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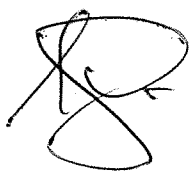
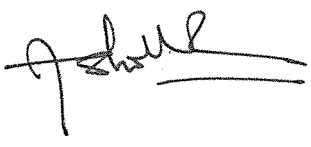
NATIONAL COMPANY LAW TRIBUNAL
SINGLE BENCH
CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON

13.11.2018

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

APPLICATION NUMBER :
PETITION NUMBER : CP/762/ (IB)/CB/2018
NAME OF THE PETITIONER(S) : ASSET RECONSTRUCTION COMPANY INDIA LTD
NAME OF THE RESPONDENT(S) : SRI SRIVATHSA PAPER MILLS PVT LTD
UNDER SECTION : 7 RULE 4 OF INSOLVENCY & BANKRUPTACY CODE 2016

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
	REPRESENTATION BY WHOM		
1.	V. V. SIVAKUMAR for DVA ASSOCIATES	Counsel for Financial Creditor	
2.	R. VIDHYA HANKAR R. ASHOK KUMAR	Counsel for Respondent	
	YOGESH NERKAR, (MHA 9823067953)		

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

CP/762/IB/2018 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.

In the matter of

Asset Reconstruction Company (India) Limited

.....Financial Creditor

Vs.

M/s. Sri Srivathsa Paper Mills Private Limited

.....Corporate Debtor

Order delivered on 13th of November, 2018

CORAM:

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

*For Financial Creditor(s) : Mr. V. V. Sivakumar for M/s. Dua Associates
For Corporate Debtor(s) : Mr.R. Vidhyashankar and R Ashok Kumar, Counsels*

ORDER

Per: CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL):

1. In this case, originally, the Corporate Debtor
availed Term Loans and other facilities from the Indian
Overseas Bank (IOB) by executing various documents
in favour of IOB. Thereafter, the IOB has assigned all
its debt to Asset Reconstruction Company (India)

Limited, by executing Assignment Agreement dated 10.02.2015, the copy of Assignment Agreement registered by the IOB in favour of Asset Reconstruction Company (India) Limited, is placed at pages 42 onwards of the typed set filed with the Application. Therefore, Asset Reconstruction Company (India) Limited is entitled to file the Application under Section 7 of the I&B Code, 2016, being the 'Assignee' as Financial Creditor.

2. The Chief Manager of the Financial Creditor viz., Mr. Yogesh Nerkar has filed an Affidavit today i.e. 13.11.2018 stating therein that at present no proposal for One Time Settlement (OTS) is pending as far as the Corporate Debtor is concerned. It has also been deposed in the Affidavit that no serious efforts have been made by the Corporate Debtor to settle the outstanding dues and the Fixed Deposit of Rs.2.5 Crores was not made on the request of the Financial Creditor. In short, many opportunities have been granted to the Corporate Debtor for settlement, but the

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Corporate Debtor has not been in a position to come up with any reasonable proposal for settlement/OTS.

3. The Application has been filed by Asset Reconstruction Company (India) Limited, (hereinafter referred to as 'Financial Creditor') 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, against M/s. Sri Srivathsa Paper Mills Private Limited, (hereinafter referred to as 'Corporate Debtor'). The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

4. The Financial Creditor has claimed an amount of Rs.142,89,19,352/- as outstanding against the Corporate Debtor as on 06.04.2018, which the Corporate Debtor has failed to pay.

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5. The Counsel for the Financial Creditor has referred to the Credit Sanction Advice dated 30.06.2009, wherein the Indian Overseas Bank (the Assignor of Financial Creditor) has sanctioned the following loan facilities to the Corporate Debtor, on various dates:

- i. Term Loan-I - Rs. 25,65,00,000/-
- ii. Term Loan-II - Rs. 2, 87,00,000/-
- iii. Term Loan-III - Rs.16,08,00,000/-
- iv. Funded Term Loan - Rs. 1,26,00,000/-
- v. Cash Credit - Rs. 9,50,00,000/-

The above loans were availed by the Corporate Debtor. The copy of the Credit Sanction Advice dated 30.06.2009 is placed at pages 131 to 140 of the typed set filed with the Application.

6. On 22.01.2007, in order to secure the Term Loan-I amounting to Rs.25,65,00,000/-, the Corporate Debtor executed the Term Loan Agreement, Demand Promissory Note for Rs.25,65,00,000/- and Letter of Hypothecation in favour of the Financial Creditor, the copies of which are placed at pages 141 to 154, 155 and 156 to 165 respectively of the typed set filed with

the Application.

7. Likewise, on 31.12.2008, in order to secure the Term Loan-II sanctioned by the Financial Creditor, the Corporate Debtor executed Term Loan Agreement for an amount of Rs.2,87,00,000/- in favour of the Financial Creditor, the copy of Term Loan Agreement executed by the Corporate Debtor is placed at pages 166 to 179 of the typed set filed with the Application.

