

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP. No. 1273/I&BP/2017

Under Section 7 of the I&B Code, 2016

In the matter of
Punjab National Bank,
Asset Recovery Management Branch,
PNB House, Kingsway,
Nagpur – 440001 Petitioner

Vs.

Linkson Ispat & Energies Pvt. Ltd.
B 103, Pushp Heritage,
B-Wing, Dhanukar Wadi,
Mahavir Nagar,
Kandivali (West), Mumbai - 400067
.... Respondent

Order delivered on: 06.10.2017

Coram:

Hon'ble Mr. B.S.V. Prakash Kumar, Member (J)

Hon'ble Mr. V. Nallasenapathy, Member (T)

For the Petitioner: Mr. Pankaj Vijayan, Advocate for the Petitioner

For the Respondent: None Present.

ORDER

Per V. Nallasenapathy, Member (T)

1. Punjab National Bank (hereinafter called 'PNB') has sought the Corporate Insolvency Resolution Process of Linkson Ispat & Energies Pvt. Ltd. (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default on 30.9.2014 in repayment of ₹52,45,42,450/- (INR Fifty two crores Forty five lakhs Forty two thousand Four hundred Fifty only), under Section 7 of Insolvency and Bankruptcy

Code, 2016 (hereafter called the 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. This petition was filed on 01.08.2017, listed on 09.08.2017, 21.08.2017, 08.09.2017 and 14.9.2017 for want of effecting service upon the Corporate Debtor, finally on 18.09.2017, when the Corporate Debtor did not appear despite service effected against it, this Bench set the Corporate Debtor ex-parte for its non-appearance and decided the case basing on the facts available on record.

3. PNB in its Petition stated that on 30.6.2013 on review of Working capital limit of the corporate debtor, sanctioned Fund based Working Capital limit of ₹15 crores and non-fund based limit of ₹15 crores, in all aggregating to ₹30 Crores to the Corporate Debtor. The copy of the said sanction letter and also the previous sanction letters right from 16.2.2009 were enclosed. The Corporate Debtor on 10.04.2014 duly acknowledged the sanction letter and conveyed their unconditional acceptance of the facilities as per terms and conditions stated therein. The PNB has enclosed various security documents such as Demand promissory notes, hypothecation of moveable assets, agreement of guarantee letter of accepting the terms of sanction etc. in respect of the facilities sanctioned. The PNB has also enclosed statement of accounts showing a balance due of ₹52,45,42,450/- as on 30.6.2017 due from the corporate debtor. PNB has also enclosed CIBIL Report dated 28.10.2016 which discloses the enjoyment of credit facility by the Corporate Debtor.

4. PNB says that the above facilities provided to the Corporate Debtor was collaterally secured by 27 items of immoveable properties belonging to guarantors including the properties of sister concerns of the corporate debtor by way of deposit of Title Deeds. Further recovery suit was filed before Debt Recovery Tribunal, Nagpur and the same is pending.

5. PNB had issued a notice on 11.11.2014 u/s. 13(2) of the Securitization and Reconstruction Financial Asset and Enforcement of Security Interest Act, 2002 wherein facilities sanctioned to the Corporate Debtor was recalled and the Corporate Debtor was directed to pay a sum of ₹32,86,59,362/-. Further a legal notice was issued on 3.2.2017 stating that the account of Corporate Debtor was classified as NPA on 30.9.2014 and requiring the Corporate Debtor to pay a sum of ₹42,54,92,392/- as on 31.1.2017 with further interest, charges and costs up to the date of payment.

6. This Adjudicating Authority, on perusal of the documents filed by the Creditor, it is evident that the Corporate Debtor defaulted in repaying the loan availed and also placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional, having this Bench noticed that default has occurred and there is no disciplinary proceedings pending against the proposed resolution professional, therefore the Application under sub-section (2) of section 7 is taken as complete, accordingly this Bench hereby admits this Application declaring Moratorium with the directions as mentioned below:

- a. That this 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 the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the 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 06.10.2017 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, as the case may be.

- e. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- f. That this Bench hereby appoints, Mr. Manish Baldeva, Office No.2, Tirupati Darshan Bldg.No.2, Balaji Nagar, Station Road, Bhayander (West), Thane – 401101 having Registration No.IBBI/IPA-002/IP-N00043/2016-17/10082 as interim resolution professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.
10. Accordingly, this Petition is admitted.
11. The Registry is hereby directed to communicate a copy of this order to both parties.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B. S.V. PRAKASHKUMAR
Member (Judicial)