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Eastern Silk Industries Ltd.

CIN : L17226WB1946PLC013554

Mailing Address : G. P. O. BOX No. 2174, Kolkata - 700 001
E-mail : sales@easternsilk.com • Web : www.easternsilk.com

ESIL/2022-23/218

10th June 2022

National stock exchange of India Ltd
"Exchange Plaza "
Bandra Kurla Complex
Bandra (E), Mumbai 400 051
NSE Symbol: EASTSILK

BSE Limited
Floor 25, P.J. Towers,
Dalal Street,
Mumbai 400 001
BSE Scrip Code: 590022

Dear Sirs

Sub.: Disclosure pursuant to Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.

Dear Sir(s) / Madam(s),

Pursuant to Regulation 30 of SEBI (listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR) and in accordance with the requirements of sub-clause 16(c) of Clause A of Part A of Schedule III of LODR, we wish to inform you that National Company Law Tribunal, Kolkata Bench ('NCLT') in the matter C.P. IB No. 250/KB/2021 has pronounced the order on June 10, 2022 for admitting the Company into the Corporate Insolvency Resolution Process ('CIRP') as per the provisions of the Insolvency and Bankruptcy Code 2016 (IBC) read with the rules and regulations framed there under ('Code').

Further, Hon'ble Bench has also pronounced the order for appointment of Mr. Anil Agarwal, registration number IBBI/IPA/001/IP-P00270/2017-2018/10514 as the Interim Resolution Professional in respect of the Corporate Debtor as per the provisions of the Insolvency and Bankruptcy Code 2016 (IBC) read with the rules and regulations framed there under ('Code').

Copy of the Order of the NCLT is enclosed herewith.

You are requested to take the above information on record.

Thanking You,
Yours faithfully,

For, Eastern Silk Industries Limited

For EASTERN SILK INDUSTRIES LTD.

Company Secretary

Rahul Jaiswal
Company Secretary



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA
C.P (IB) No. 588/KB/2020**

An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

In the matter of

Export-import Bank of India, a financial institution constituted under the Export-import Bank of India Act, 1981 having one of its Regional Office at ‘VanijyaBhawan’, International Trade, Facilitation Centre, 4th Floor, 1/1 Wood Street, Kolkata, West Bengal 700016.

...Financial Creditor

Versus

In the matter of:

Eastern Silk Industries Limited, an existing company under the Companies Act, 2013, having its registered office at 19, R N Mukherjee Road, Kolkata, West Bengal 700 001.

...Corporate Debtor

Date of hearing: 25/04/2022

Order Pronounced on :10/06/2022

Coram:

Mr. Rohit Kapoor, Member (Judicial)

Mr. Harish Chander Suri, Member (Technical)

Counsels appeared through Video Conference

Mr. Joy Saha, Sr. Adv. : For Financial Creditor
Mr. Pratik Shanu, Adv.
Mr. NilanjanBhattacharjee, Adv.

Mr. KrishnarajThaker, Adv. : For Corporate Debtor
Mr. Rahul Poddar, Adv.
Mr. Sayantaan Das, Adv.



ORDER

Per: Rohit Kapoor, Member (Judicial)

