



Shri Lakshmi Cotsyn Limited

(An ISO 9001:2008, ISO 14001:2004, OHSAS 18001:2007, SA8000:2008 Accredited Company)

Regd. office : 19/X-1, Krishnapuram, G.T. Road, Kanpur-208 007 U.P. India

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e-mail : shri@shrilakshmi.in • CIN : L17122UP1988PLC009985

Date: 05/06/2018

The Corporate Relationship Deptt.
BSE Limited
Floor 25, P.J. Tower, Dalal Street,
Fort, Mumbai-400001
Scrip code: 526049

National Stock Exchange of India Ltd.
Exchange Plaza, Plot No. C/1,
G- Block, Bandra Kurla Complex,
Bandra (E), Mumbai 400051
Scrip symbol: SHLAKSHMI

Dear Sir/Madam,

**Re: Submission of Disclosure of Event in pursuance of Regulation 30 of SEBI
(Listing Obligations and Disclosure Requirements) Regulations, 2015 .**

Pursuant to the provisions of Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, we wish to inform you that:

1. An Application was filed under Section 7 of Insolvency and Bankruptcy Code 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule 2016 before the National Company Law Tribunal (NCLT) Allahabad Bench by the Union Bank of India for initiating Corporate Insolvency Resolution Process against the Company and the same was admitted on 30th May 2018.
2. The NCLT pronounced its Order on 30th May, 2018 and uploaded on its website on 1st June 2018 and declared moratorium under the provisions of Section 13 and 14 of the Code. A copy of the said Judgment/ Order is enclosed herewith for your record.
3. Mr. Rohit Sehgal, Insolvency Professional Registration no. IBBI/IPA-001/IP-P00528/2017-18/10953 has been appointed to act as Interim Resolution Professional (IRP) under the Code.

Kindly take the same on record. Further you are requested to advice in case of any other disclosures/ information's required in regard to the aforesaid matter.

Thanking you,

Yours faithfully,
For SHRI LAKSHMI COTSYN LTD.


Rakesh Kumar Srivastava
(Company Secretary cum Finance Controller)
Encl: As above

Corporate & Marketing Office :

C-40, Sector 57, Gautam Budh Nagar, NOIDA (U.P.) • Tel. : 0120-4722700 Fax : 0120-4722722
website : www.shrilakshmi.in • E-mail : noida@shrilakshmi.in

UNITS : MALWAN • AUNG • ABHAYPUR • REWARI BUZURG • ROORKI • SONIPAT • NOIDA

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH

Company Petition (IB)No.142/ALD/2018

(Under Section 7 of Insolvency and Bankruptcy Code,2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule,2016)

IN THE MATTER OF:

Union Bank of India
(Asset Recovery Branch
D26/28 First Floor, Connaught Place
New Delhi-110011)

.....Financial Creditor/ Applicant

VERSUS

M/s Shri Lakshmi Cotsyn Limited
(Having its Registered Office at
19/X-1, Krishnapuram,
GT Road, Kanpur-208007

.....Corporate Debtor

JUDGMENT/ORDER DELIVERED ON 30.05.2018

CORAM :

Sh. V.P. Singh, Hon'ble Member (Judicial)
Ms Saroj Rajware, Hon'ble Member (Technical)

For the Applicant/ Financial Creditor: Sh. Sandeep Arora, Adv.
For the Respondent/ Corporate Debtor: Sh. Abhishek Anand, Adv.
alongwith
Ankit Singh,PCS.

AS PER: V.P Singh, Member(Judicial)

Order/Judgment

1. The present petition is filed under Section 7 of Insolvency and Bankruptcy Code,2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule,2016 by the Applicant i.e. **Union Bank of India** for initiation of Corporate Insolvency Resolution Process against the respondent/ corporate debtor company "**M/s Shri Lakshmi Cotsyn Limited**".

