

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

PRESENT: HON'BLE SHRI RATAKONDA MURALI- MEMBER JUDICIAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 05.10.2018 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No.343/7/HDB/2018
NAME OF THE COMPANY	Southern Online Bio-Technologies Ltd
NAME OF THE PETITIONER(S)	Bank of India
NAME OF THE RESPONDENT(S)	Southern Online Bio-Technologies Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
V. Venkata Ramireddy	Advocate	vvram@vengalaxi.com 9542239039	V.V.

ORDER

Orders passed vide separate order.


Member(Judl)

Pavani

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.343/7/HDB/2018

U/s 7 of IBC, 2016

In the matter of:

Bank of India
Banjara Hills Branch
8-2-403/4, Ground Floor
Road No.4, Banjara Hills
Hyderabad – 500034

...Financial
Creditor / Petitioner

VERSUS

M/s Southern Online Bio-Technologies Limited
A3 , 3rd Floor
Office Block, Samrat Complex, Saifabad
Hyderabad – 500004

.Respondent/
Corporate Debtor

Date of order: 05.10.2018

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Parties/Counsels present:

For the Petitioner: Shri V. Sethumadhava Rao,
Advocate

For the Respondent: Shri V. Venkata Rami Reddy
along with Shri B. Manpal
Reddy, Advocates


**Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)-
Author**

Heard on: 19.07.2018, 03.08.2018, 27.08.2018,
18.09.2018 & 28.09.2018

ORDER

1. The Petition is filed on behalf of Financial Creditor/ Bank of India (BOI) under Section 7 of Insolvency & Bankruptcy Code, 2016, R/w Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The averments of the Petition filed in Form-1 prescribed proforma are as follows:-
 - (1) Petitioner is Financial Creditor. M/s Southern Online Bio-Technologies Limited is the Corporate Debtor. The Registered office of the Corporate Debtor as furnished in proforma is as follows:-

A3 , 3rd Floor
Office Block, Samrat Complex, Saifabad
Hyderabad – 500004
 - (2) The Authorized share capital is Rs. 75,00,00,000/- and paid up share capital is Rs. 58,99,32,880.00. The Corporate Debtor was registered on 09.11.1998 holding Identification Number L72900TG1998PLC030463.
 - (3) It is averred at the request of Corporate Debtor, the Financial Creditor/Petitioner and other consortium banks consisting of UCO, SBH and PNB sanctioned credit facilities to the tune of Rs. 4575 Crores and Consortium documents were

- executed by the Corporate Debtor and guarantors on 19.08.2010.
- (4) It is averred the Corporate Debtor again approached the financial Creditor and other consortium banks for the Term Loans, Working Capital Term Loan, Funded Interest Term Loan of Rs.5723 crores and documents were executed by the Corporate Debtor and Guarantors on 19.03.2012.
- (5) It is averred a Memorandum of Entry dated 24.03.2012 was made confirming mortgage created by the Corporate Debtor and other mortgagors/guarantors.
- (6) It is also the case of Financial Creditor that Corporate Debtor again approached the Financial Creditor and consortium bank in December 2012 for sanction/enhancement of Working Capital credit facilities and a sum of Rs. 7175 crores was sanctioned.
- (7) It is averred that Corporate Debtor requested Consortium Banks for restructuring of its debts as the operations of the Corporate Debtor was under strain owing to various internal and external reasons. Considering the commitment of the Corporate Debtor to improve its operations, the Corporate Debtor was referred to Corporate Debt Restructuring Forum (CDR) under the aegis of the Reserve Bank of India for efficient restructuring of the Corporate Debt,
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which approved the restructuring package on 22.10.2013 under which Existing Financial Assistance is to be restructure and certain additional financial assistance to be extended to the Corporate Debtor vide Letter of Approval dated 16.11.2013 issued by Corporate Debt Restructuring Cell to the existing Lenders and Corporate Debtor (herein after referred to as CDR package). Subsequently, the Corporate Debtor executed Master Restructure Agreement (MRA) on 13.02.2014 and additional Working Capital facilities of Rs.126.29 crores was sanctioned by the consortium banks.

- (8) It is the case of the Petitioner that on the request of Corporate Debtor, Financial Creditor and other consortium banks in November 2015 rescheduled the repayment of the credit facilities referred in MRA dated 13.02.2014 and accordingly the same was rescheduled as per the First Amendatory Agreement dated 19.11.2015 to the MRA. The working capital limits were amended/revised as per Supplemental Working Capital consortium agreements for the credit facilities to the tune of Rs.173.29 crores sanctioned by the consortium banks.
- (9) It is the case of the Financial Creditor/petitioner that Form 8 was filed with Registrar of Companies at Hyderabad for Registration of the




charge and were issued 10 (ten) Charge Certificates, which are marked as Annexures I (page Nos. 67-75).

