

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

CP (IB) No.134/10/HDB/2017.

In the matter of:

Nizam Deccan Sugars Limited,
40-15-14, Brindavan Colony,
Labbipet,
Vijayawada – 520 010.

.. Corporate Applicant

Date of Order: 20.09.2017.

CORAM:

Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Shri Ravikumar Duraisamy, Member (Technical)

Parties/Counsels present:

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OF THE ORIGINAL

Counsel for Corporate Applicant:

Shri A. Nagaraj Kumar

For Financial Creditors

:

Shri Ch. Hanumantha Rao
Asst. General Manager,
Andhra Bank

Per: Shri Ravikumar Duraisamy, Member (Technical)

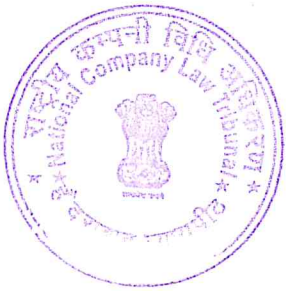
ORDER

1. The instant Company Petition was filed by Nizam Deccan Sugars Limited, under Section 10 of the IBC, read with rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, to initiate Corporate Insolvency Resolution Process (CIRP).
2. Further stated that Pursuant to Notification S.O.3568(E), dated 25th November, 2016 issued by the Ministry of Finance Department of Financial Services, New Delhi, and section 4 (b) of



the Sick Industrial Companies (Special provisions) repeal Act, 2003, no fees shall be payable by the Corporate Applicant as it has already made reference to the Board for Industrial and Financial Reconstruction vide registration No.38/2016 and since the same is abated and now filing the Application before this Hon'ble Tribunal within 180 days effective from 1st December, 2016. Pursuant to Section 12 (1) of the Limitation Act 1963, the day from which 180 days period is to be reckoned (ie., 1st December 2016) shall be excluded. And therefore the said petition is filed within the stipulated period of 180 days.

3. The Authorised Share Capital and the Paid up share capital of the Corporate Debtor is Rs.201,15,00,000/- and Rs.201,15,00,000/- respectively. The main objects of the Company are to purchase, manufacture, produce, boil, refine, prepare, import, export, sell and generally to deal in sugar, sugar-candy, gur, jaggery, sugar-beet, sugar-cane, molasses, syrups and all sugar products etc.
4. The Corporate Debtor submitted that the financial debt to various banks namely Andhra Bank, Syndicate Bank, UCO Bank, Indian Overseas Bank totalling to Rs.152,64,67,000 as on 15.05.2017 towards various long term / short term borrowings.
5. The present Company Petition has been filed by Sri V.R. Chary, Chief Financial Officer, Nizam Deccan Sugars Limited and duly authorised by the Board of Directors to file this application vide Resolution passed at the Board Meeting held on 30.03.2017.
6. The Applicant has proposed Mr. R. Ramakrishna Gupta, Company Secretary, resident of Hyderabad-500016 (Email:ramakrishbna.fcs@gmail.com, Mobile No.980480 19915, Registration No.00012/2016-2017/10029) as Insolvency Interim Resolution Professional (IRP), certifying that he is fully qualified and permitted to act as an Insolvency Professional in accordance with the Code and the associated rules and regulations.



7. IRP also submitted Form-2, dated 28.05.2017 to NCLT, stating that the registration number allotted to him by the Board is IBBI/IPA 002/IP-N00012/2016-17/10029 and that he is currently qualified to practice as an Insolvency Professional; disclosed that he is currently serving as an Interim Resolution Professional / Resolution Professional / Liquidator in NIL Proceedings; certified that there are no disciplinary proceedings pending against him with the Board or ICSI Insolvency Professionals Agency and affirmed that he is eligible to be appointed as a Resolution Professional in respect of the Corporate Debtor in accordance with the provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
8. The Corporate Applicant has filed the CP No.134/10/HDB/2017 on 30.05.2017 and the Registry vide letter dated 04.07.2017 sought certain clarifications. The case was listed before the Adjudicating Authority on 01.08.2017 and it is noted that the application was incomplete and posted to 07.08.2017 for rejection. The case was listed on 07.08.2017 wherein it is noted that the application is incomplete especially Part No.3 and application is liable to be dismissed for lack of compliance and the case was posted to 10.08.2017. The learned counsel for the petitioner on 10.08.2017 has filed revised Form No.6 to initiate Corporate Insolvency Resolution Process. The case was subsequently posted on 11.08.2017, 14.08.2017. During the hearing on 14.08.2017, the petitioner submitted that he has already complied with the objections raised by the Registry and filed the amended copy in prescribed form. The petitioner was directed to take personal notice to the financial creditors and Top 25 operational creditors by 21.08.2017 and submit proof on the next date of hearing, and the case was posted to 21.08.2017. On 21.08.2017 the Counsel for the petitioner appeared and submitted proof of service to



