

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C. P. NO. 839/I & BP/NCLT/MAH/2017

Coram: B.S.V. Prakash Kumar, Member (Judicial)

In the matter of u/s 10 of Insolvency and Bankruptcy Code, 2016 and Rule 7 of the I & B (Application to Adjudicating Authority), Rules 2016)

And

M/s. Shirdi Industries Ltd.

.... Corporate Debtor /
Corporate Applicant.

Applicants' Counsel: Mr. Ranjan Dwivedi, Advocate a/w. Mr. Rakesh Agarwal, Promoter for the Applicant.

ORDER

(Heard & Pronounced on 18.05.2017)

It is a Company Petition filed u/s 10 of I & B Code by a Company called M/s Shirdi Industries Ltd. for initiation of Corporate Insolvency Resolution Process for it has defaulted in repaying the debts.

2. The Debtor Company was incorporated on 15.12.2013 with an authorised share capital of ₹30 Crore and paid up Capital of ₹17,30,70,000 to deal with manufacturing plywood and related materials. One Mr. Hiren Ojha has been authorised by the Board of Directors to file this Company Petition on Corporate Debtors' behalf.

3. When the loans taken from Union Bank of India, UCO Bank, Indian Bank, Vijaya Bank, Bank of India, State Bank of India, Standard Chartered Bank have not been serviced, the outstanding of financial credit as on 31.3.2017 reached to ₹411.46 crores. Since the Corporate Debtor failed to service the loans, Union Bank of India, lead Bank of consortium of Banks, issued notice on 26.12.2013 u/s 13 of Securitisation and Reconstruction of Financial Assets and Enforcement of security Interest Act,2002. The Company, having been unable to service the loans, had gone before BIFR for getting this company declared as sick, on such filing, BIFR on 8.6.2015

registered this company as sick company and restructured the loan facilities providing tax exemption also, but since Sick Industrial Companies (Special Provisions) Act, 1985 (SICA) has been repealed, the proceedings pending before BIFR have been abated with a liberty to make reference before NCLT u/s 10 of The Insolvency & Bankruptcy Code within 180 days from the commencement of The Insolvency & Bankruptcy Code.

4. In view of notification dated 01.11.2016, this company presently filed this Company Petition to initiate Insolvency Resolution Process in this company by filing relevant Books of Accounts, recall notice dated December 26,2016 issued by the Consortium Banks, Books of the company revealing the dues outstanding payable by the company, audited financial statements for last two financial years and the provisional financial statement for the current financial year made up to date not earlier than 14 days from the date of filing this Petition, list of assets and liabilities divided into such categories as are appropriate for easy identification with estimated values showing each category and also the details of the securities created against the properties of the company, the names and details of the financial creditors and operational creditors with amounts due to them and also the debts owed to the company, and other details of the Corporate Debtor as envisaged in the annexure annexed to Form – 6 of the Insolvency and Bankruptcy (Application of adjudicating Authority) Rules, 2014.

5. The Corporate Debtor filed the details of the proposed Interim Resolution Professional along with a consent letter of the said professional, affirming that he is ready and willing to take up this assignment by saying that no disciplinary proceedings are pending against him.

6. On perusal of the documents placed, this Bench being satisfied that the debtor company defaulted in repaying its debts to various Creditors and other dues payable to various other sectors and the Corporate Debtor

company having failed to come out of sickness despite loan restructuring happened, this Bench hereby admits this application prohibiting all of the following of item-I, namely: -

- 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 18.05.2017 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 made immediately as specified under section 13 of the Code.
- (VI) That this Bench hereby appoints, Mr. Devendra Padamchand Jain, A-43, Prime Plaza, Opp. DLA School Bodakdev, Ahmedabad, Registration Number: IBBI/IPA-001/IP-00224/2016-17/1511, dated 13.01.2017 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

7. As to miscellaneous application filed by the petitioner seeking directions against the Commercial Tax Department, Uttarakhand not to take any coercive action against the Corporate Debtor till the entire provisions of The Insolvency and Bankruptcy Code 2016 are completed, since the counsel of the debtor Company, without prejudice to the rights and contentions of the debtor company, sought for withdrawal of MA 162/2017, this Bench, in view of declaration of Moratorium covering all aspects falling within the purview of section 14 of the Code, this MA 162/2017 is hereby dismissed with liberty as sought.

8. Accordingly, **this CP 839/I & BP/NCLT/MAH/2017 is admitted.**

Sd/-

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