1. The court is convened by video conference today.
2. This Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 has been filed by **Export-import Bank of India**(hereinafter referred to as the Financial Creditor),seeking initiation of Corporate Insolvency Resolution Process (CIRP) in respect of **Eastern Silk Industries Limited** (hereinafter referred to as the Corporate Debtor).
3. Part – I of this application contains particulars of the Corporate Debtor. Part – II of this application contains particulars of the Corporate Debtor. Part- III contains particulars of the proposed Interim Resolution Professional. Part – V of the application contains the details of the Financial Debt and the documents relied upon by the applicant in support of its debt due and payable by the Corporate Debtor to the Financial Creditor.
4. The amount claimed as on 10th of February, 2020 is Rs. 690,665,379.47/-. It is claimed by the applicant, it was in March, 2003 the applicant had sanctioned an EOU term loan of USD 3.12 million to Corporate Debtor for a period of 5 years. Initially the Corporate Debtor was repaying such loan. The Financial Creditor sanctioned another term loan of 30 crores on 2nd of March, 2009 for financing the cost of expansion-cum-modernisation project at Bangalore. Copy of this sanction letter is marked as Annexure- F.
5. Thereafter the Financial Creditor entered into a Facilities Agreement with the Corporate Debtor on 6th April, 2009 for providing the aforesaid financial assistance to the Corporate Debtor. A copy of which has been marked as Annexure- G.
6. The Corporate Debtor further executed a Deed of Hypothecation in favour of the Financial Creditor over movable assets on 6 April, 2009 whereby the Corporate Debtor created a first *paripassu* in favour of the Financial Creditor over its entire movable fixed assets (both present and future) excluding assets exclusively charged to other lenders, if any, and second *paripassu* charge on



the entire current assets (both present and future) excluding assets exclusively charged to other lenders, if any. A copy of which has been marked as Annexure – H.

7. It is stated that in terms of the Facilities Agreement and the sanction letter dated 2nd March 2009, Mr Shyam Sunder Shah now deceased and Mr. Sundeep Shah who were also the promoters of the Corporate Debtor had executed an unconditional, irrevocable Deed of Guarantee dated 6th April, 2009 whereby they jointly and severally guaranteed to repay the amount due and payable under the facilities Agreement . A copy of the Deed of Guarantee dated 6th April, 2009 is annexed as Annexure I.
8. The Corporate Debtor created a mortgage by executing a Memorandum of Deposit dated 21 August, 2009 whereby the immovable property mentioned in part II therein (Junjer No. 74, Property No. 84 in Sy No. 39 admeasuring to an extent of 4 Acres 34 Guntas out of the total of 6 Acres 7 Guntas situated at Kammasandra Agrahara, village: Kasaba Hobili, Anekal, Taluk, Bangalore District) was secured on paripassu first charge basis to the Financial Creditor and State Bank of India and on second charge basis to the other lenders. A copy of which is annexed as Annexure J.
9. The Corporate Debtor created another mortgage by executing a Memorandum of Deposit dated 31st May, 2010 whereby the immovable property mentioned therein (Over 2 Acres 24 Guntas of land at Ankel, Village and Taluk Bangalore) was secured on pari passu first charge basis to the Financial Creditor and State Bank of India and on second charge basis to the other lenders A copy of such Memorandum of Deposit dated 31 May, 2020 is annexed as Annexure K.
10. The Corporate Debtor in the meanwhile was facing financial distress and towards the end of the year 2011, the Corporate Debtor was unable to pay the outstanding amounts of the Financial Creditor. The Corporate Debtor wanted to restructure its account under the Corporate Debt Restructuring Cell (CDR Cell). After several rounds of discussion, and due considerations the final restructuring package in respect of the Corporate Debtor was approved by the



Empowered Group of CDR at its meeting dated 20th December, 2011. A copy of which has been annexed as Annexure L.

11. The Financial Creditor also agreed to the restructuring package approved by the Empowered Group of CDR and had communicated such decision to the Corporate Debtor by its sanction letter no. CBG:EOU-724 dated 16th March, 2012. A copy of which is annexed as Annexure M.
12. In this regard, the Financial Creditor also entered into a Rupee Loan Agreement with the Corporate Debtor on 30th March, 2012 is annexed hereto and marked as Annexure N.
13. The Corporate Debtor executed a Deed of Hypothecation of movable assets on 30th of March, 2012 in favour of Financial Creditor whereby the Corporate Debtor hypothecated and created a charge in favour of the Financial Creditor on all its movable assets (both present and future) as mentioned in schedule III therein as security for the due observance, performance and discharge of its obligations and liabilities under the Loan Agreement. A copy of the Deed of Hypothecation is annexed hereto and marked as Annexure O.
14. The Corporate Debtor created mortgages by executing three Memorandums of Deposit dated 30th March, 2012 with State Bank of India whereby the following properties were secured on paripassu first charge basis to the Financial Creditor and State Bank of India and on second charge basis to the other lenders-
 - a. Plot No. 11A of Nanjangud Industrial Area, Situated in SY o. 184,185 & 169 of Kallahally, Village ChikkalahnaChatraHobli, Nanjangud Taluk, Dist- Mysore containing by admeasurement 58686.00 sqmtrs.
 - b. Junjer No. 74, Property No. 84 in Sy No. 39 admeasurig to an extent of 4 Acres 34 Guntas out of the total of 6 Acres 7 Guntas situated at KammasandraAgrahara, village: KasabaHobili, Anekal, Taluk, Dist- Bangalore.
 - c. Over 2 Acres 24 Guntas of land at Ankel, Village and Taluk Bangalore.



