

NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI

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ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 13/06/2017 AT 02.30 PM

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL
SHRI S. VIJAYARAGHAVAN, MEMBER-TECHNICAL

APPLICATION NUMBER :
PETITION NUMBER : IND/1841/ (IB)/CB/2017
NAME OF THE PETITIONER(S) : STATE BANK OF INDIA
NAME OF THE RESPONDENT(S) : SUMMER INDIA TEXTILES MILLS PVT LTD
UNDER SECTION : 7 RULE 4 OF INSOLVENCY & BANKRUPTACY CODE 2016

S.No. NAME (IN CAPITAL) DESIGNATION SIGNATURE
REPRESENTATION BY WHOM

1. N. RAMADASS

Chief Manager
State Bank of India
SAMB. Coimbatore



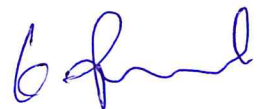
2. E. OMPRAKASH

Senior Counsel

State Bank of India

ifb K. Ramesh

For Ramalingam & Associates



9578145308

K. RAVINDRANATH
for Summer India

K. Ramesh
98400577

S. S. Prabhakaran
C. FO

Summer India Textiles Mills Pvt



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BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

Arguments heard on 13.06.2017
Order passed on 13.06.2017

C.P. No.515 of 2017

(Under Section 7 of the Insolvency And Bankruptcy Code 2016)

State Bank of India

-Vs-

M/s. Summer India Textiles Mills Private Ltd.

Financial Creditor rep. by : Mr.N.Ramadass, Chief Manager, SBI, Coimbatore

Mr.E.Omprakash, Senior Counsel for SBI

Corporate Debtor rep by : Mr.K.Ravindranath & Mr.S.S.Prabhakaran,

CORAM :

CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL) & S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)

ORDER

CH MOHD SHARIEF TARIQ, MEMBER(JUDICIAL) :- (ORAL)

1. Under adjudication is C.P.No.515 of 2017 that has been filed under section 7 of I&B Code, 2016.
2. We heard both the counsel for petitioner and respondent. Counsel for petitioner, with the help of the documents placed on file established the default. In support of his contention, he has drawn our attention to the Annexure in Page 562 of the petition which is a copy of loan sanctioned by the bank and the acknowledgement is also there. The other documents are placed at Page 567 wherein it is clearly mentioned that ROC is in the process of removal of names of the company which are not carrying on business and dormant for a period of two years or more as per the Register of the Companies. In the letter, the name of the corporate debtor is clearly mentioned as Summer India Textile Mills Private Ltd., Counsel for Petitioner has also drawn our attention to the demand notice (page 491) u/s 13 (2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The demand has been raised to the tune of Rs.105 crores with further interest and incidental

expenses, cost as stated in the notice to which no reply has been given by the Corporate Debtor. The company's position is reflected from the Directors' Report dated 09.09.2014 which clearly states that the deficit carried to balance sheet is 3577 lakhs. At Page 586, there is an admission to this effect by the company itself. It provides that the company has defaulted in the payment of both the principal and interest to the banks. The names of the banks are also mentioned as State Bank of India and State Bank of Patiala. At Page 592, it has further been confirmed that the company has not settled the payment of dues as on 31.03.2014 where the name of SBI is mentioned. The total amount to be paid to SBI and State Bank of Patiala is Rs.3051 lakhs.

3. Counsel for respondent has submitted that the company has received orders, but it does not have the finance for the operations of the company. It is on record that an application has also been filed by the corporate debtor for restructuring/revival plan. In the circumstances, there does not appear to be any hurdle in the way of corporate debtor to submit the plan to the Interim Insolvency Professional for restructuring/revival.

4. Therefore, in the light of the facts and circumstances discussed above and after ascertaining the default, we are satisfied that a case is made out for initiating the corporate insolvency process. We admit the application and order the commencement of the corporate insolvency resolution process which ordinarily shall get completed within 180 days, reckoning from the day this order is passed. We appoint Mr.C.V.Madhusudhanan, KSR & Co. Company Secretaries LLP, 101, Indus Chambers, Government Arts College Road, Coimbatore-641018 (cell No.9442162014) as interim insolvency professional who has been proposed by the operational creditor. It is stated here that no disciplinary proceeding is pending against the proposed Interim Insolvency Professional and his name is reflected on the website of the Insolvency and Bankruptcy Board of India. He is directed to take charge of the corporate debtor immediately. He is also directed to cause public announcement as prescribed under Section 15 of the Code within **three**

days from the date the copy of this order is received, and call for submissions of claim under section 15 of I&B Code, 2016 in the manner as prescribed. We declare the moratorium which shall have effect from the date of this order till the completion of corporate insolvency resolution process, for the purposes referred to in Section 14 of the I&B Code, 2016. We order to prohibit 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 (54 of 2002);
- (d) The recovery of any property by an owner or less or where such property is occupied by or in the possession of the corporate debtor.

5. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

6. The Interim Insolvency Professional shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor is expected to extend all assistance and cooperation to the Interim Resolution Professional


as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.

7. The Registry is directed to inform the Insolvency Resolution Professional to take charge of the entity and make compliance with this order as per the provisions of I&B Code, 2016.

Accordingly, the petition is disposed of. The Registry is directed to issue copy of this order to the financial creditor and corporate debtor.

Pronounced in the open court.


(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)


(CH. MOHD. SHARIEF TARIQ)
(MEMBER (JUDICIAL))