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2. The Applicant **Union Bank of India** is a corporate body incorporated on 11.11.1919 under the provision of the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 with Identification No U99999MH1919PTC000615UBI, involved in business of banking. Sh. Rajesh Kumar (A.G.M) (Law) has filed this application on behalf financial creditor by authorisation letter dated 04.10.2017.
3. The Respondent/Corporate Debtor "**M/s Shri Lakshmi Cotsyn Limited**" is a company incorporated on 31st August 1988 under the provision of Companies Act, 1956, bearing Identification Number L17122UP1988PLC009985.
4. The Authorized Share Capital of corporate debtor company is 5,00,00,0000/- (Fifty Crore) and Paid-up Share Capital is ₹284,706,464 (Rupee Twenty Eight Crore Forty Seven Lakh Six Thousand Four hundred Sixty Four Only). It is involved in business of spinning, weaving and finishing of textiles.
5. Brief facts related to petition are as follows:
 - (i) The Corporate Debtor approached Applicant i.e **Union Bank of India(UBI)** seeking financial assistance of total of Rs. 389.29 crore (Cash credit (CC) of Rs.80.23 crore, and various term loan of Rs.23.91Cr,Rs.39.94 Cr,Rs.7.91 Cr,Rs.54.77Cr,Rs.15.86Cr,Rs 34.86 Cr,Rs.5.97Cr,Rs50 Cr,and Rs.75.83Cr.) Union Bank of India sanctioned the amount requested by the corporate debtor as per the terms and condition stipulated in the sanction letter dated 27.06.2013.

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- (ii) The corporate debtor accepted the terms and conditions of the credit facilities sanctioned by the Union Bank of India and executed the loan and security documents by the terms and condition of sanction letter in favour of UBI, Applicant has annexed copy of composite hypothecation deed dated 27.06.2013 which is marked as **Exhibit-19**.
- (iii) Corporate Debtor defaulted in repayment of dues of UBI and in terms of the RBI guidelines account of the Corporate Debtor was declared as Non-Performing Asset(NPA).
6. Further, a perusal of record shows that amount claimed to be in default is of **Rs.528,90,23,899.29/- (Five Hundred Twenty-Eight Crore Ninety Lakh Twenty-Three Thousand Eight Hundred Ninety-Nine Only)**.
7. Corporate Debtor has also filed reply/objection to the present application, and points taken by corporate debtor against the application are as follows:-
- (i) That the applicant has not approached the Tribunal with the clean hands and they have concealed material facts from the tribunal that there was problem arising out of Industry situation i.e. slowdown and company specific issues such as growing debt, delayed realisation of debtors, working capital shortfall, delay in project completion and cash flow mismatch, adversely affecting the liquidity position of the company.

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- (ii) That power of attorney holder is not empowered to file present Insolvency application and Mr. Rajesh Kumar has no valid/proper Authorization to file present application. Corporate debtor relied on the Judgement of Hon'ble NCLAT in matter of ***Palogix Infrastructure Pvt.Ltd v ICICI Bank Limited, Company Appeal (AT) (Insol) No.30 of 2017*** and stated that power of attorney dated 11.08.2017 as annexed with application only grants limited power to attorney holder.
- (iii) Secondly objected that this application is not maintainable on the ground that the present application is not filed by the Lead Bank of Consortium Lenders Bank, which is Central Bank of India. The present application has been filed by the Union Bank of India, whereas the proceedings before the DRT, Delhi has been initiated by the Central Bank of India (Lead Bank) and including applicant, hence this application is not maintainable.
- (iv) Further alleged that Applicant has not furnished account statement as per the Section 2-A(a), 2-A(a) and 2-A(c) of Bankers Evidence Act, 1891, and stated that Compliance of Section 3(a) of Section 7 of the IB code is mandatory, hence the present application is not supported with any such evidence and the statement of account annexed by the applicant cannot be relied upon, hence application need to be rejected.
- (v) Further submitted that applicant has not complied with the provision of Section 3(a) of Section 7, which stipulates that financial creditor shall along with the application furnish the record

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of the default recorded with information utility or such other record or evidence of default as may be specified and taken support of the Hon'ble NCLAT view in the case "Smart Timing Steel Limited v/s National Steel & Agro Industries Ltd- Company Appeal (AT) (Ins) No. 28/2017 stating that it is held that the provision of sub-section 3(a) of section 7 is mandatory, hence the present application deserves to be dismissed.

8. Applicant has also filed reply to the objection and clarified to the objection of the corporate debtor stating that:

- (i) Section 7 of the IB code allows financial creditor either by itself or jointly with other financial creditor to file an application to initiate CIRP on default by the corporate debtor.
- (ii) Further submitted that it is settled proposition of law, if a statement of account is submitted duly certified by the bank officer, then entries of the said account has to be treated as sufficient evidence, moreover, on account of default committed by the corporate debtor, accounts of the corporate debtor have already rendered Non- Performing Asset and stand transfer to Asset Recovery Branch of the applicant bank, hence while discharging his official duties he is dully authorized to produce any evidence. Hence stated that this tribunal should not consider such hyper technical objection and allow the application.

