

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH  
COURT III**

**C.P. (IB) 1028/NCLT/MB/2022**

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

*In the matter of*

**Omkara Assets Reconstruction  
Private Limited**

Having its registered office at:  
No. 9, M.P. Nagar First Street,  
Kongu Nagar Extension  
Tirupur – 641607

Having its Corporate Office at:  
C/515, Kanakia Zillion, Junction of  
LBS Road and CST Road, BKC  
Annexe, Near Equinox, Kurla (W),  
Mumbai - 400070

**...Financial Creditor**

**Vs**

**Chemstar Organics (India) Limited**

PNB house, Phirozsha Mehta Road,  
Fort, Mumbai - 400001

**.....Corporate Debtor**

**Reserved for order on: 15.11.2022**

**Order Pronounced on: 06.12.2022**

**Coram:**

**Hon'ble Shri H.V. Subba Rao, Member (Judicial)**

**Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)**

**For the Petitioner:** Mr. Nikhil Rajani, Advocate

**For the Respondent:** None Appeared

**Per:** *Shri H.V. Subba Rao, Member (Judicial)*

1. This Company petition is filed by *Omkara Assets Reconstruction Private Limited* (hereinafter called “Operational Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Chemstar Organics (India) Limited* (hereinafter called “Corporate Debtor”) by invoking the provisions of Section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter called “Code”) read with Rule of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for resolution of a sum of Rs. 11,87,21,370 (Rupees Eleven Crores Eighty Seven Lakhs Twenty One Thousand Three Hundred and Seventy only) being an Operational Debt due and payable by the Corporate Debtor.
  
2. The brief facts of the case are as follows:
  - i. The Applicant a Financial Creditor filed petition U/s. 7 of Insolvency and Bankruptcy Code, 2016 to initiate Corporate Insolvency Resolution Process (‘CIRP’) against Chemstar Organics (India) Limited, the Corporate Debtor.
  - ii. The Applicant states that since October, 1997, Corporate Debtor was enjoying credit facilities from Gujarat Industrial Investment Corporation Limited (‘GIIC’) who under its Loan Agreement dated 06.10.1997 granted sanctioned and disbursed various credit facilities to Corporate Debtor. GIIC cancelled and recalled sanction of facility of term loan facility of 200 Lakhs out of 500 Lakhs in accordance with Supplemental to Loan Agreement.
  - iii. The Applicant states that the GIIC sanctioned, granted and disbursed additional Term Loan Facility of Rs. 200 Lakhs and 195 Lakhs. Bank of Baroda being a lead Bank to the consortium while acting as an agent of GIIC is holding all the Original Title deeds.

- iv. The Corporate Debtor has defaulted in payment of interest and repayment instalment, Assignor Bank (GIIC) initiated action to recover the dues. Pursuant to the Notification received from Industrial Commissionerate Government of Gujarat under G. R. dated 19.09.2018 and GIIC had approved One Time Settlement Proposal under its letter dated 15.02.2018.
- v. Further, the GIIC assigned all the debt due and payable by the Respondent / Corporate Debtor under the Assignment Deed dated 14.08.2018 to the present Applicant. The NOC issued by the Applicant and Bank of Baroda through its Assignee Edelweiss Asset Reconstruction Company Limited, and the Respondent proceeded to transfer share to Edelweiss Asset Reconstruction Company Limited amounting to Rs. 125 Lakhs and by letter dated 04.02.2019 proposed to make Rs 375 Lakhs to Applicant under prorata share and once again Rs 235 Lakhs in one shot within 6 (six) months from the date of receipt of sanction with a grace period of 3 (three) months at simple rate of interest @ 18% p.a.
- vi. The Applicant conveyed released its charge on secured assets situated at Nandesari and its approval receive balance amount of Rs. 255 Lakhs on or before 31.08.2019 in view of its letter dated 03.04.2019. And by its letter dated 16.04.2019 sought extension of time to make the payment of the final One Time Settlement ('OTS') instalment of Rs. 235 Lakhs up to 31.03.2020, after making the aforesaid part payment, the Respondent failed to pay the amount and the Applicant by email dated 03.10.2019, 14.10.2019, 26.11.2019, 10.12.2019, 21.12.2019 called upon respondent to clear the dues.
- vii. The Applicant by its letter dated 08.01.2020 proceeded to revoke the approval of OTS proposal conveyed vide its

letter dated 03.04.2019 and called upon to make payment within 10 (ten) days. The Respondent failed to reply the said revocation notice and hence the cause of action arises for not complying with terms of OTS and hence, the date of default occurs on 08.01.2020/19.01.2020.

viii. The Applicant by its letter dated 01.02.2022 pleased to clarify that the extension of time for payment of OTS instalment was granted till 31.03.2020 vide its letter dated 19.04.2019. The Applicant by invoking provisions of SARFAESI Act, 2002 also to issue its Notice dated 22.06.2021 issued under Section 13 (2) of SARFAESI Act calling upon Rs. 10,51,18,900/- (Rupees Ten Crores Fifty One Lakhs Eighteen Thousand and Hundred only) due and payable as on 20.06.2021. As no payment was forthcoming, despite aforesaid notice, the Applicant has proceeded to take symbolic possession and in compliance of provision of Security Interest (Enforcement) Rule, 2002.

ix. Therefore, the Applicant has filed the present application under Section 7 of the I.B. Code, 2016 to recover the total debt amount of Rs. 11,87,21,370 (Rupees Eleven Crores Eighty Seven Lakhs Twenty One Thousand Three Hundred and Seventy only).