The Corporate Debtor further created a mortgage by executing Memorandum of Deposit dated 28 March, 2013 with State Bank of India where the entire immovable assets of the Corporate Debtor situated at Plot No. 209 in Sy No. 40 and 44 in the Bommasandra Industrial Area, Bommasandra Village, Attibele Hobli, Anekal Taluk, Bangalore District. Property was secured on *parripassu* first charge basis to the Financial Creditor and State Bank of India and on second charge basis to the other lenders.

Copies of such Memorandums of Deposits are annexed hereto and marked as Annexure P.

15. Thereafter, the Financial Creditor along with the State Bank of India and the Corporate Debtor had entered into a Master Restructuring Agreement dated 28 May, 2012 with the other lenders of the Corporate Debtor who were part of the consortium providing working capital to the Corporate Debtor. In terms of the Master Restructuring Agreement, the Corporate Debtor had irrevocably acknowledged and confirmed the existence of various credit facilities availed from different lenders. A copy is annexed hereto and marked as Annexure -Q.
16. Thereafter, the Financial Creditor along with other lenders entered into a Working Capital consortium Agreement dated 15 January, 2013 with the Corporate Debtor whereby the Allahabad Bank was recognized as the Lead Bank and the Corporate Debtor admitted of having availed the working capital facilities under the CDR restructuring scheme and undertook to open Cash Credit Accounts, Working Capital Term Loan Accounts, Term Loan Accounts as may be required to operate the said facilities, marked as Annexure- R.
17. Thereafter, the Financial Creditor along with the other lenders entered into an Inter Se Agreement dated 15th January, 2013 whereby the rights of each of the lenders were set out. A copy of this Inter Se Agreement is marked as Annexure- S.



18. The Corporate Debtor upon availing the facilities extended by various lenders amounting to Rs. 466,86,00,000/- executed a Joint Deed of Hypothecation of movable assets on 15th January, 2013 in favour of all the lenders including the Financial Creditor as required under the Working Capital Consortium Agreement dated 15th January, 2013. Copy of Joint Deed of Hypothecation is marked as Annexure- T.
19. Pursuant to the execution of the Working Capital Consortium Agreement, Mr Shyam Sunder Shah (deceased now) and Mr. Sundeep Shah executed a Joint Deed of Guarantee dated 15th January, 2013 for a principal sum not exceeding Rs. 466,86,00,000/- in favour of the lenders including the Financial Creditor. In terms of the Joint Deed of Guarantee Mr Shyam Sunder Shah(deceased now) and Mr. Sundeep Shah Jointly and severally undertook to be liable for repayment of all amount due and payable by the Corporate Debtor. A copy of which is annexed as Annexure- U.
20. In terms of the Master Restructuring Agreement/CDR approved package, the Corporate Debtor was required to open and operationalize the Trust and Retention Account where all the cash flows of the Corporate Debtor could be collected and appropriated in the accordance with the priority stipulated by the Lenders. In this regard, the Corporate Debtor entered into a Trust and Retention Account Agreement with the consortium members including the Financial Creditors on 15th January, 2013. A copy of the Trust and Retention Account Agreement dated 15th January, 2013 is annexed as Annexure-V.
21. Upon passing of considerable time, it was felt that the Corporate Debtor was unable to achieve the target as projected under CDR package and the timely payments were not being made. The Corporate Debtor was incurring continuous losses and the account has been classified as NPA with most of lenders and restructuring package has failed. These facts are recovered from minutes of meeting 20th of August, 2014 as Annexure- W.
22. The Corporate Debtor availed of the aforesaid credit facilities but failed to repay the said facilities in conformity with the terms and conditions on the basis of which it was granted and the Corporate Debtor started defaulting in