9. Heard the Ld. Counsel for the parties and perused the record.

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10. On perusal of the application along with the annexures and the objections filed by the Corporate Debtor, it is crystal clear that the Corporate Debtor has neither disputed granting the working capital facility or the financial facilities granted, nor disputed the occurrence of due amount, even they have given undertaking letter, but in its reply only taken the various technical objection that Power of Attorney given by financial creditor being defective, there is non compliance of sub section 3(a) of Section 7 of the application, Application not complete as mandated in Form and application is not filed by the lead bank etc.
11. In support of the objection taken by the Corporate Debtor for the defective power of attorney, counsel for the Corporate Debtor has relied on the Judgment of the Hon'ble NCLAT in a matter of "**Company Appeal (AT) (Insol.) No.30/2017 "Palogix Infrastructure Pvt Ltd v/s ICICI Bank Limited"** stating that power of attorney filed by the applicant/financial creditor is not specific and is not accordance with IB Code hence this petition is liable to get rejected on this count alone.
12. It is relevant to reproduce the Para 38, Para 39 of this Judgement which reads as under: -

(38) "This apart, if an officer, such as senior Manager of a Bank has been authorised to grant loan, for recovery of loan or to initiate a proceeding for 'Corporate Insolvency Resolution Process' against the person who have taken loan, in such case the 'Corporate Debtor' cannot plead that the officer has the power to sanction loan, but such officer has no power to recover the loan amount or to initiate 'Corporate Insolvency Resolution Process', in spite of default of debt.

(39) If a plea is taken by the authorised officer that he was authorised to sanction loan and had done so, the application under section 7 cannot be rejected on the ground that no separate specific authorization letter has been issued by the 'Financial Creditor' in favour of such officer designate.

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13. In the light of orders of Hon'ble NCLAT in the above mentioned case it is clear that defence taken by Corporate Debtor is not sustainable and It is pertinent to mention that petitioner has filed a special power of attorney which is Exhibit A 1, which shows that Sri Rajesh Kumar, who has filed this petition on behalf of Financial Creditor, i.e. Union Bank of India has been authorised by Special Power of Attorney executed on 11 August 2017 whereby he has been authorised "to accept service of any writ, summons or other legal process (whether under or without protest) including legal proceedings under the Insolvency and Bankruptcy Code 2016, and to appear, whether under or without protest, and represent the bank in any court or tribunal (which includes, but is not limited to the National company Law Tribunal and/or National Company Appellate Tribunal)----- concerning any debt, dues, claims or demand or any right, title, interest, property, claim, matter or thing----- by the bank and/or affecting the bank in any manner whatsoever by any means or any account whatsoever."

The other specific power of attorney authorises Sri Rajesh Kumar to initiate proceeding under insolvency and bankruptcy code on behalf of financial creditor, i.e. Union Bank of India. Therefore, objection of the corporate debtor in this regard is baseless.

14. The learned counsel for the corporate debtor has emphasised that the petitioner has not filed any document to show the record of default recorded with information utility. Therefore, the petition is hit by the provision of section 7 (3) (a) of I & B Code 2016. It is important to go

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through a statutory provision of section 7 (3) (a) of IB code, which is as follows;

"7. Initiation of corporate insolvency resolution process by financial creditor.— (1) A financial creditor either by itself or jointly with other financial creditors may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.

Explanation.— For the purposes of this sub-section, a default includes a default in respect of a financial debt owed not only to the applicant financial creditor but to any other financial creditor of the corporate debtor.

(2) The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed.

(3) The financial creditor shall, along with the application furnish—

- (a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;

15. By going through the above mention statutory provision, it is clear that the financial creditor has to prove record of default either by the document relating to the information utility or by any other evidence. It is important to prove the default by the corporate debtor which may be either by default recorded with information utility or by other evidence showing default. In this case, the petitioner has filed CRILC report which is Exhibit 33, this shows that the corporate debtor's account with Union Bank of India has an outstanding (funded+ non-funded when the borrower classified as SMA2) balance of ₹ 370.61 crores. The said the status of the account is relating to 1 February 2014 on 1 January 2014. It is also clear from the information utility report that the account of borrower has been classified as doubtful. Therefore, in this case financial creditor has complied with the provision of Section 7 (3) (a) of IB code 2016. Thus it appears that the corporate debtor's objection in this regard is also not sustainable.



