

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP. No. 1313/I&BP/NCLT/MAH/2017

Under section 10 of IBC, 2016

In the matter of

Polychroic Petrochemicals Pvt. Ltd.

.... Corporate Debtor/Petitioner

Order delivered on : 15.9.2017

Coram:

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

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

For the Petitioner: Mr. Akash Jain, Advocate

Per V. Nallasenapathy, Member (Technical)

ORDER

This Company Petition is filed by Polychroic Petrochemicals Pvt. Ltd. under Section 10 of Insolvency and Bankruptcy Code 2016 ("the Code") read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 for initiation of Corporate Insolvency Resolution process.

2. The Corporate Debtor says that its registered office is at Satyam Estate, 35/A, Erandwane, Off. Karve Road, Pune - 411 038, incorporated on 20.11.2006 vide CIN U25209PN2006PTC129242 on the file of Registrar of Companies Maharashtra, having Authorised share capital of Rs. 1,00,00,000 and paid up share capital of Rs.63,00,000/-.

3. The Board of Directors of the Corporate Debtor in their meeting held on 31.07.2017 authorised Mr. Anirudha B. Joshi, Director of the Company, to file necessary application under the Code.
4. The Corporate Debtor has disclosed that a sum of Rs. 4,45,75,197/- is due to Operational Creditors, a sum of Rs. 78,36,80,000/- is due to Financial Creditors.
5. The Corporate Debtor also enclosed the Certificate of Registration of mortgage, etc. under section 132 of Companies Act 1956 in favour of Bharat Co-operative Bank (Mumbai) Ltd., Goregaon (E), Mumbai.
6. The Corporate Debtor has enclosed the SARFAESI notice dated 26.05.2016 issued by the Bharat Co-operative Bank (Mumbai) Ltd. claiming a sum of Rs. 80,43,45,673/- payable by the Corporate Debtor to the Bank.
7. The Corporate Debtor has enclosed the audited financial statements for the year 2014-15, 2015-16 and the provisional financial statement for the year 2016-17 and for the period from 01.04.2017 to 10.08.2017. A list of assets and liabilities of the Corporate Debtor as on 10.08.2017 is also enclosed with the application. The Corporate Debtor also enclosed the list of financial creditors and operational creditors as on 10.08.2017. The Corporate Debtor has disclosed the particulars of debts owed by or to the Corporate Debtor to or by persons connected with it. The Corporate Debtor has stated that no guarantees were given in relation to the debts of the Corporate Debtor by other persons.
8. The Corporate Debtor proposed Mr. Uday V. Shah, 4th Floor, Deepak Building, R. B. Mehta Road, Next to Canara Bank, Ghatkopar, Mumbai – 400 077 as interim resolution professional. However, the Counsel appearing on behalf of the sole Financial Creditor M/s. Bharat Co-operative Bank

(Mumbai) Ltd. opposed the Interim Insolvency Resolution Professional named by the Corporate Debtor. Subsequently, the Corporate Debtor suggested the name of Mr. Avil Menezes, 2D-1104, Dreams CHS, LBS Marg, Bhandup (W), Mumbai – 400 078, e-mail : Menezes.avil@gmail.com in consultation with the Financial Creditor and also filed an affidavit to that effect on 28.09.2017 along with consent and declaration of Interim Insolvency Resolution Professional that no disciplinary proceedings are pending against him.

9. On reading the petition and the supporting documents annexed with the petition, this Bench is of the view that the corporate debtor has committed default and the petition contains the particulars as required u/s 10 of the Code. Hence, this Bench hereby admits this petition, declaring moratorium with consequential directions as mentioned below:

(i) 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.

(ii) 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.

(iii) 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.

(iv) That the order of moratorium shall have effect from 15.9.2017 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.

(v) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.

(vi) That this Bench hereby appoints Mr. Avil Menezes, 2D-1104, Dreams CHS, LBS Marg, Bhandup (W), Mumbai – 400 078, e-mail: Menezes.avil@gmail.com, Registration No. IBBI/IPA-001/IP-P00017/2016-2017/10041, as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

10. Accordingly, this Petition is admitted.

11. Even though the Petition was admitted on 15.09.2017, in view of the change in Interim Insolvency Resolution Professional on the intervention of the Financial Creditor, this order is released on 04.10.2017.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B. S.V. PRAKASH KUMAR
Member (Judicial)