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BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH, AT HYDERABAD

CP (IB) No. 01/HDB/2017

Date of Order: 23.01.2017

In the matter of

Synergies- Dooray Automotive Limited (SDAL)

(Corporate Debtor)

6-3-855/10A, Sampathji Appts,

Saadat Manzil, Ameerpet,

Hyderabad – 500038

..... Petitioner

Counsel for the Petitioner:

Sh. A.D. Gupta, Advocate

CORAM

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judicial)

Hon'ble Mr. Ravikumar Duraisamy, Member (Technical)

ORDER

The Bench passed the following Order:

1. Heard Sh. A.D. Gupta, Learned Counsel for the Petitioner.
2. The present Company Petition has been filed by Synergies-Dooray Automotive Ltd (hereinafter referred to as "Corporate Debtor" or



“Company Petitioner”) for initiation of the Corporate Insolvency Resolution Process (CIRP) under Section 10 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 on 17.01.2017.

3. The Learned Counsel submits that the Petitioner Company was earlier registered with BIFR as Case No. 135 of 2005 and formulation of Scheme was pending before the BIFR.
4. During the pendency of the proceedings, the BIFR vide its Order dated 29.05.2012, directed the dues of EXIM bank to be settled @ 26.66% of principal in full and final settlement of its dues. Against the said order, the EXIM bank filed Appeal No. 137/2012 before AAIFR which is pending.
5. The BIFR vide order dated 25.06.2013 held that Alchemist Asset Reconstruction Company Co. Ltd (AARC) controls 55% and Edelweiss has 45% of the Debt (as per Section 2(I)(zd) of the SARFAESI Act and dismissed the said application. Edelweiss has filed Appeal No. 108/13 against the said order.



6. The Learned Counsel further submits that with the notification of SICA Repeal Act, 2003, all proceedings or appeals of whatever nature pending before BIFR/AAIFR got abated.
7. He also submits that, as per Section 4(b) of Sick Industrial Companies (Special Provisions) Repeal Act, 2003 as amended by Section 252 read with Eight Schedule of the IBC, a company in respect of which such appeal or reference or inquiry pending before AAIFR or BIFR stands abated, may make reference to the National Company Law Tribunal under the IBC within 180 days from commencement of IBC, without fees in accordance with the provisions of IBC.
8. The Learned Counsel, therefore, submits that the present Company Petition has been filed under Section 10 of the IBC read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and he has complied with prescribed procedure and filed supporting documents with respect to the issue.



9. The Company Petition has been scrutinized by the Registry of this Tribunal and submitted that the application is complete in all respects as per law. As per Section 10 of the IBC, the Corporate Applicant may file an application for initiating Corporate Insolvency Resolution Process with the adjudicating authority. Such an application shall be filed in a

form containing the information relating to its books of accounts and such other documents relating to such period as may be specified and also should propose a Resolution Professional as an Interim Resolution Professional.

10. We are satisfied that the Company Petition is a fit case to admit and thus, hereby, admit the case.

11. The Learned Counsel for the Petitioner further submits that there is no litigation pending against the Corporate Debtor as of date, but he expressed his apprehension that any creditor may initiate legal proceedings against them during the pendency of the case before the Tribunal.

12. He further submits that EXIM Bank (now assigned to Edelweiss ARC) has allegedly taken action and measures under Section 13(4) of the SARFAESI Act by taking symbolic possession of the assets. The said action and measures have been challenged before the Hon'ble DRT by the Petitioner, as well as by another secured creditor and both the Securitization Applications are pending as on date.



13. The Learned Counsel, therefore, submits that appropriate order may be passed under Section 13(1)(a) and Section 14 of the IBC.

14. We have considered the above submissions and satisfied that it is fit case to grant Moratorium under Section 13(1)(a) for the purposes as referred to in Section 14 of the Code.
15. We hereby restrain the EXIM Bank/Edelweiss ARC, from taking any action against the issues raised/subject-matter in present Company Petition. We also make it clear that any party who wants to initiate any proceedings against the Corporate Debtor/ Company Petitioner, the same should be in accordance with the IBC.
16. The Learned Counsel for the Petitioner also submits that the Corporate Debtor/ Company Petitioner has passed a resolution dated 9th December, 2016 proposing to appoint Ms. Mamta Binani as Interim Resolution Professional. In pursuant to the above, Ms. Mamta Binani (Reg. No. IBBI/IPA-02/2016-17/01) has submitted a letter dated NIL to NCLT by agreeing to accept appointment as Insolvency Resolution Professional, if an Order admitting the present application is passed and further declared that she is duly qualified to practice as an Insolvency Professional and she is not currently serving as Interim Resolution Professional/Resolution Professional/liquidator and that there are no disciplinary proceedings pending against her with the Board or ICSI Insolvency Professionals Agency. So she submits that she is eligible to be appointed as a Resolution Professional in respect of the Corporate



Debtor/ Company Petitioner in accordance with the provisions of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

17. We have considered the above submissions of the Insolvency Resolution Professional and we are satisfied that Ms. Mamta Binani is eligible to be appointed as Interim Resolution Professional for the Corporate Debtor/ Company Petitioner and is directed to take all necessary actions in accordance with relevant provisions of Insolvency and Bankruptcy Code, 2016.

18. We direct all the management staff/officials of the Corporate Debtor/Company Petitioner to extend full co-operation to the Interim Resolution Professional.

19. The Interim Resolution Professional is also directed to submit the progress report of the case before the next date of hearing.



Post the case to 15.03.2017.

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Sd/-

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RAVIKUMAR DURASAMY

RAJESWARA RAO VITTANALA

Member (T)

Member (J)

V. Annapoorna
V. ANNA POORNA
Asst. DIRECTOR
NCLT, HYDERABAD - 68