

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

CP No. 1554/IBC/NCLT/MB/MAH/2017

Under Section 7 of the Insolvency and  
Bankruptcy Code, 2016 r.w. Rule 4 of the  
Insolvency and Bankruptcy (Application to  
Adjudicating Authority) Rules, 2016

In the matter of

State Bank of India

..... Financial Creditor  
(Applicant)

V.

M/s. Calyx Chemicals and Pharmaceuticals  
Limited

..... Corporate Debtor  
(Respondent)

Order delivered on: 06.02.2018

**Coram :**

Hon'ble M.K. Shrawat, Member (J)

Hon'ble Bhaskara Pantula Mohan, Member (J)

**For the Petitioner/Applicant :**

1. Mr. Vikramsinh Yadav, Advocate a/w. Mr. Parikshit Desai i/b. SNG & Partners – Advocates for the Applicant/Petitioner.
2. Mr. Shailendra Joshi, AGM – Representative for State Bank of India

**For the Respondent :**

Mr. Rahul Sarda, Counsel a/w. Mr. Ayush Agarwal, Advocate i/b. Crawford Bayley & Co.  
– Advocates for the Respondent/Corporate Debtor.

*Per: M. K. Shrawat, Member (J)*

**ORDER**

1. The Petitioner/Applicant viz. 'State Bank of India' (hereinafter as **Creditor**) has furnished Form No. 1 under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter as **Rules**) in the capacity of 'Financial Creditor' on 31.10.2017 by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code (hereinafter as **Code**).
2. In the requisite Form under the Head "Particulars of Corporate Debtor" the description of the debtor is stated as 'M/s. Calyx Chemicals and Pharmaceuticals

Limited' (hereinafter as **Debtor**) having Registered office at, Unit No. 110, Marwah's Complex, Krishanlal Marwah Marg, Off. Saki Vihar Road, Andheri (E), Mumbai – 400072.

3. Further under the Head "Particulars of Financial Debt" the total amount of Debt granted by the State Bank of India is stated as ₹ 80,33,00,000/-. Whereas the Total Debt granted by the State Bank of Travancore (SBT) is stated as ₹ 60,00,00,000/-. Further the total Debt granted by the State Bank of Mysore (SBM) is stated as ₹ 30,00,00,000/-. Further the total Debt granted by the State Bank of Patiala (SBP) is stated as ₹ 40,00,00,000/-. Further the total Debt granted by the State Bank of Hyderabad (SBH) is stated as ₹ 20,00,00,000/-. Further the total amount of Debt granted by State Bank of Bikaner and Jaipur (SBBJ) is stated as ₹ 40,00,00,000/-. And the total amount claimed to be in default is stated as ₹ 330.36/- Crores.

**Submissions by the Creditor :**

4. Learned Counsel for the Creditor stated that, all the other Banks i.e. SBT, SBM, SBP, SBH and SBBJ are now merged with State Bank of India. Hence, herein SBI has filed this Application invoking provisions of the S, 7 of the Code against the Debtor. Also the SBI is a leader of Consortium of Banks comprising of the merged banks alongwith Allahabad Bank, Bank of Behram and Kuwait, Bank of India, Kotak Mahindra Bank (ING Vysya Bank), Canara Bank, Corporation Bank, IDBI Bank, Indian Bank, Jammu and Kashmir Bank Ltd., Oriental Bank of Commerce, Punjab National Bank, Bank of Maharashtra, Exim Bank, Dena Bank, and UCO Bank.
5. Information about the several loans granted is reproduced below:
  - 5.1. Submitted that, at the request of the Debtor the SBI has sanctioned the Fund Based Facilities of ₹ 29,25,00,000/- and Non-Fund Based Facilities of ₹ 60,00,00,000/- and Derivatives/FC/CEL Facility of ₹ 2,50,00,000/- i.e. in all aggregating to ₹ 91,75,00,000/- vide a sanction letter dated 16.11.2013 bearing No. BRB/RM1/2013-14/CCPL/1031. But the Debtor has again approached to the Creditor and asked for variation in the sub-limits of Credit facility and consequentially the SBI has modified the amount of Non-Fund Based Facilities to ₹ 51,08,00,000/-.
  - 5.2. Stated that, at the request of the Debtor the SBT has granted the amount as stated aforesaid, in para 3, as Fund-Based and Non-Fund Based Facilities, vide a Sanction Letter dated 24.09.2012.

