

NATIONAL COMPANY LAW TRIBUNAL: ALLAHABAD BENCH

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL: ALLAHABAD BENCH,
ALLAHABAD**

(In Company Petition No. 25/Ald/2017)
Dated Friday, the 17th Day of March, 2017

Quorum: Mr. H. P. Chaturvedi, Member-Judicial

**IN THE MATTER UNDER SECTION 10 OF THE INSOLVENCY AND BANKRUPTCY
CODE, 2016 READ WITH RULE 7 OF THE INSOLVENCY AND BANKRUPTCY
(APPLICATION TO ADJUDICATING AUTHORITY) RULES, 2016**

AND

**JODPL PRIVATE LIMITED
PLOT No. 15, KNOWLEDGE PARK II
GREATOR NOIDA- 201306
GAUTAM BUDDH NAGAR
UTTAR PRADESH**

.....Corporate Applicant/Debtor

Claim: (a) To admit the Company Petition No. 25/Ald/2017; and pass an order for initiating Corporate Insolvency Resolution Process u/s 10 of "The Insolvency and Bankruptcy Code, 2016"
(b) To cause a public announcement of the initiation of Corporate Insolvency Resolution Process.
(c) To declare moratorium in the terms of Section 14 of the Code.
(d) Pass any such further order(s)/ which the Tribunal deems fit and proper in the facts and circumstances of the case.


Applicant's Counsel: Shri Navin Sinha, Senior Advocate along with Advocate Shri Rahul Agarwal, Advocate Ms. Anindita Roy Chowdhury

ORDER
(Per Mr. H. P. Chaturvedi, Member-Judicial)

1. The present Petition is filed on behalf of the Corporate Applicant/Corporate Debtor under Section 10 of Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The definition of Corporate Applicant includes Corporate Debtor as per Section 5(5) of the Code. Therefore, the Company Petitioner seeks relief to initiate Corporate Insolvency Resolution Process in respect of JODPL Private Limited.
2. The Government of India (GOI), Gujarat State Petroleum Corporation Limited (GSPC) with participating interest 80%, Jubilant Enpro Limited ("JEL") with participating interest 10 % and Geo Global Resources (India)



Inc ('GGR') with participating interest 10% in the Contract Area executed a Production Sharing Contract on 04.02.2003 to explore and produce petroleum and related products from the Contract Area i.e KG-OSN - 2001/3.

3. The Corporate Debtor was incorporated on 12.03.2004 in the name of Jubilant Offshore Drilling Private Limited subsequently changed to JODPL Private Limited vide a certificate of name change dated 02.03.2017 issued by Registrar of Companies, Kanpur, Uttar Pradesh. On 04.01.2005. A Deed of Assignment and Assumption was executed between Jubilant Enpro Pvt. Ltd. (formerly JEL) and the Corporate Debtor. By the way of Assignment Deed Jubilant Enpro Pvt. Ltd. transferred and assigned its 10% Participating Interest in the Contract Area under Production Sharing Contract, together with all rights, interests and obligations pertaining thereto to the Corporate Debtor.
 4. The said Corporate Debtor obtained financial facilities, *inter alia*, from various financial banks/ financial institutions i.e. State Bank of India, Allahabad bank, Bank of Baroda, Bank of India, Corporation Bank, Export Import Bank of India, Indian Bank, Punjab National Bank, State Bank of Patiala, United Bank of India,
 5. The Corporate Debtor has submitted that it has defaulted in making payment of around 1332.5 Crores of the principal borrowing remain outstanding towards the banks, which in excess of Rs. 1,00,000/- (Rs. 1 lac) eligibility for initiation for the Corporate Insolvency Resolution Process as provided in the Insolvency and Bankruptcy Code, 2016.
 6. As per the Corporate Debtor such default is caused due to Cost and time overruns with regard to Petroleum operations of the Contract Area and due to various difficulties related to operations, gas prices the Corporate Debtor is presently in serious financial distress thereby causing default on its payment obligations to the Financial Lenders.
 7. Thereafter, the banks/financial institutions started declaring the corporate debtor as a Non Performing Asset Account (NPA) on various dates. The Corporate Debtor's, account was declared an NPA by the State Bank of India on 31.03.2016, by Punjab National Bank on 31.03.2016, by Export and Import Bank of India on 28.04.2016, by the Corporation Bank on 31.05.2016 by the Bank of India on 30.06.2016 and by the Allahabad Bank on September 2016. Notices of recall/ demand have been received from JODPL from State Bank of India on 19.08.2016, Export and Import Bank of India on 23.11.2016, Corporation Bank on 08.11.2016, United Bank of India on 28.09.2016
- 