3. The matter was listed for the first time on 28.09.2022 whereby the Applicant was directed to issue notice to the Corporate Debtor to file reply. The Applicant was also directed to issue original postal receipt, track report, email etc., as per the instructions of this Tribunal the Applicant duly submitted the same through an Affidavit of Service dated 14.10.2022.

4. Even after following all the necessary means of communication/ intimidation from the Applicant not only the Corporate Debtor failed to file reply but also failed to make representation before this Bench. Therefore, the Corporate Debtor was set ex-parte vide an order of this Bench dated 15.11.2022.
  
5. Heard the submissions of Mr. Nikhil Rajani counsel appearing for the Financial Creditor and perused the material available on record. Mr. Nikhil Rajani counsel appearing for the Financial Creditor invited the attention of this Tribunal to the following documents which are filed with the Company Petition to prove the existence of “debt” and “default”:
  - i. The Deed of Hypothecation dated 06.10.1997 by the Financial Creditor in favour of Gujarat Industrial Investment Corporation Limited annexed as ‘Exhibit – C’ at Page No. 20 of the Company Petition.
  - ii. The Assignment Letter dated 14.08.2018 assigned by the Gujarat Industrial Investment Corporation Limited to the Financial Creditor annexed as ‘Exhibit – D’ at Page No. 40 of the Company Petition.
  - iii. The letter dated 18.09.2018 addressed by the Financial Creditor to the Respondent / Corporate Debtor giving intimation of debt along with the underlying security interest by GIIC to the Applicant annexed as ‘Exhibit – E’ at Page No. 75 of the Company Petition.
  - iv. The Letter dated 04.02.2019 from the Respondent / Corporate Debtor giving its One Time Settlement proposal annexed as ‘Exhibit – G’ at Page No. 78 of the Company Petition.
  - v. The Letter dated 03.04.2019 from the Applicant conveying sanction to the One Time Settlement of the Respondent / Corporate Debtor conveyed vide its letter

- dated 04.02.2019 annexed as 'Exhibit – H' at Page No. 80 of the Company Petition.
- vi. The letter dated 08.01.2020 by the Applicant addressed to the Respondent / Corporate Debtor conveying invocation of One Time Settlement proposal annexed as 'Exhibit – M' at Page No. 88 of the Company Petition.
- vii. The letter dated 17.01.2020 from the Respondent / Corporate Debtor in reply to the Applicants invocation letter dated 08.01.2020 annexed as 'Exhibit – N' at Page No. 90 of the Company Petition.
- viii. The Letter dated 27.06.2020 from the Respondent / Corporate Debtor with a request for extension of time for payment till 30.09.2020 annexed as 'Exhibit – P' at Page No. 95 of the Company Petition.
- ix. The letter dated 22.12.2020 from the Applicant addressed to the Respondent / Corporate Debtor rejecting their request for extension and calling upon to pay the amount as called for in the revocation notice dated 08.01.2020 annexed as 'Exhibit – Q' at Page No. 96 of the Company Petition.
- x. The letter dated 07.01.2021 from the Applicant addressed to the Respondent / Corporate Debtor making final demand and intimating that in the event if no payment is made, the Applicant will proceed with legal remedies annexed as 'Exhibit – R' at Page No. 97 of the Company Petition.
- xi. The letter dated 20.01.2021 from the Respondent / Corporate Debtor to the Applicant in response to the letter dated 07.01.2021 annexed as 'Exhibit – S' at Page No. 98 of the Company Petition.
- xii. The letter dated 22.06.2021 from the Applicant giving notice under Section 13 (2) of SARFAESI Act, 2002 calling upon the Respondent / Corporate Debtor

to pay sum of Rs. 10,51,18,900 /- due and payable as on 21.06.2021 with further interest till payment and or realization annexed as 'Exhibit – T' at Page No. 101 of the Company Petition.

xiii. The Notice dated 10.02.2022 issued under the provisions of Security Interest (Enforcement) Rule, 2002 intimating taking over of symbolic possession by the Applicant of its secured assets annexed as 'Exhibit – W' at Page No. 125 of the Company Petition.

6. After hearing the submissions and upon perusing the material available on record, this bench is satisfied with regard to the existence of “debt” and “default” committed by the Corporate Debtor. The Financial Creditor has also suggested the name of the proposed Interim Resolution Professional in Part-3 of the Petition along with his consent letter in Form-2. Since the Corporate Debtor remained ex-parte, the claim of the financial creditor remained unchallenged. Thus, this Company Petition satisfies all the necessary legal requirements for admission. Accordingly, the same is admitted by passing the following:

### **ORDER**

- a. The above Company Petition No. (IB) 1028/NCLT/MB/2022 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Chemstar Organics (India) Limited.
- b. This Bench hereby appoints **Shri Indrajit Mukherjee**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P-01533/2018-19/12450, having Contact No at: (+91) 7045312912 and having Registered Address at: B-405, Siddhivinayak Twins, Plot No. 9, Sector 17, Roadpali, Kalamboli, Navi Mumbai - 410218 as the interim resolution

professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

- c. The Operational Creditor shall deposit an amount of Rs. 5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only towards expenses and not towards his fee till his fee is decided by COC.
- d. That this Bench 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 the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- e. 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.
- f. 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.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order 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, as the case may be.



- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

**Sd/-**  
**ANURADHA SANJAY BHATIA**  
**MEMBER (TECHNICAL)**

**Sd/-**  
**H.V. SUBBA RAO**  
**MEMBER (JUDICIAL)**