

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP. No. 1051/I&BP/NCLT/MAH/2017

Under section 10 of IBC, 2016

In the matter of

Brown Kraft Industries Limited Corporate Debtor/Applicant

Order delivered on 7.8.2017

Coram:

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

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

For the Petitioner(s): Mr. Ashish Pyasi, Advocate i/b Dhir & Dhir Associates.

ORDER

Per V. Nallasenapathy, Member (Technical)

This Company Petition is filed by Brown Kraft Industries Limited., 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 Silverline, 1st Floor, S. B. Marg, J. B. Nagar, Andheri (East), Mumbai – 400 059, incorporated on 6.6.1986 vide CIN U21020MH1986SGC040046 on the file of Registrar of Companies Maharashtra, having Authorised share capital of Rs.3.00 crores and paid up share capital of Rs.2.66 crores.

3. The Board of Directors of the Corporate Debtor in their meeting held on 10.5.2017 authorised Mr. Situ Shastri, Director of the Company, to file necessary application under the Code. The Board also proposed Mr. Adesh Kumar Mehta, 10/63, Old Rajender Nagar, New Delhi – 110 060, Email Id: Mehta_adesh@yahoo.com, Registration No. IBBI/IPA-002/IP-00046/2016-17/1264, as interim resolution professional, who has given his consent with a declaration that no disciplinary proceedings are pending against him.
4. The Corporate Debtor has disclosed that a sum of Rs.23.03 crores is in default to Financial Creditors and Operational Creditors.
5. The Corporate Debtor enclosed the following with the application:
 - a) Sanction Letter dated 24.11.2001 issued by Apna Sahakari Bank Ltd sanctioning Rs.1,00,00,000 as Secured Term Loan.
 - b) Letter dated 29.2.2000 issued by Karnataka Bank Ltd., sanctioning Rs.4,00,00,000 as term Loan.
 - c) Notice dated 6.1.2009 under Section 13(2) of SARFASI Act, 2002 issued by Karnataka Bank Ltd alongwith copy of miscellaneous application filed in DRT I by Phoenix ARC.
6. The above documents clearly reveals that the Corporate debtor defaulted in making payments to the creditors.
7. The Corporate Debtor has enclosed the audited financial statements for the year ended 31.03.2015 and 31.03.2016 and the provisional financial statement for the year ended 31.3.2017 and also for the period up to 20.05.2017. A list of assets and liabilities of the Corporate Debtor as on 20.5.2017 and details of claim and its amount against properties mortgaged by the Corporate Debtor is also enclosed with the application. The Corporate Debtor also enclosed the list of financial creditors and operational creditors

as on 20.05.2017. The Corporate Debtor has disclosed the particulars of debts owed by or to the Corporate Debtor to or by persons connected with it. The details of corporate and personal guarantees given in relation to the debts of the Corporate Debtor, the name and address of the members with details of respective shareholdings, and an affidavit in support of the petition were also enclosed with the petition.

8. 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 7.8.2017 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. Adesh Kumar Mehta, 10/63, Old Rajender Nagar, New Delhi – 110 060, Email Id: Mehta_adesh@yahoo.com, Registration No. IBBI/IPA-002/IP-00046/2016-17/1264, as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

9. Accordingly, this Petition is admitted.

10. The Registry is hereby directed to communicate this order to the parties.

Sd/-

V. NALLASENAPATHY
Member (T)

Sd/-

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