

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

CP(IB) No. 23/10/HDB/2017

Date: 22.03.2017

Between:

Blossoms Oils & Fats Ltd
6-3-609/147/A, Anand Nagar Colony,
Khairatabad,
Hyderabad – 500004

.... Petitioner

AND

1. Indian Overseas Bank
Hyderabad Main Branch, Bank Street
Hyderabad

2. Indian Bank
Hyderabad Main Branch, Bank Street
Hyderabad

...Respondent

Counsel for the Petitioner:

Sh.Rajesh Bohra

Counsel for the Respondents:

None

CORAM

Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judicial)

ORDER

(As per Ravikumar Duraisamy, Member (T))

1. The present Company Petition, CP(IB) No.23/10/HDB/2017, has been filed by Blossoms Oils & Fats Ltd (hereinafter referred as the BOFL/Company) under Section 10 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by seeking to



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initiate Corporate Insolvency Resolution Process (CIRP) in respect of Blossoms Oils & Fats Limited.

2. The case was listed before the Bench on 13.03.2017 and on 15.03.2017, the case was reserved for orders.
3. Sh. Rajesh Bohra, Learned Counsel for the Petitioner, while reiterating the contents raised in Form No.6, submits that Blossoms Oils and Fats Ltd was incorporated on 20.8.1998 and the present CIN is U15143TG1998PLC029987. The nominal share capital is Rs.4900.00 lakhs and the Paid-up Share Capital is Rs.4513.00 lakhs. The main objects of the Company is to extract, manufacture, process, trade and/or refine edible and non-edible oils of all varieties, including that of castor seeds and derivatives karanji seed palm and palm oil derivatives, etc.



4. The total outstanding (amount in default) excluding the principal not due as on 31.01.2016 with respect to the Secured Creditors is Rs.285.56 Crores and total outstanding (amount in default) excluding the payments released with respect to the Unsecured Creditors is Rs.32.72 crores. Therefore, the total debts raised and amounts in default by the Company is Rs.318.28 Crores towards Indian Overseas Bank and Indian Bank.
5. The Learned Counsel submits that the Company is regular in payment of all statutory dues except Sales Tax Demand of Rs. 1.38 Crores issued by Commercial Tax Department, Government of Andhra Pradesh dated 11.08.2016.
6. The Learned Counsel submits that he has sent the Petition copy to the Respondents by way of Speed Post dated 27.02.2017 and the postal receipts are enclosed as Annexure 17 along with the Petition.
7. Upon perusal of documents and case records, it is noted that Indian Overseas Bank issued possession notice dated 09.03.2016 to the Company, directing to pay the dues under the Securitization and

Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) and in exercise of powers conferred u/s 13(2) r/w Rule 3 of Security Interest (Enforcement) Rules, 2002, issued a demand notice dated 21.12.2015 calling upon the borrower and mortgagers and guarantors of the Company to repay Rs.269.66 crores and the same was published in the newspaper on 02.01.2016.

Indian Bank issued demand notice dated 15.03.2016 to the Company u/s 13(2) of SARFAESI, whereby it is stated that the loan account has been classified as Non-Performing Asset since 30.09.2015 in accordance with directions/guidelines relating to asset classifications issued by Reserve Bank of India. The outstanding dues payable as on 29.02.2016 amounts to Rs.42.88 crores which carries further interest at the agreed rate from 01.03.2016 till date of repayment.



8. Indian Overseas Bank has filed an Application before DRT, Hyderabad dated 08.03.2016 and accordingly, DRT has directed the Company to appear for hearing on 13.05.2016.
9. The Learned Counsel submits that the Company became sick, and filed a Reference on 07.07.2014 in BIFR under Section 15(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 and the aforesaid reference has been registered as Case No. 40/2014. As per summary records proceedings of hearing held on 29.10.2014, the Learned Chairman of BIFR, noted that the Company's Net Worth has been fully eroded due to accumulated losses, which stood at 4768.20 lacs. The next date of hearing was on 03.12.2014, wherein, the learned counsel for the Company stated that they have filed an MA requesting the Board to direct the Indian Overseas Bank not to deduct any amount from cash credit A/c No. 1458 of the Company and not to take any coercive measures/recovery measures. The Learned Counsel also requested to direct the Indian Overseas Bank to maintain status quo against the Company towards their outstanding dues until the scheme is sanctioned. Subsequently, during the hearing held on 24.11.2016, the Bench took up

the MA No. 256/2016. The learned counsel for the Company stated that they have filed an MA requesting the Board to issue direction for suspension of instruments for a period of seven years and also requested the Board to direct AP Cooperative Oil Seeds Growers Federation Limited to not to take any coercive measures of recovery and to accept the payment in due course as per scheme to be sanctioned. The Bench observed that no representative from AP Cooperative Oil Seeds Growers Federation Ltd was present in the hearing and adjourned it to 01.02.2017.



10. The Learned Counsel, further submits that the summary proceedings passed on 24.11.2016, was last and not listed thereafter, as the BIFR was dissolved with the effect from 1st December, 2016.

Accordingly, he approached this Tribunal in prescribed format, duly complying the procedure mentioned in the said provisions.

11. We have considered the entire material and heard the submissions of the Learned Counsel for the Petitioner. We are of the considered view that the Company is in default of Rs. 318.28 crores and requires adjudication by the Tribunal under the above Section.

12. The Learned Counsel further submits that an offer letter dated 06th February, 2017 was issued by the Company to appoint Mr. Arun Kumar Malani as the Interim Resolution Professional (IRP). Mr. Arun Kumar Malani has accepted the offer and filed Form No.2 to NCLT dated 27.02.2017.

13. We have perused the offer and acceptance and also the Certificate of Registration of Mr. Arun Kumar Malani, wherein, he has agreed to accept the appointment as the IRP, if an order admitting the present application is passed and that he is currently serving as an IRP for VNR Infra Metals Private Limited. He further certifies that he is eligible to be appointed as IRP and there are no disciplinary proceedings pending

against him with the Board or Indian Institute of Insolvency Professionals of ICAI.

14. We find that Mr. Arun Kumar Malani is eligible to be appointed as IRP for the Petitioner Company for initiating the CIRP in respect of BOFL.

15. By invoking the powers under Sections 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 25 and other applicable provisions of the IBC, 2016, we, hereby, pass the following Orders:

- a. We admit the present Company Petition/Application filed under IBC.
- b. We declare a moratorium by prohibiting the following actions:

1. 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;
2. Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
3. 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;
4. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.
5. 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. We appoint Mr. Arun Kumar Malani (Regn No: IBBI/IPA-001/IP-00040/2016-2017/1724 dated 23.01.2017) as an Interim Resolution Professional.

- d. Direct to cause the public announcement of initiation of CIRP of the Company as per the details given in sections 15(1) and 15(2), on



www.ibbi.gov.in (designated website of Insolvency and Bankruptcy Board Of India, circulated vide IIBI/IP/PUBLIC ANN./221 dated 01.02.2017) 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 Company website.

- e. Direct the personnel of Blossoms Oils and Fats Ltd, its promoters or any other person associated with the management of BOFL to assist and cooperate with Interim Resolution Professional to provide access to documents and records and management of the affairs of the company.
- f. 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 IBC.
- g. We direct the Interim Resolution Professional to follow all the applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- h. Post the case to 24.04.2017.

Sd/-

RAVIKUMAR DURASAMY

MEMBER (T)

Sd/-

RAJESWARA RAO VITTANALA

MEMBER (J)

V. Annapoorna
V. ANNA POORNA
Asst. DIRECTOR
NCLT, HYDERABAD - 68

