

**In the National Company Law Tribunal
Mumbai Bench.**

CP No. 1184/I&BC/NCLT/MB/MAH/2017

Under Section 10 of Insolvency & Bankruptcy Code, 2016

In the matter of

**M/s. H.P. Ore Processors Pvt. Ltd.
(Corporate Debtor/Applicant)
Plot No.14, Misal Layout, Nagbhumi Society,
Indora, Behind Mata Mandir,
Nagpur – 440 014.**

Order delivered on 28.08.2017

**Coram: 1. Hon'ble Shri M.K. SHRAWAT, Member (Judicial)
2. Hon'ble Shri BHASKARA PANTULA MOHAN, Member (Judicial)**

For the Petitioners : Mr. Akshay Paranjpe, PCS.

Per M.K. SHRAWAT, Member (Judicial).

Order

1. This Petition was filed on Form No.6 under section 10 of the Code on 22nd June, 2017 by the Corporate Debtor to declare itself as Insolvent on commencement of the Corporate Insolvency Resolution Process. The Company has two promoted Directors appointed on 06.06.2011 i.e. the date of incorporation.
2. The admitted position of the Financial Debt amount is described as under :-

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PARTICULARS OF FINANCIAL DEBT		
1.	Name of Financial Creditor	Dena Bank
2.	Address of correspondence of the Financial Creditor	Zonal Office: Mytri Willows, 2 nd Floor, Sir Bezoni Mehta Road, Near Empress Mall, Opp Shukrawar Talav, Nagpur: 440018 Branch: 12, Panchasheel Cinema Building, Jawaharlal Nehru Marg, Sitabuldi, Nagpur 440012.
3.	Total Debt raised and Amount in Default.	The application is being filed on default of payment of Rs.96,47,327 (inclusive of principal and interest).
4.	Date when the financial debt was incurred	
5.	Particulars of security held, if any, the date of the creation, estimated value as per creditor.	The amount disbursed is Rs.6,84,00,000 . The total default stands at Rs. 7,80,47,327 .
		The relevant details of the financial creditor whereby the default has occurred are enclosed as Annexures 5 ,

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		5(i), 5(ii), 5(iii), 5(iv), 5(v) 5(vi) and 5(vii)
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- 2.1 Loan facilities from Dena Bank were Term Loan and Cash Credit respectively of ₹7,90,00,000/- and ₹2,00,00,000/-. A charge has also been created by furnishing the requisite form with MCA. Terms and conditions for granting Loan Facility were dated 11.12.2015 on hypothecation of Stock, Work in Process and Finished Goods. The Bank has also taken personal guarantee of the Directors.
- 2.2 The Board of Directors has authorised Mr. Satyabrata Satpathy (Director) DIN: 02114799 to file for Corporate Insolvency Resolution Process under section 10 of The Insolvency & Bankruptcy Code, 2016 before the NCLT, Mumbai. He has also been authorised to appoint Consultants including Chartered Accountants, Insolvency Professional and other personnel as deemed fit by him in the best interest of the company.
- 2.3 M/s. Dena Bank, the Financial Creditor, has to be repaid an outstanding loan to the tune of ₹7,80,47,328/- as on 20.06.2017 sanctioned by it. There are also Operational Creditors as on 20.06.2017 amounting to ₹11,42,608/-.

3. **FINDINGS:-**

- Prima facie the requirement of section 10 of the Code appears to have been fulfilled. The nature of the Debt is undisputedly qualified as "Financial Debt" as defined under section 5(8) of the Definitions under I&B Code.
 - Records of the case have also established that there was a "Default" of non-payment of Debt as defined under section 3(12) of the Definitions under the Code.
 - Considering the totality of the facts and circumstances *inter alia* this Petition now under consideration deserves to be "Admitted".
4. As per the Petition, the name proposed of the IRP originally was CS Mr. Rohit Jain, however, vide a letter dated 12.07.2017, he has expressed his unwillingness to be the IRP in this case. Hence sought permission to be relieved from the responsibility. As a result, the Petitioner has made a prayer for the substitution of the IRP. A consent letter on Form No.2 of the substituted IRP viz. Mr. Ranjit Dnyanchand Jain, 107, Rachana Sahil Apartment, Ambazari,

Nagpur, Registration No. IBBI/IPA-001/IP-P00063/2016-2017/10149 is placed on record. The substitution is approved.

5. Since the Petition is Admitted, hence the Moratorium shall commence as prescribed under section 14 of the I&B Code as under :-
 - (I) (a) 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;
 - (b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - (c) 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(SARFAESI Act);
 - (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
 - (II) That supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
 - (III) That the provisions of sub-section (1) Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
 - (IV) That the order of Moratorium shall have effect from the date of this order till 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.
 - (V) That the public announcement of the corporate insolvency resolution process shall be acted upon immediately as specified under section 13 of the Code.
6. That this Bench hereby appoints Mr. Ranjit Dnyanchand Jain as Interim Resolution Professional to carry out the functions as mentioned under Insolvency & Bankruptcy Code. The Interim Resolution Professional shall perform the duties as assigned under Section 18 and under section 15 of the Code and inform the progress of the Resolution Plan and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.
7. Accordingly, **this CP 1184/I & BP/NCLT/MAH/2017 stood admitted.**

8. The Corporate Insolvency Resolution Process is commenced from the date of this order.

Sd/-

BHASKARA PANTULA MOHAN

Member (Judicial)

Date : 28.08.2017

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Sd/-

M.K. SHRAWAT

Member (Judicial)