

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C. P. NO. 29/I & BP/NCLT/MAH/2017**

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

In the matter of under Section 10 of Insolvency and Bankruptcy Code, 2016 and Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules 2016)

And

ULTRA DRYTECH ENGINEERING LTD. Corporate Debtor /
Corporate Applicant.

Applicants' Counsel: Mr. Yash Jariwala i/b Amir Arsiwala Advocates for the Applicant.

ORDER

(Heard & Pronounced on 06.03.2017)

This Company Petition is filed by M/s Ultra Drytech Engineering Limited, u/s 10 of I & B Code 2016 r/w 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 502, 5th floor, Citi point, Rajarshi Shahu Maharaj Road, Andheri (E), Mumbai- 400 069, incorporated on 10-09-1986 vide Registration No.11-40875 of 1994 on the file of Registrar of Companies Maharashtra, having paid-up share capital of Rs.4,12,50,000 crores.

3. The Board of Directors of the Corporate Debtor in their meeting held on 12-12-2016 authorised Mr. Rajive Prasad to file necessary application under I&B Code 2016. The Corporate debtor has named Mr. Lalit Laxminarayan Bajaj (Reg. No. IBBI/IPA-001/IP-00159/2016-17/1237). Email ID lalit@llbco.in, 525, The Summit Business Bay, Behind Guru Nanak Petrol Pump, Near W.E. Highway, Andheri (E), Mumbai- 400 069, as interim resolution professional, who has given his consent with a declaration that no disciplinary proceedings are pending against him vide his letter annexed at page No.69 of the petition.

4. The Corporate debtor has disclosed that the total amount in default is Rs. 18,36,90,000/-. One Sicom Investment and Finance Ltd., financial creditor by a letter

dated 18.04.2016 given notice under section 138 & 141 of Negotiable Instruments Act, 1881, calling upon the corporate debtor to pay Rs. 5 crores, failing which, criminal complaint will be filed against the corporate debtor and its Directors. The Canara Bank, another financial Creditor issued a notice on 25.01.2017 calling upon the corporate debtor to pay Rs. 9,94,34,018/- to regularise the account and the notice further discloses that there was an attachment from sales tax authorities for Rs. 16,64,13,626 on the current account of the corporate debtor.

5. The Corporate Debtor has annexed the copies of Form disclosing creation of charge in favour of financial creditors showing various loan facilities and charges created in favour of lenders. The above said documents and notices clearly prove that debt is due to financial creditors by which, there is default on non-payment.

6. The corporate debtor has also provided the copies of audited financial statements for the years 2014-15 and 2015-16, provisional financial statements as on 09-02-2017, list of assets and liabilities as on 09-02-17, details of financial and operational creditors, details of guarantees given by other persons in relation to the debt availed by corporate debtor. The petition also discloses the names and addresses of members with details of their share holdings. The person authorised by the corporate debtor to file this petition has filed an affidavit in support of the petition as required by Insolvency and Bankruptcy (Application adjudicating authority) Rule, 2016.

7. 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 I&B Code 2016, 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) 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 06.3.2017 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. Lalit Laxminarayan Bajaj (Reg. No. IBBI/IPA-001/IP-00159/2016-17/1237). Email ID lalit@llbco.in, 525, The Summit Business Bay, Behind Guru Nanak Petrol Pump, Near W.E. Highway, Andheri (E), Mumbai- 400 069, as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.
- (vii) Accordingly, this Petition is admitted.

Sd/-

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

Sd/-

V. NALLASENAPATHY
Member (Technical)