and the Punjab National Bank on 30.09.2016 respectively. In addition to above Legal notices have been issued by State Bank of India on 24.09.2016, Bank of India on 08.11.2016, Punjab National Bank on 11.11.2016, State Bank of Patiala on 07.11.2016, United Bank of India on 07.11.2016, State Bank of Bikaner and Jaipur on 17.11.2016. Punjab National Bank has issued a demand notice to the corporate debtor on 14.02.2017. Thus, the banks in their Joint Lender's forum (JLF) meeting also resolved to recall all loans from the Corporate Debtor.

8. It is further submitted by the corporate Applicant/Debtor in their Petition that in spite of doing its utmost towards fulfilling its obligations qua the Production Sharing Contract, including the infusion of funds into project by the way of the Corporate Debtor's sponsors, the operational difficulties plaguing the Contract Area. The disputed cash calls with operator, the declaration of Non- Performing Assets with regard to the Financial facilities availed by Corporate Debtor has made extremely difficult for Corporate Debtor to continue its operations and Corporate Debtor does not have the necessary financial reserves to repay its debts. In support of its contention the Applicant has filed Balance Sheets which discloses liabilities are more than assets.
9. Further, the Corporate Applicant/ Debtor submitted the written communication received from the proposed Interim Resolution Professional whereby he has agreed to accept such appointment as Interim Resolution Professional. It is stated that there are no disciplinary proceedings pending against him.
10. We have gone through the contents of the Petition and perused the documents enclosed therewith.

We have also heard the submission of Senior Advocate Shri Navin Sinha Learned Counsel for Applicant in respect of grant of relief to initiate Corporate Insolvency Resolution Process to the Corporate Applicant/ Debtor. We also examined the relevant sections of Insolvency and Bankruptcy Code, 2016. A plain reading of Section 10 reads as under:

Section 10: Initiation of corporate insolvency resolution process by corporate applicant:

- (1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.
- (2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.
- (3) The corporate applicant shall, along with the application furnish the information relating to—

- (a) its books of account and such other documents relating to such period as may be specified; and
 - (b) the resolution professional proposed to be appointed as an interim resolution professional.
- (4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order—
- (a) admit the application, if it is complete; or
 - (b) reject the application, if it is incomplete:
- Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.*
- (5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section.

Further the Provision of Section 14 reads as under :

Section 14 Moratorium

(1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely: —

- (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;
- (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.

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) 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.

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

11. In view of the above stated factual and legal position of the case we find that the corporate debtor has complied with requirement of Section 10 of the Code. Therefore, the present Application deserved to be allowed hence is allowed.

We admit the petition for declaring Moratorium with Consequential Directions which are given as under:



- I. That the order of moratorium u/s 14 shall have effect from 17.03.2017 till the completion of corporate insolvency resolution process or until this Bench approves the resolution plan under subsection (1) of Section 31 or passes an order for liquidation of corporate debtor under section 33 as, the case may be.
- II. That the Bench hereby prohibits the institution of suits or continuation of pending suit or proceedings against the corporate debtor including execution of any judgement ,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 SARFESI 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.
- III. That the supply of essential goods or services to corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the Moratorium period.
- IV. That the provisions of Section 14 sub – section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- V. That this Bench hereby appoints Mr. Dinkar T. Venkatasubramanian , Email.Id dinkar.venkatasubbramanian , Registration No. IBBI/IPA-001/IP-P00003/2016-17/10011, Address : Ernst & Young LLP , 6th Floor, World Mark -1 , IGI Airport Hospitality District , Aerocity , New Delhi -110037 as Interim Resolution Professional to carry the functions as mentioned under Insolvency and Bankruptcy Code.
- VI. That the public announcement of corporate insolvency resolution process be made immediately as specified under Section 13 of the code and calling for submissions of claim under Section 15 of the Code.
- VII. An authentic copy of this order be issued to parties including Interim Resolution Professional after the completion of necessary formalities.

In view of the above, the Application is admitted and accordingly stand disposed of.



H.P. CHATURVEDI, MEMBER-JUDICIAL

Dated 17 March, 2017