liquidating the outstanding/ dues under the credit facilities on account of interest as well as principal amount and the account of the Corporate Debtor was declared as a non performing asset (NPA).

23. Thereafter, the Financial Creditor was left with no option but to recall the loan sanctioned to the Corporate Debtor by its letter dated 11 September, 2014. A copy of the said letter is marked as Annexure- X.
24. By a letter dated 16 September, 2014 the Corporate Debtor expressed its inability to service the debts on time and had requested the Financial Creditor to consider one-time settlement proposal. A copy of letter is annexed as Annexure- Y.
25. Since the Corporate Debtor was not paying any heed to the requests of the Financial Creditor, it was constrained to issue a demand notice to the Corporate Debtor, Mr Shyam Sundar Shah and Mr Sundeep Shah under Section 13(2) of the SARFAESI Act, 2002 on 28 November, 2014 to jointly and severally make payment of Rs. 38,72,01,290.90 along with further interest thereon 14% per annum with respect to the said credit facility and additional interest by way of liquidated damages @ 1% per annum till the payment is made. The said demand notice dated 28 November, 2014 along with a copy of the postal receipts and A/D cards are annexed hereto and marked as Annexure BB.
26. The Corporate Debtor respondent to such letter after the completion of the statutory period of 60 days on 3 February, 2015 stating that no action should be taken against the Corporate Debtor at this stage as it would adversely affect the restructuring of the company. It was further stated that the Corporate Debtor had applied for reference under Sick Industrial Companies Act, 1985 with the Board of Industrial and Financial Reconstruction. Subsequently, the Financial Creditor had issued a reply by its letter dated 17 February, 2015 to the Corporate Debtor, Mr Shyam Sunder Shah and Mr Sundeep Shah stating, inter alia, that the Corporate Debtor is using the BIFR as a mode of evading the recovery action initiated by the consortium. A copy of letters dated 3 February, 2015 is marked as Annexure CC.



27. Thereafter, the Financial Creditor had issued various letters including letters dated 9 April 2015 which were duly acknowledged by the Corporate Debtor without demur and protest. The Corporate Debtor further confirmed the outstanding amount as mentioned in the balance confirmation letters dated 9 April, 2015. The Confirmation from the Corporate Debtor was evident from the bare perusal of the letters. Although, the Corporate Debtor has admitted and acknowledged the outstanding due to the Financial Creditor, it has time and again failed to make any payment. Further a bare perusal of the Annual Report of the Corporate Debtor for the FY 2018-2019 would show that the Corporate Debtor has admitted and acknowledged the debts owed to the Financial Creditor. Copy of this is marked as Annexure – DD.
28. The Financial Creditor was constrained to initiate the proceedings under Section 19 of The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 before the Debt Recovery Tribunal, Kolkata against the Corporate Debtor, Mr Shyam Sunder Shah and Mr. Sundeep Shah praying, inter alia, for certificate for payment of Rs. 47,34,22,894.05 with further interest @ 14% per annum from 13 September, 2016.
29. While one of the guarantors Mr. Shyam Sunder Shah had passed away, the application against the Corporate Debtor and its personal guarantor being O.A No. 77 of 2016 is still pending before the DRT, Kolkata.
30. In the meanwhile, the Financial Creditor has come to know that all the other lenders of the Corporate Debtor have either made one-time settlement and/or had assigned their debts to Assets Reconstruction Companies and the Financial Creditor along with ASREC, who has been assigned the term loan sanctioned by State Bank of India to the Corporate Debtor are the only existing term loan lenders. The Corporate Debtor had made various offers to the Financial Creditor for one-time settlement by its letters dated 21 December, 2015, 16 August 2017, 13 October 2017, 22 December 2017, 28 February 2018, 31 January 2019, 2 March 2019. However, the Financial Creditor did not accept such offers as the value of such offers were very low and the value of the assets of the Corporate Debtor is significantly higher than