(10) It is the case of Financial creditor that the Corporate Debtor failed to repay the dues in accordance with the agreed terms and hence, the account of the Corporate Debtor was classified as Non-Performing Asset (NPA) and issued notice of default on 24.03.2018 demanding the Corporate Debtor to pay Rs.163,56,90,551.40. The Corporate Debtor has acknowledged the notice and intimated the Financial Creditor that it will settle the debt through One Time Settlement (OTS) and requested time up to 06.05.2018. Hence prayed this Tribunal to admit the case.

(11) Further, the Financial Creditor / Bank of India has suggested the name of Mrs. G. Kalpana as Interim Resolution Professional.

3. Counter is filed by the Respondent / Corporate Debtor.

(a) There is no dispute with regard to the loans availed from the Financial Creditor /consortium banks and the rescheduling the facilities / repayment schedule. However it is stated that during the years 2009-14 the delay in financial sanctions and disbursement from the Financial Institutions/ Financial creditors affected the business of the Company.

- (b) It is the case of Corporate Debtor that the production of the Company was badly affected due to Hud Hud Cyclone and the operations were shut down for more than a year, which is beyond the control of the promoters and the Directors.
 - (c) It is the case of Corporate Debtor that the account was restructured with small additional support for rectification of cyclone damages subject to the condition that it will be paid back on receipt of Insurance Claim of Rs. 22.80 crores from National Insurance Company. However, the claim was not materialized in time.
 - (d) It is the case of Corporate Debtor that during the year 2015-16, the Directors requested for deep restructuring proposal for conversion of unsustainable portion of debt in to CCPS (Compulsorily Convertible Preference Share) and for this the Banks appointed Forensic Auditors during the year 2016-17 to conduct audit for the financial years 2014-15 & 2015-16. Based on the satisfactory address of the observations of Forensic Audit, the lenders consortium recommended for closure of the Forensic Audit Report.
 - (e) It is the case of Corporate Debtor that the Lenders have not accepted the OTS proposal submitted by the Corporate Debtor.
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- (f) It is also not in dispute that the account of the Corporate Debtor was classified as NPA and there is a debt of Rs.163,56,90,551.40.
4. I have heard the Counsels appearing for the Financial Creditor and for the Corporate Debtor.
 5. This Petition is filed under Section 7 of I & B Code. The Petitioner is Financial Creditor. The Petitioner has filed various documents executed by the Corporate Debtor in respect of loan sanctioned from time to time. The case of Petitioner/Financial Creditor that Corporate Debtor committed default of financial debt totalling to Rs.163,56,90,551.40.
 6. The Petitioner has filed various documents to prove that Consortium of Banks including the Petitioner sanctioned various types of loan to the Corporate Debtor. The Petitioner has given of various loans sanctioned to the Corporate Debtor by consortium of Banks including Petitioner.
 7. The Corporate Debtor was sanctioned loan for working capital by the Petitioner and other banks namely consortium of Banks. It was in the year 2010. Again in 2012, the Petitioner/Financial Creditor sanctioned loan along with Consortium of Banks to the Corporate debtor as a Term Loan. Thereafter, working capital limits were enhanced in December 2012 and the debt was also re-structured. Supplementary Working capital was also sanctioned. The particulars of loan due under various types of loans sanctioned to



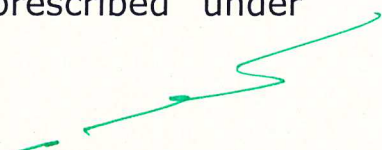
Corporate Debtor and the amount due thereon are given in the Petition.

8. The Corporate Debtor committed default to the tune of Rs.163,56,90,551.40. The statement of accounts are filed by the Petitioner/Financial Creditor.
9. The Corporate Debtor did not dispute the claim of Financial Creditor. The Corporate Debtor also did not dispute default. The contention of the Corporate Debtor that due to some unavoidable circumstances, the Corporate Debtor Company could not discharge the loan.
10. The Petitioner/Financial Creditor has proved the existence of financial debt and also default. The Financial Creditor/Petitioner suggested the name of IRP who has given consent. The Petition is complete. There are no disciplinary proceedings pending against the proposed Interim Resolution Professional. Therefore, Petition is to be admitted.
11. Hence, the Adjudicating Authority admits this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-
 - (a) The Adjudicating Authority hereby prohibits 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; Transferring , encumbering, alienating or



disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

- (b) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (c) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (d) That the order of moratorium shall have effect from 5th October, 2018 till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor' under Section 33, whichever is earlier.
- (e) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under



section 13 of Insolvency and Bankruptcy Code, 2016.

- (f) That this Bench hereby appoints Smt G. Kalpana, 16-11-19/4, G-I, Sri Lakshmi Nilayam, Saleem Nagar Colony, Malakpet, Hyderabad - 500036 having registration number IBBI/IPA-001/IP-P00756/2017-18/11288 Mobile: 9962568858; E-mail: kalpanagonugunta1@gmail.com as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code with effect from 05.10.2018.

Accordingly, this Petition is admitted.


(RATAKONDA MURALI)
Member (Judicial)

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