

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

CP/595 (IB)/CB/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

The Central Bank of India

Vs

M/s. Deivaanai Sinter Metals Pvt. Ltd.

Order delivered on 11th of October, 2017

CORAM :

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

For Financial Creditor(s) : Counsel, Mr. M. L. Ganesh
For Corporate Debtor(s) : ex parte

ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Counsel for the Financial Creditor present. No representation on behalf of the Corporate Debtor. It is on record that Financial Creditor before filing the Application, sent the notice to the Corporate Debtor at Registered Office Address which was received on

27.09.2017. The proof of the same is also placed on file. Thereafter, as per the direction of this Bench, the Financial Creditor has also sent private notice to the Registered Office Address of the Corporate Debtor, the postal receipt dated 04.10.2010, copy of the notice and track delivery report are placed on record along with an affidavit. But, the Corporate Debtor chose not to appear before this Bench. It appears that the Corporate Debtor is deliberately avoiding to cause appearance in the matter before this Bench. The service of notice on the Corporate Debtor is held sufficient. Therefore, the Corporate Debtor is proceeded *ex parte*.

2. An Application has been filed 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 by the Central Bank of India (hereinafter referred to as 'Financial Creditor') against M/s. Deivaanai Sinter Metals Pvt. Ltd. (hereinafter referred to as 'Corporate Debtor').

The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

We have heard the Counsel for Financial Creditor and perused the Application including the record placed on file.

3. The Financial Creditor has sent the Demand Notice under Section 13(2) of the SARFAESI Act, 2002 on 26.03.2014 to the Corporate Debtor indicating the total amount of Rs.6,97,94,811.45p due to the Financial Creditor as on 23.09.2013, which is placed at page 164 of the typed set filed with the Application. The Possession Notice under Section 13(4) of the SARFAESI Act was sent to the Corporate Debtor on 25.02.2015 indicating total amount of Rs.7,39,22,305.65p due to the Financial Creditor as on 23.09.2013, which is placed at page 168 of the typed set filed with the Application. Thereafter, corrigendum

to the Possession Notice was sent on 10.03.2015 indicating the correct amount of Rs.6,97,94,811.45p, due to the Financial Creditor as on 23.09.2013, which is placed at page 170 of the typed set filed with the Application.

4. Besides above, the Financial Creditor sent Demand Notice under Section 7 of the I&B Code, 2016 to the Corporate Debtor on 15.05.2017 which is placed at page 240 and 241 of the additional typed filed with the Application. The reply has been given by the Corporate Debtor on 28.08.2017 which is placed at page 242 of the additional typed set filed with the Application, wherein under para 8, the Corporate Debtor has admitted the liability to the extent of Rs.4 Crores and under para 11 (L) stated that the Corporate Debtor can solve the temporary crisis if the Bank affords sufficient time for repayment. The Financial Creditor has also placed on file the Bank statements at page 260 onwards of the additional typed set which go to show that the balance amount due was not paid by the Corporate Debtor.

5. The above mentioned documents are sufficient to ascertain that the Corporate Debtor has defaulted in making payment of the outstanding debt to the Financial Creditor/Applicant.

6. Thus, the Financial Creditor has fulfilled all the requirements of law and has also proposed the name of IRP after obtaining the written consent in Form-2, copy of which is placed at page 27 of the typed set filed with the Application. We are satisfied that Corporate Debtor has committed default in making payment of the outstanding debt to the Financial Creditors. Therefore, CP/595/(IB)/CB/2017 is admitted and we 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.

7. We appoint Mr. C. Ramasubramaniam, as IRP as proposed by the Financial Creditors. There is no disciplinary proceedings pending against the IRP as evidenced from Form-2 and his name is reflected in IBBI website. The IRP is directed to take charge of the

Respondent Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

8. 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 lessor where such property is occupied by or in the possession of the corporate debtor.

9. 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.

10. The IRP 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 IRP as stipulated under Section 19

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

11. The Financial Creditor and the Registry are directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

12. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.

The address details of the IRP are as follows: -

Mr. C. Ramasubramaniam,
Insolvency Resolution Professional
IP Registration No. IBBI/IPA-002/IP- N00052/
2016-2017/10096,
'SRINIDHI' G4 RMC Flats
No.1 Venkatesapuram Colony,
Vadapalani, Chennai – 600 026.
E-mail ID-fcs.rms@gmail.com
Mobile No. 9884068291

S. Vijayaraghavan.

S. VIJAYARAGHAVAN
MEMBER (Technical)

PAM


CH. MOHD SHARIEF TARIQ
MEMBER (Judicial)