the amount owed by the Corporate Debtor. The Financial Creditor has clearly communicated the reasons for non-acceptance of one-time settlement offers to the Corporate Debtor and had again reminded the Corporate Debtor to make payment of the outstanding amount. In this regard, a letter was issued by the Financial Creditor dated 8 February, 2019 and vide e-mail dated 4 March, 2019. The Copies of which are marked as Annexure- EE. The part payments received by the Financial Creditor from the Corporate Debtor till date is approximately Rs. 2,65,00,000/-

31. In the facts and circumstances, it is clear that the Corporate Debtor after duly availing the credit facilities granted to it had committed defaults from time to time and have completely failed in repaying the loan amount. The certified copies of Statement of Accounts in respect of the aforesaid Loan Account, maintained by the Financial Creditor in regular course of business duly certified under the Bankers' Books Evidence Act are annexed as Annexure- FF. It would be evident from the statement of accounts that the total outstanding amount to be paid by the Corporate Debtor as on 10th February, 2020 is Rs. 69,06,65,379/-
32. The total amount outstanding as of 10 February 2020 is Rs. 69,06,65,379. The loan was recalled by the Financial Creditor on 11 September 2014. Thereafter, the Corporate Debtor by its various letters including the letter dated 2nd March, 2019 had acknowledged the debt and proposed onetime settlement which was not acceptable to the Financial Creditor.
33. Part 5 contains the particulars of financial debt documents, records and evidence of default. The date of default is claimed to be 2nd of March, 2019 whereby the Corporate Debtor acknowledged and proposed one time settlement which was not acceptable to the Financial Creditor.
34. The CD has repeatedly admitted and acknowledged its's liability in various letters written by the CD offering proposals for One Time Settlement. Particulars of such letters are as follows:-
 - Letter dated 21.12.2015 (Pg 506 of CP)
 - Letter dated 16.08.2017 (Pg 508 of CP)



Letter dated 13.10.2017 (Pg 509 of CP)

Letter dated 28.02.2018 (Pg 517 of CP)

Letter dated 14.03.2018 (Pg 545 of CP)

Letter dated 31.01.2019 (Pg 547 of CP)

Letter dated 08.02.2019 (Pg 548 of CP)

Letter dated 02.03.2019 (Pg 550 of CP)

35. On 17 February, 2017 the petitioner filed an original application 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 before the Debt Recovery Tribunal, Kolkata against both the Corporate Debtor and its personal guarantors, being O.A. No. 77 of 2017 on, which is still pending [Pg 22, Para 27 CP].
36. Debt admitted in the Balance Sheet for FY 2018-19 [Pg 426 at Pgs. 484 and 495 of CP].

Submissions by the Corporate Debtor in its Reply

37. The Corporate Debtor had taken loan facilities from a consortium of 11 Banks.
38. Subsequently, a CDR Scheme of the CD was undertaken and Allahabad Bank was designated as the Lead Banker. The Corporate Debtor was honouring the commitments under the CDR Scheme, *inter alia*, by infusing a sum of Rs. 14.66 Crores through the promoter and not redeeming its preference shares of Rs. 14.79 Crores due for redemption in April 2020 till such time as the entire dues of Banks and Financial Institutions were repaid.
39. The OTS after offer of the Corporate Debtor was not considered by the Lead Bank and the Corporate Debtor revised the OTS offer to Rs. 160 Crores on 29.05.2014 and finally to a sum of Rs. 170 Crores on 28.06.2014
40. On September 11, 2014, the Financial Creditor recalled the loan granted to the Corporate Debtor
41. As the CDR Projections were not in accordance with the prevalent market at the relevant point in time, the Corporate Debtor started approaching the



members of the Consortium individually for bilateral settlement or through Asset Reconstruction Companies as follows:

- i. ICICI Bank, settled bilaterally on 09.04.2015
- ii. State Bank of Hyderabad, settled bilaterally on 24.04.2015
- iii. Canara Bank & UCO Bank, Assigned their debts to the Edelwise Asset Reconstruction Company Limited and the Edelwise Asset Reconstruction Company Limited entered into settlement arrangement with the Corporate Debtor vide letter dated 28.10.2015 for a total sum of Rs. 45.80 Crore.
- iv. State Bank of Mysore, settled bilaterally on 15.03.2016.
- v. Federal Bank assigned its debt to the Edelwise Asset Reconstruction Company Limited and the Edelwise Asset Reconstruction Company Limited entered into settlement arrangement with the Corporate Debtor vide letter dated 01.06.2016 for a total sum of Rs. 9.00 Crore.
- vi. Small Industries Development Bank of India, settled bilaterally on 11.08.2016.
- vii. State Bank of India, Assigned their debts to ASREC (India) Limited (**ASREC**) and the Corporate Debtor entered into settlement arrangement with ASREC vide letter dated 08.08.2017.
- viii. State Bank of India, Assigned their debts to ASERC(India) Limited (**ASREC**) and the Corporate Debtor entered into settlement arrangement with ASREC vide letter dated 08.08.2017.
- ix. Allahabad Bank, Assigned their debts to Omkara Assets Reconstructions Pvt. Ltd. (**Omkara**) and the Corporate Debtor entered into settlement arrangement with Omkara.
- x. Union Bank assigned its debts to Invent Assets Securitisation & Reconstruction Pvt. Ltd. (Invent) and the Corporate Debtor entered into settlement arrangement with Invent on 17.04.2017.



In this regard, copies of the No Dues Certificates given by ICICI Bank, State Bank of Mysore, State Bank of Hyderabad, SIDBI and Union Bank of India are annexed hereto and marked as Annexure- R1.

42. From the foregoing, it will be evident that the CD has at all times been diligent and sincere in repayment of its debts. The Financial Creditor has maliciously instituted the instant proceedings although the CD has made several One Time Settlement offers to the Financial Creditor none of which were accepted by the Financial Creditor.

Orders

43. We have heard the Ld. Senior Counsel appearing on behalf of the Financial Creditor and the Ld. Counsel appearing on behalf of the Corporate Debtor. The issue involves in this instant matter is ***‘whether the Petition under section 7 of the Code is barred by limitation or not?’***
44. Upon perusal of the record it is apparent that transaction between the parties was purely financial in nature and from time to time the terms and conditions were also revised. Further, the balance sheet of the Corporate Debtor for the Financial Year 2018 -2019 reflects that there are admitted dues of the Financial Creditor, which are duly acknowledged by the Corporate Debtor ***(at page 437 of the Petition)***.
45. We also noticed that the through various letters dated 21 December, 2015 ***(at page 506 of the Petition)***, 16 August, 2017***(at page 508 of the Petition)***, 13 October 2017 ***(at page 509 of the Petition)***, 28 February, 2018 ***(at page 517 of the Petition)***, 31 January, 2019 ***(at page 547 of the Petition)*** and 02 March, 2019 ***(at page 550 of the Petition)*** the Corporate Debtor acknowledged the debt and tried to settle the same.
46. In ***Laxmi Pat Surana V. Union Bank of India & Anr, decided*** on March 21, 2021, the Hon’ble Supreme Court has held that.
- “37. Ordinarily, upon declaration of the loan account/debt as NPA that date can be reckoned as the date of default to enable the financial creditor to initiate action under Section 7 of the Code. However, Section 7 comes into***