16. The learned counsel for the corporate debtor has further alleged that Applicant has not furnished account statement as per the Section 2-A(a), 2-A(a) and 2-A(c) of Bankers Book of Evidence Act, 1891, and stated that Compliance of Section 3(a) of Section 7 of the IB code is mandatory, hence the present application is not supported with any such evidence, and the statement of account annexed by the applicant cannot be relied upon. Hence application need to be rejected.
17. In this regard, it is pertinent to mention that the financial creditor has filed the statement of account which is Exhibit A 6 (page 51 to 89) with the petition. Certificate of bank issued under section 2A(A) of the Bankers Book of Evidence Act, 1891 is also authorised as page number 90 of the petition. The calculations chart of up-to-date balance is given at ways number 91 (Exhibit A 16) of the petition. Thus it is clear that the corporate debtor's objection in this regard is baseless.
18. Ld. Counsel for the financial creditor submitted that in order to prove the existence of the financial debt, they have annexed the copy of the following documents:
- (i) Demand Promissory Note dated 27.06.2013 for Rs.389.29 Cr, 23.91 Cr, 39.93 Cr, 7.91 Cr, 54.77 Cr, 15.86 Cr, 34.86 Cr, 5.97 Cr, 50 Cr, 80.23 Cr and 75.83 executed by M.P Agarwal in favour of the applicant bank, M.D of the Corporate Debtor Company
(Copy D.P notes is annexed as Exhibit-18)
 - (ii) Applicant have also annexed Deed of Personal Guarantee of Mr. Pawan Kumar Agarwal, Sharda Agarwal and M.P. Agarwal (Directors of the Corporate Debtor Company) and Deed of

Corporate Gaurantee executed by M/s Galaxy Capital Finance Ltd, M/s Shri Lakshmi Defence Solution Ltd, M/s Nutech Steel Ltd and M/s Asian Pacific Continental Ltd for loan of Rs.389.29 Cr dated 27.06.2013. (***Copy of Deed of Personal Gaurantee and Corportae Gaurantee is annexed as Exhibit No.28,29,30,31,32)***

(iii) Applicant/ Financial Creditor has also annexed CIBIL report of Corporate Debtor to show default. (***Copy of CIBIL report is annexed as Exhibit No.34)***

(iv) Also annexed the undertaking/consent letter of the Corporate Debtor (***Marked and annexed as Exhibit 24 in the application).***

19. In the aforesaid background, an application on behalf of financial creditor/ Applicant is complete, and no disciplinary proceeding is pending against proposed IRP. Financial Creditor has suggested the name of Rohit Sehgal, Registration Number IBBI/IPA-001/IP-P00528/2017-18/10953 for appointment as Interim Resolution Professional(IRP). He has filed a declaration in form 2 affirming that he is registered insolvency professional and no disciplinary proceedings are pending against him.

20. There is default in the payment of the financial debt. Therefore, as per section 7(5)(a) of the code, the present application filed U/S 7 of the I B Code deserves to be admitted.

21. Application on behalf of financial creditor/ Applicant filed U/S 7 of the I & B Code 2016 for initiation of corporate Insolvency process is admitted.

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22. A moratorium under the provision of section 13 & 14 of the Code is declared prohibiting the following:

- (i) *The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*
- (ii) *Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*
- (iii) *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);*
- (iv) *The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.*

It is further directed that:

- (i) *The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period*
- (ii) *The provision of sub-section (1) shall not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.*

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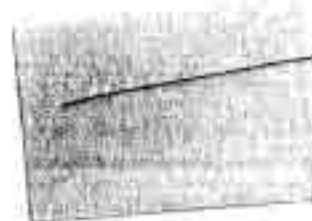
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23. Mr. Rohit Sehgal, Registration Number IBBI/IPA-001/IP-P00528/2017-18/10953 is appointed as Interim Resolution Professional(IRP).
24. The IRP shall comply with the Provision of Section 13(2), 15,17 &18 of the Code. Further, the Directors, Promoters or any person associated with the Management of the Corporate Debtor are directed to co-operate to the IRP as prescribed under Section 19 and for discharging his function under a provision of section 20 of the Code.
25. The Registry is further directed to communicate this order to Financial Creditor and Corporate Debtor and IRP through email and speed post. List on 14.06.2018 for the filing of the progress report.

Dated: 30.05.2018



(Ms. Saroj Rajware)
Member (Technical)



(V.P. Singh)
Member (Judicial)