

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

IBA/578/2019

Under Section 7 r/w rule 4 of the IBC, 2016

In the matter of M/s. LEO Primecomp Private Limited

STATE BANK OF INDIA
(Stressed Assets Management Branch)

---Financial Creditor

V/s

M/s. LEO Primecomp Private Limited

---Corporate Debtor

Order delivered on: 24.07.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor: *Shri. Ganesh Varanala, Advocate*
For Shri. R. Sugumaran, Advocate
Shri. R. Vinoth Kumar, Advocate

For the Corporate Debtor : *Shri. S. Siva Sankar, Advocate*
For Ms. J. Harshini, Advocate

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and dictated in the Open Court on 24.07.2019

It is an Insolvency Bankruptcy Application filed u/s 7 of the Insolvency and Bankruptcy Code, 2016 ("**the Code**") for initiation of Corporate Insolvency Resolution Process against the Corporate



Debtor on the ground that the Corporate Debtor defaulted in paying an amount of ₹135,65,99,352.

2. On perusal of this Company Petition, it appears that this Financial Creditor (State Bank of India) sanctioned various credit facilities from time to time to the Corporate Debtor.

3. Thereafter, when it has become NPA on 14.03.2014, the Financial Creditor has provided even restructuring of the loan on 13.05.2015, thereafter as this Corporate Debtor failed to keep repaying as per the restructuring package, this Financial Creditor initiated Debt Recovery proceedings by filing Original Application No.29 of 2017 before the DRT-I, Chennai against the Corporate Debtor wherein the Honourable DRT-I, Chennai passed an order dated 25.09.2017 entitling the Financial Creditor to recover a sum of (i) ₹6,19,10,391 together with interest @13.25% per anum (simple) towards cash credit a/c (ii) ₹104,97,49,312 together with interest @12.30% per annum (simple) from the date of filing of the O.A. the till date of the realization along with costs.



4. Since the Corporate Debtor has not even repaid the amount ordered to be recovered from the debtor even after lapse of almost two years, the Financial Creditor has now filed this Company Petition u/s.7 of the Code on 10.04.2019 for initiation of CIRP against the Corporate Debtor for making a claim of ₹135,65,99,352 as on 31.03.2019.

5. As against this claim, the Corporate Debtor has stated that they have already submitted One Time Settlement proposal to the Financial Creditor (State Bank of India) authorities, thereby, the Corporate Debtor needs time to remain waiting for answer from the Creditor Bank (State Bank of India).

6. When this request is put to the Financial Creditor counsel, he has categorically mentioned that no instructions have come from the Financial Creditor not to proceed against this Corporate Debtor. Moreover, he has submitted that this loan was restructured way back in the year 2015 itself, ever since, this Corporate Debtor has never tried to make this Account standard, for the debt not being cleared by the Corporate Debtor as agreed, the Financial Creditor has

initiated DRT proceedings and the order was obtained from the DRT-I, Chennai on 25.09.2017. Despite almost two years have gone by from the date of the DRT order till date, this Corporate Debtor has not repaid the loan amount.

7. On looking at the application filed by the Financial Creditor and the submissions made by the Financial Creditor as well as the Corporate Debtor, for this Bench being satisfied that the Financial Creditor has proved the existence of debt of ₹135,65,99,352 and default as on 31.03.2019 against this Corporate Debtor. The Financial Creditor has also filed consent letter in form-2 given by the Insolvency Resolution Professional. In view of the same, we hereby **admit** this Company Petition by appointing Mr. Mathur Sabhpathy Viswanathan as IRP with directions as follows:

- I. That Moratorium is hereby declared prohibiting all of the following actions, 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 Securitization 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.
- II. That Supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- IV. That the order of moratorium shall have effect from **24.07.2019** till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of IBC or passes an order for

liquidation of corporate debtor under section 33 of IBC, as the case may be.

- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of IBC.
- VI. That this Bench hereby appoints Mr. **Mathur Sabhapathy Viswanathan**, having Registration Number [IBBI/IPA-001/IP/P00674/2017-18/11148], No.15/35, Musafar Jung Bahadur Street, Triplicane, Chennai – 600 005, E-Mail: msv8200@gmail.com, as Interim Resolution Professional to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.
8. Accordingly, this Petition is **admitted**.
9. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by way of email or whatsapp.

-Sd-
(S. VIJAYARAGHAVAN)
Member (Technical)

-Sd-
(B. S.V. PRAKASH KUMAR)
Member (Judicial)

TJS/SR