play when the corporate debtor commits "default". Section 7, consciously uses the expression "default" not the date of notifying the loan account of the corporate person as NPA. Further, the expression "default" has been defined in Section 3(12) to mean non-payment of "debt" when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be. In cases where the corporate person had offered guarantee in respect of loan transaction, the right of the financial creditor to initiate action against such entity being a corporate debtor (corporate guarantor would get triggered the moment the principal borrower commits default due to non-payment of debt. Thus, when the principal borrower and/or the (corporate) guarantor admit and acknowledge their liability after declaration of PA but before the expiration of three years there from including the fresh period of limitation due to (successive) acknowledgments, it is not possible to extricate them from the renewed limitation accruing due to the effect of Section 18 of the Limitation Act. Section 18 of the Limitation Act gets attracted the moment acknowledgment in writing signed by the party against whom such right to initiate resolution process under Section 7 of the Code enures. Section 18 of the Limitation Act would come into play every time when the principal borrower and/or the corporate guarantor (corporate debtor), as the case may be, acknowledge their liability to pay the debt. Such acknowledgment, however, must be before the expiration of the prescribed period of limitation including the fresh period of limitation due to acknowledgment of the debt, from time to time, for institution of the proceedings under Section 7 of the Code. Further, the acknowledgment must be of a liability in respect of which the financial creditor can initiate action under section 7 of the Code."

47. In **Rajendra Narottamdas Sheth and Another v. Chandra Prakash Jain and Another**¹, the Hon'ble Supreme Court

¹ 2021 SCC OnLine SC 843



“23. It is no more res integra that Section 18 of the Limitation Act is applicable to applications filed under Section 7 of the Code. In case the application under Section 7 is filed beyond the period of three years from the date of default and the financial creditor furnishes the required information relating to the acknowledgement of debt, in writing by the corporate debtor, before the Adjudicating Authority, with such acknowledgement having taken place within the initial period of three years from the date of default, a fresh period of limitation commences and the application can be entertained, if filed within this extended period.”

48. In light of the above facts and circumstances there has been continuous acknowledgement by the Corporate Debtor, which would extend the limitation period from time to time.
49. From the records produced before the Adjudicating Authority, it is clear that there is a debt due and payable by the Financial Creditor to the Corporate Debtor and there is a default on the part of the Corporate Debtor.
50. It is also apparent from the above referred record that there is an admission of debt by the Corporate Debtor through various documents as indicated herein.
51. The present petition filed by the Financial Creditor is complete in all respects as required by law. The Petition establishes that the Corporate Debtor is in default of a debt due and payable and that the default is more than the minimum amount stipulated under section 4 (1) of the Code, stipulated at the relevant point of time.
52. Accordingly, it is, hereby ordered as follows:-
 - (a) The application bearing **C.P (IB) No. 588/KB/2020** filed by Export-Import Bank of India, the Financial Creditor, under section 7 of the Code read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against Eastern Silk Industries Limited, the Corporate Debtor, is **admitted**.
 - (b) There shall be a moratorium under section 14 of the IBC.



- (c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (e) **Mr. Anil Agarwal**, registration number **IBBI/IPA-001/IP-P00270/2017-2018/10514**, email: **anil@dvaonline.in**, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the Code.
- (f) During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow. No separate notice for cooperation by the suspended management should be expected.
- (g) The IRP/RP shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.



- (h) The Financial Creditor shall deposit a sum of **Rs.5,00,000/- (Rupees Five Lakh only)** with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (i) In terms of section 7(5)(a) of the Code, Court Officer of this Court is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (j) Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, Kolkata by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.
53. **C.P (IB) No. 588/KB/2020** to come up on **29 July, 2022** for filing the periodical report
54. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

HARISH
CHANDER
SURI

Digitally signed by
HARISH CHANDER SURI
Date: 2022.06.10
16:36:22 +05'30'

Harish Chander Suri
Member (Technical)

ROHIT
KAPOOR

Digitally signed by
ROHIT KAPOOR
Date: 2022.06.10
15:55:53 +05'30'

Rohit Kapoor
Member (Judicial)

The Order is pronounced on 10th day of June, 2022

SA, LRA