Financial Creditors and Top 25 Operational Creditors. The case was again listed on 31.08.2017 wherein the counsel for the Petitioner's company and Shri Ch. Hanumantha Rao, Asst. General Manager of Andhra Bank appeared and orders were reserved.

9. We are satisfied that the Corporate Debtor submitted prescribed form and details in accordance with Rule 7 of I&B (Adjudicating Authority) Rules 2016 and we are satisfied that the Corporate Debtor owes an amount of Rs.280,86,75,651/-.
10. The Corporate Debtor also recommended an IRP and the details of which are stated above and we are satisfied that the Company Petition is a fit case to be admitted for initiation of Corporate Insolvency Resolution Process as per IBC Code.
11. Accordingly, by exercising the powers under Sections 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 25 of IBC and other applicable provisions of the Insolvency and Bankruptcy Code, 2016, we pass the following order:-
 - (a) We hereby appoint Mr. R. Ramakrishna Gupta, Company Secretary, resident of Hyderabad-500016, Email:Ramakrishna.fcs@gmail.com (Registration No.IBBI/IPA-002/IP-N00012/2016-2017/10029) as an Interim Resolution Professional, by exercising powers under section 16 of IBC, 2016.
 - (b) We hereby declare the following Moratorium by prohibiting the following actions:-
 - (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 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 Securitization 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;
- (v) Direct to cause a public announcement of the initiation of Corporate Insolvency Resolution Process immediately as prescribed under section 15 (1) and (2) of Insolvency and Bankruptcy Code 2016, on www.ibbi.gov.in (designated website of Insolvency and Bankruptcy Board of India, circulated vide IBI/IP/PUBLIC ANN/221 dated 01.02.2017) and email to public.ann@ibbi.gov.in, in addition to other accepted modes of publication immediately and call for submission of claims as per section 15 of the IBC read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations 2016. The Company is also directed to publish the same in their Official website.
- (vi) We direct the Interim Resolution Professional to constitute a Committee of Creditors, after collation of all claims received against the Corporate Debtor and determination of financial position of Corporate Debtor, as per Section 21 of IBC. The first meeting of the committee of creditors, shall be held within 7 days of the Constitution of Committee of Creditors and their decision has to be communicated to the Tribunal as per Section 22 of the IBC.



- (vii) Direct the personnel of Nizam Deccan Sugars Limited , its promoters or any other person associated with the management of Nizam Deccan Sugars Ltd, to assist and cooperate with Interim Resolution Professional to provide access to documents and records and management of the affairs of the Company.
- (viii) We direct the Interim Resolution Professional to strictly adhere to all extant provisions of the Insolvency and Bankruptcy Code 2016 and Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, and shall report his actions promptly to this Tribunal by way of Sworn Affidavit.

12. Post the case on 25.10.2017.

Sd/-

RAVIKUMAR DURAISAMY
MEMBER (TECHNICAL)

Sd/-

RAJESWARARAO VITTANALA
MEMBER (JUDICIAL)



CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

[Signature]
For Dy. Regr./Asst. Regr./Court Officer/
National Company Law Tribunal, Hyderabad Bench

प्रमाणित प्रति
CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER CP(12) NO. 134/10/HDB/2017
निर्णय का तारीख
DATE OF JUDGEMENT 20.9.2017
प्रति तैयार किया गया तारीख
COPY MADE READY ON 21.9.2017