

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

CP/665/(IB)/CB/2017

Under Section 7 rule 4 of the IBC, 2016

In the matter of

M/s. Union Bank of India Limited ...Financial Creditor/FC
(CIN: U99999MH1919PTC000615)

V/s

M/s. SBQ Steels Limited ...Corporate Debtor/CD
(CIN: U27310TN2007PLC062823)

Order delivered on: 29.12.2017

Coram:

K. Anantha Padmanabha Swamy, Member (Judicial)
S. Vijayaraghavan, Member (Technical)

For the Petitioners/FC: Shri T.K Bhaskar, Advocate
Shri Srinath Sridevan, Advocate
Shri K. Harishankar, Advocate
For the Respondent/CD: Smt. T. Geethangili, Advocate
for M/s. Aiyar & Dolia

ORDER

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

1. Under Consideration is a Company Petition filed by M/s. Union Bank of India Limited (in short, '**Petitioner/Financial Creditor**') against M/s. SBQ Steels 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 Union Bank of India Limited, Industrial Finance Branch (IFB Branch), a Banking Company, having its registered office at 1st Floor, Union Bank Bhavan, 139, Broadway, Chennai-600108 whereas the Respondent/Corporate Debtor is a Company registered under the Companies Act, 1956, having its registered office at New No.6, (Old No. 13), North Avenue, Kesavaperumalpuram, Chennai-600028.
4. The learned counsel appearing on behalf of the petitioners/FC submitted that the Corporate Debtor availed financial assistance, granted to the Corporate Debtor by way of various agreements. The Corporate Debtor was due to pay the debt amount of Rs. 249,37,79,003.69/-(Rs. Rupees Two Hundred and Forty Nine Crores and Thirty Seven Lakhs and Seventy Nine and Three and Sixty Nine Paise Only) as on 21.08.2017. All details of loan facilities agreements along with dates of disbursement under each of the facilities and transactions between the parties have been attached vide annexures specified in the petition.

5. It is further submitted that the Financial Creditor had given the said loan to Corporate Debtor by way of security held by the consortium of Banks including the applicant in respect of the facilities by way of Equitable Mortgage *pari-pasu* charge on all that pieces and parcels of land admeasuring 122.25 (4,94,745.00 Sq. Mt.) situated in industrial park, Ankalapaturu Chillakaru(M), Nellore Dist in Survey No. 1085(p), 1290-2, 1291-2,1292-2, 1086-1(1) and The Corporate Debtor executed various Hypothecation Deeds creating *pari-pasu* charge on the movable properties vide various Hypothecation Deeds as annexed with as Annecure-6 in the Petition. The Financial Creditor has issued recall Notice on 19.09.2014. The Corporate Debtor has replied to recall notice on 25.09.2019 letter dated 19.09.2017. The Corporate Debtor again issued Demand Notice under section 13(2) of the SARFAESI Act, 2002 on 28.01.2015. The Corporate Debtor has replied to Demand notice on 28.03.2015 under section 13(2) of the SARFAESI Act, 2002.
6. The learned counsel finally submitted that when the Corporate Debtor was unable to pay its Financial Debt which became due and payable as on 21.08.2017 then petitioner, having been left with no other option approached this Adjudicating Authority claiming the payment of Rs.249,37,79,003.69/-(Rs. Rupees Two Hundred and Forty Nine Crores and Thirty Seven Lakhs and



Seventy Nine and Three and Sixty Nine Paise Only) 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.

7. Smt T. Geethangili, the learned Counsel for the Respondent/CD caused appearance. No counter filed on behalf of Respondent/CD. She only opposed the Company Petition and prayed to decide the matter on merits.
8. 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.
9. 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 to the Petitioner/FC. Also, the petitioner has proved by placing overwhelming evidence viz. Demand Notice, Financial Transactions, Loan Agreements, Bank Statements and copies of entries in Bankers book in accordance with the Bankers Books Evidence Act, 1891(18 of 1891) that default has occurred for which the Corporate Debtor was liable to pay. We are 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, we hereby admit the instant petition.

10. The instant petition is admitted and we 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.
11. We appoint Shri. Vasudevan as Interim Resolution Professional (IRP) as 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.
12. 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.*

13. 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.

14. 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.

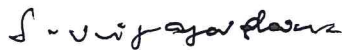
15. The IRP is further directed to protect and preserve the value of the property of the Corporate Debtor as a going concern as a part of its obligation imposed under section 20 of the IB Code 2016 and perform all his duties strictly in accordance with the provisions of the IB Code 2016.

16. 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.

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

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

Shri. Vasudevan
Regn. No:(IBBI/IPA-01/IP-P00155/2017-2018/10324)
17B/7B, Maruthi Nagar,
Hashtinapuram, Chromepet,
Chennai-60006412,
E-Mail: cavasu1967@gmail.com
Phone No. 9566144997


(S. Vijayaraghavan)
Member (Technical)


(K. Anantha Padmanabha Swamy)
Member (Judicial)

TJS