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- 5.3. Stated that, at the request of the Debtor the SBM has granted the amount as stated aforesaid, in Para 3, as Fund-Based and Non-Fund Based Facilities, vide a Sanction Letter dated 02.06.2012.
- 5.4. Stated that, at the request of the Debtor the SBP has granted the amount as stated aforesaid, in Para 3, as Fund-Based and Non-Fund Based Facilities, vide a Sanction Letter dated 24.12.2012.
- 5.5. Stated that, at the request of the Debtor the SBH has granted the amount as stated aforesaid, in Para 3, as Secured Corporate Loan, vide a Sanction Letter dated 06.03.2010.
- 5.6. Stated that, at the request of the Debtor the SBBJ has granted the amount as stated aforesaid, in Para 3, as Fund-Based and Non-Fund Based Facilities, vide a Sanction Letter dated 18.05.2012.
6. It is further submitted that, a Deed of Mortgage has been arrived between the Creditor and Debtor on 19.06.2012. And also that, the Charge has been created with the RoC against the Debtor.
7. It is also submitted that, the Creditor has sent a Loan Recall Notice through its Advocate on 31.03.2017, as a leader of Consortium, addressed to the Debtor and its Promoters/Guarantors/Directors recalling the Loan amount of ₹ 747,13,16,115.73/- as the Account of Debtor is classified as NPA on 11.12.2013. for ready reference the details of the total loan facilities availed by the Debtor is placed on record as under :-

Consortium Lenders	Amount (₹)
State Bank of India	129,82,64,410.00/-
State Bank of Hyderabad	8,09,95,462.37/-
State Bank of Mysore	89,72,00,000.00/-
State Bank of Patiala	46,67,93,355.60/-
State Bank of Travancore	72,65,88,660.00/-
Canara Bank	54,01,062,236.44/-
Indian Bank	7,53,00,000.00/-
Punjab National Bank	99,14,35,984.18/- as on 23.01.2015
Export-Import Bank of India	96,64,25,160.96/-
Bank of Maharashtra	28,23,67,714/-
Jammu and Kashmir Bank Ltd.	65,91,33,895.97/-

Oriental Bank of Commerce	38,66,49,205.58/-
Total Amount	747,13,16,115.73/-

8. It is also submitted that, SBT on 01.06.2015 and SBBJ on 24.03.2015 had issued the Notices U/s. 13 (2) of the SARFAESI Act, 2002 as the Account of Debtor has been classified as NPA on 21.05.2014 and 31.12.2013 respectively.
9. It is also submitted that, the Debtor has neglected all the notices and no reply has been received from side of Debtor.
10. It is further stated that, the information about Debt of the Debtor is available with CIBIL.
11. Finally, it is submitted that, from the material on record it can be said that the Debtor has defaulted in payment and consequentially this Petition/Application may be admitted and commencement of CIRP may be declared.

**Submissions by the Debtor :**

12. Learned Counsel for the Respondent has stated that, the Company is not in good Financial Position and accepts that there is a default in the repayment of the Debt amount.
13. It is further stated that, the Debtor will co-operate with the Insolvency Resolution Professional to revive the Company.

**Findings :**

14. Considering the above facts, we came to conclusion the nature of Debt is a "Financial Debt" as defined under section 5 (8) of the Code. It has also been established that admittedly there is a "Default" as defined under section 3 (12) of the Code on the part of the Corporate Debtor. On the basis of the evidences on record, it is noticed that the Creditor has sanctioned the loan and duly disbursed to the Debtor but there is non-payment of Debt on the part of the Debtor.
15. We have perused this Application U/s. 7 of the Code and noticed that, this Application is complete in all respect of the Code and Rules therein. We have also perused the consent form from the proposed IRP i.e. Form – 2 and satisfied that there is no disciplinary proceeding pending against the proposed IRP.

16. As a consequence, keeping admitted facts in mind that the Creditor had not received the outstanding Debt from the Debtor and when the default is admitted by the Debtor itself, we are of the conscientious view that this Petition/Application deserves '**Admission**'.
17. The Applicant has proposed the name of Insolvency Professional. The IRP proposed by the Applicant, Ms. Charu Sandeep Desai having Registration No. IBBI/IPA-001/IP-P00434/2017-18/10757 is appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process.
18. Having admitted the Application, the provisions of **Moratorium** as prescribed under **Section 14 of the Code** shall be operative henceforth with effect from the date of the order and shall be applicable henceforth, which includes prohibition from institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the "Corporate Debtor" shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under **Section 31** of the Code.
19. That as prescribed under **Section 13 of the Code** on declaration of Moratorium the next step of **Public Announcement** of the Initiation of Corporate Insolvency Resolution Process shall be carried out by the IRP immediately on appointment, as per the provisions of the Code.
20. The IRP so appointed shall also comply the other provisions of the Code including **Section 15** and **Section 18** of The Code. Further the IRP is hereby directed to inform the progress of the Resolution Plan to this Bench and submit a compliance report within 30 days of the appointment. A liberty is granted to intimate even at an early date, if need be.
21. The Petition is hereby "**Admitted**". The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of the Order.

  
Sd/-

**BHASKARA PANTULA MOHAN**  
MEMBER (JUDICIAL)

  
Sd/-

**M. K. SHRAWAT**  
MEMBER (JUDICIAL)

**Dated : 06.02.2018**