 27/2014 for recovery.
8. It is also matter of record, that as per settled practice by the order of Hon'ble NCLAT in matter of M/s Innoventive Industries Ltd v/s ICICI Bank in present matter Adjudicating Authority by its order dated 24.10.2017 directed the Registry of this Tribunal to send notice to the corporate debtor company to file reply/objection if any, pursuant to that Shri Amit Verma, Adv filed his vakalatnama and appeared on behalf of Corporate Debtor Company. A perusal of record shows that Corporate Debtor Company was not able to file reply/objection in spite of sufficient time granted, even cost was imposed on corporate debtor company and further through order dated **07.02.2018** opportunity to corporate debtor company to file reply/objection was closed.

In the aforesaid background, application on behalf of financial creditor/Applicant is complete, and no disciplinary proceeding is pending against proposed IRP). Financial Creditor has suggested the name of Shri Chanchal Dua, Registration Number IBBI/IPA-003/IP-N00083/2017-18/10821 for appointment as Interim Resolution Professional(IRP). Shri Chanchal Dua has filed a declaration in form 2 affirming that he is registered insolvency professional and no disciplinary proceedings are pending against him. Given fact above Shri Chanchal Dua, deserves to be appointed as Interim Resolution Professional(IRP).

9. There is default in the payment of the financial debt. Therefore, as per section 7(5)(a) of the code, the present application filed U/S 7 of the I B Code deserves to be admitted.

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**ORDER**

Application on behalf of financial creditor/ Applicant filed U/S 7 of the I& B Code 2016 for initiation of corporate Insolvency process is admitted.

A moratorium under the provision of section 13 & 14 of the Code is declared prohibiting the following:

- (i) *The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*
- (ii) *Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*
- (iii) *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 (54 of 2002);*
- (iv) *The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.*

It is further directed that:

- (i) *The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period*
- (ii) *The provision of sub-section (1) shall not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.*



Shri Chanchal Dua, Registration Number IBBI/IPA-003/IP-N00083/2017-18/10821 is appointed as Interim Resolution Professional (IRP).

10. The IRP shall comply with the Provision of Section 13(2), 15, 17 & 18 of the Code. Further, the Directors, Promoters or any person associated with the Management of the Corporate Debtor are directed to co-operate to the IRP as

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prescribed under Section 19 and for discharging his function under a provision of section 20 of the Code.

11. The Registry is further directed to communicate this order to Financial Creditor and Corporate Debtor and IRP through email and speed post. List on DT. 4<sup>th</sup> April, 2018 for the filing of the progress report.

Dated: 20.03.2018

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(Saroj Rajware)  
Member (Technical)

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(V.P. Singh)  
Member (Judicial)

