

**In the National Company Law Tribunal
Single Bench, Chennai**

CP/612/(IB)/CB/2017

Under Section 7 of the IBC, 2016

In the matter of

State Bank of India

V/s

M/s. Senthil Papers and Boards Private Limited

Order delivered on: 14.11.2017

For the Petitioners/FC: K. Ramesh, Advocate

for Ramalingam & Associates

For the Respondent/CD: Shri P.H Arvind Pandian Sr. Advocate

for Shri M. Roshan Atiq, Advocate

Shri A. Sandeep Kumar, Advocate

Shri Amrith Bargav, Advocate

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)

ORDER

1. Under Consideration is a Company Petition filed by State Bank of India (in short, '**Petitioner/Financial Creditor**') against M/s. Senthil Papers and Boards Private Limited (in short, '**Respondent/Corporate Debtor**') under section 7 of the Insolvency and Bankruptcy Code 2016 (In short, '**IB Code 2016**') r/w Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, '**IB Rules 2016**').

2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
3. The petitioner is State Bank of India (Stressed Assets Management Branch), a Banking company whereas the Respondent/Corporate Debtor is a Company registered under the Companies Act, 1956 and engaged in the business of transport, cartage and haulage contractors, garage properties, owners and characters of road vehicles, aircraft packers, haulers, warehouseman, store-keepers etc.
4. Mr. K. Ramesh, the learned counsel appearing on behalf of the petitioners/FC submitted that the Corporate Debtor availed financial assistance in the nature of credit facilities under Consortium led by Tamilnadu Mercantile Bank, Indian Overseas Bank and Erstwhile State Bank of Travancore (SBT) and State Bank of Patiala (SBP). Now, State Bank of Travancore (SBT) has merged with State Bank of India. The SBT(erstwhile) has sanctioned of Rs. 47.50 Crores vide sanction Letter Date 05.10.2012 which is consisting of term loan of Rs. 45.00 Crores(LC-One time within new TL-Rs. 30.00 Crores and LC limit of Rs. 2.05 Cores and State Bank of Patiala (SBP) has sanctioned of Rs. 31.06 Crores vide letter dated 28.01.2013 which is consisting of Term Loan of Rs.

30.00 Crores (LC- Onetime within New TL –Rs. 24.00 Crores) and BG limit of Rs. 1.06 Crores, which has been renewed to Rs. 40.00 Crores (TL- Rs. 300.00 Crores and CC- Rs. 10.00 Crores as on 09.10.2014.

5. It is further submitted that the Financial Creditor had given said loan to Corporate Debtor by way of security held by way of Hypothecation and Mortgage. The Financial Creditor issued Demand Notice on 14.07.2017 under section 13(2) of the SARFAESI Act, 2002.
6. The learned counsel submitted that the above said condition as admitted by the CD was not adhered to and the CD had defaulted in conforming to the terms as agreed, hence the final sanction letter was not issued. It is also submitted that a letter dated 14.07.2017 from the petitioner to the CD clearly indicated that the restructuring scheme had failed therefore, the petitioner proceeded to recover its dues as fell due on 04.10.2017 with further interest thereon.
7. The learned counsel finally submitted that when the Corporate Debtor was unable to pay its Financial Debt which became due and payable on 04.10.2017, then petitioner, having been left with no other option approached this Adjudicating Authority claiming the payment of Rs. 70,10,24,423/- towards the Corporate Debtor in the capacity of Financial Creditor under

the provisions of the IB Code 2016 and prayed to initiate Corporate Insolvency Resolution Process against the Respondent/CD.

8. Shri P.H Arvind Pandian, the learned Senior Counsel for the Respondent/CD caused appearance. No counter filed on behalf of Respondent/CD. He simply opposed the Company Petition.
9. Heard both sides. As per the submission of the counsel for the petitioner, the Petitioners have complied with all the requirements as stipulated under the provisions of the IB Code, 2016 and the rules formed thereunder.
10. After hearing submissions of the counsel for the Petitioner/FC and having perused the record, this Adjudicating authority is satisfied that the Petitioner/FC has clearly made out his case by establishing that the Corporate Debtor has defaulted the repayment of loan on various occasions to the Petitioner/FC. Also, the petitioner has proved by placing overwhelming evidence viz. Demand Notice, Waiver Notices, Financial Transactions and Bank Statements that default has occurred which the Corporate Debtor was responsible to pay. I am of the opinion that the Petitioner/FC has established clearly that the loan amount in default committed by the corporate debtor is genuine and is supported by the documentary evidence

placed before this Adjudicating authority. In the circumstances, having satisfied with the submissions put forth by the learned counsel for the Petitioner/FC, I am inclined to admit the instant petition.

11. Therefore, the instant petition is admitted and I order the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

12. I appoint Shri. N. Sivachalam as Interim Resolution Professional (**IRP**) proposed by the Financial Creditor. There is no disciplinary proceedings pending against the IRP 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.

13. I 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. I 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.*

14. 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.

15. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed 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.

Accordingly, the application is admitted.

16. The IRP is further directed to protect and preserve the value of the property of the Corporate Debtor as a going concern as a part of its obligation imposed under section 20 of the IB Code 2016 and perform all his duties strictly in accordance with the provisions of the IB Code 2016.

17. The Petitioner/FC as well as the Registry is 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.

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

19. The address details of the IRP are as follows: -

Shri. N. Sivachalam
Regn. No:(IBBI/IPA-01/IP-P00187/2017-2018/10366)
No.12, Govindarajalu Street, Stanes Road,
Avinashi Road, Tirupur-641602
E-Mail: sivachalamca@gmail.com
Phone No. 9842222644



K. ANANTHA PADMANABHA SWAMY
Member (J)

TJS