8. For the Term Loan -III sanctioned by the Financial Creditor, the Corporate Debtor on 31.12.2008 executed Term Loan Agreement and Demand Promissory Note for an amount of Rs.16,08,00,000/- in favour of the Financial Creditor, the copies of which are placed at pages 180 to 194 and 195 respectively of the typed set filed with the Application.

9. On 14.08.2009, the Corporate Debtor executed an Undertaking to repay the Funded Term Loan of Rs.1,26,00,000/- availed by it, in favour of the

Financial Creditor, copy of which is placed at pages 196 and 197 of the typed set filed with the Application.

10. In respect of Cash Credit limit of Rs.9,50,00,000/- sanctioned by the Financial Creditor, the Corporate Debtor, on 31.12.2008, executed the Deed of Hypothecation of Book Debt and the Demand Promissory Note for an amount of Rs.9,50,00,000/-, copies of which are placed at pages 198 to 203 and 204 respectively of the typed set filed with the Application.

11. Besides the above, on 31.12.2008, the Corporate Debtor executed the Letter of Hypothecation of Machinery/Goods to an extent of Rs.56,60,00,000/- in favour of the Financial Creditor, which is placed at pages 205 to 213 of the typed set filed with the Application. Further, as per the Revival Letters dated 22.12.2009 and 11.11.2011, the Corporate Debtor has acknowledged the debt and affixed its seal with signature on the said documents, copies of which are placed at pages 214 to 215 of the typed set filed with the Application.

12. The Counsel for the Financial Creditor has also referred to the Memorandum of Deposit of Title Deeds executed on 02.01.2009 by the Corporate Debtor in favour of the Financial Creditor, copies of which are placed at pages 216 to 222 and 223 to 246 respectively of the typed set filed with the Application. The said deposit of title deeds by the Corporate Debtor with the Financial Creditor was confirmed by the Corporate Debtor by executing the Confirmation Letter dated 31.12.2008, the copy of which is placed at pages 247 to 259 of the typed set filed with the Application.

13. The Counsel for the Financial Creditor has also filed the Total Dues Summary/statement of account which is placed at paged 260 to 270 of the typed set filed with the Application, wherein the total amounts due to the Financial Creditor is reflected.

14. The Counsel for the Corporate Debtor has submitted that no reply has been filed in the matter as the Corporate Debtor has been making efforts to offer

to the Financial Creditor for OTS, which ultimately could not see the light of the day. However, today i.e., 13.11.2018, an Affidavit has been filed by the Corporate Debtor wherein it has been deposed that the Corporate Debtor's Promoter is willing to discharge the OTS liability by taking over the assets and also by purchasing the entire shareholdings in the Company. But, there does not appear any serious effort either on the part of the Corporate Debtor or the Promoters as has been deposed in the Affidavit, for any One Time Settlement with the Financial Creditor.

15. However, the Counsel for the Corporate Debtor has fairly admitted the liability as has been projected by the Financial Creditor in the Application. In short, the Counsel for the Corporate Debtor did not resist the Application of the Financial Creditor.

16. Heard the Counsels for the Financial Creditor and Corporate Debtor and perused the Application along with the documents placed on the case file.

17. The documentary evidence which is placed on the file including the statement of account is sufficient in order to ascertain the existence of a default on the part of the Corporate Debtor. Therefore, in the light of the facts and circumstances recorded, and the legal position stated, the Financial Creditor has fulfilled all the requirements of law including the name of IRP for admission of the Application filed under Section 7 of the I&B Code, 2016. Hence, the Application stands admitted. Thus, the commencement of the Corporate Insolvency Resolution Process is ordered which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

18. Mr. Arumugam Arumugam is hereby appointed as IRP as has been proposed by the Financial Creditor. There is no disciplinary proceeding pending against the IRP as reflects from Form-2. 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.

19. The moratorium is hereby declared 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. It is hereby ordered 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.

20. The supply of essential goods or services of the Corporate Debtor/Guarantor 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.

21. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the I&B Code. The Directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the I&B Code, 2016.

22. The Financial Creditor and the Registry are also directed to send the copy of this Order with immediate

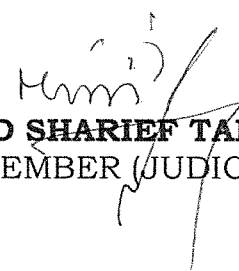
effect to IRP, so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016. The address details of the IRP are as follows: -

Mr. Arumugam Arumugam,
IBBI/IPA-003/IP-N00094/2017-2018/10936
1/56, Market Road, (Devi Stores Upstairs),
Kelambakkam-
Chennai, Tamilnadu- 603103.
Email ID: arumuru2008@gmail.com
Mobile No. 801524147.

23. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor with immediate effect.

24. The Order is dictated and pronounced in open Court in the presence of the Counsels for the Financial Creditor and the Corporate Debtor.

P.ATHISTAMANI


[CH.MOHD SHARIEF TARIQ]
MEMBER (JUDICIAL)