



IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 5
(IB)-230(PB)/2024

IN THE MATTER OF:

Central Bank Of India

.... Petitioner

Vs

Magnifico Minerals Private Limited

.... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016

Order delivered on 07.08.2024

CORAM:

JUSTICE RAMALINGAM SUDHAKAR

HON'BLE PRESIDENT

SH. AVINASH K. SRIVASTAVA

HON'BLE MEMBER (TECHNICAL)

HYBRID HEARING (PHYSICAL & VC)

PRESENT:

For the Petitioner : Mr. R.K. Srivastava, Adv.

For the Corporate : Mr. Raghav Marwaha, Mr. Prashant Mehta, Mr. Debtor
Pranav Singh, Adv.

ORDER

1. The present application has been filed by Central Bank of India (hereinafter referred to as 'Applicant'/ 'Financial Creditor') on 08.04.2024, u/s Section 7 of the Insolvency and Bankruptcy Code, 2016 ('The Code'), r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiating the Corporate Insolvency Resolution Process (CIRP), declaring moratorium and for appointment of Interim Resolution Professional (IRP), against M/s Magnifico Minerals Private Limited (hereinafter referred to as 'Respondent'/Corporate Debtor) for a total financial default of Rs. 175,96,47,674/- (Rupees One Hundred Seventy Five Crore Ninety Six Lacs Forty Seven Thousand Six Hundred Seventy Four Only/-) as on 22.03.2024.



2. Notice in the petition was issued on 11.06.2024 and the CD entered its appearance. However, the response has not been filed. Perusal of Part-I of the Form-1 indicates that the Applicant/Financial Creditor is a Bank. The registered office of the Financial Creditor is situated at Central Office, Chander Mukhi, Nariman Point, Mumbai-400021. The application is affirmed by Mr. Ashwini Sagar, Chief Manager, Authorized officer of the Financial Creditor, who is authorized under Power of Attorney dated 13.02.2021 which is annexed as **Annexure P-1**.
3. Further, perusal of Part-II of the Form-1 reveals that the Respondent/Corporate Debtor is M/s Magnifico Minerals Private Limited (CIN: U51909DL2011PTC228884). The date of incorporation is 16.12.2011. The CD is in the business of trading coal, coke, fly, ash, iron ore, etc.
4. We have heard Ld. Counsel Mr. R.K. Srivastava appearing on behalf of the Petitioner and Ld. Counsel Mr. Raghav Marwaha appearing on behalf of Respondent. It is stated by the Ld. Counsel appearing for the petitioner that the CD availed credit facilities CC cum OD of 10 crore ILC/FLC/BG/LOU-LOC for Buyers' Credit - Rs. 90 Crore, Total Limits - Rs. 100 cr under a consortium arrangement from a consortium of Banks which includes the Applicant Bank with Bank of India being the Lead Bank. It is stated that the Corporate Debtor executed the loan document on 25.06.2013 in favour of the Consortium of Banks. Copies of Loan Document has been annexed as **Annexure P-9, P-12 to P-15**. It is further stated by Ld. Counsel that the CD made part payments in respect of the credit facilities.
(CC cum OD: Cash Credit cum Overdraft; ILC: Inward Letter of Credit; FLC: Foreign Letter of Credit; BG: Bank Guarantee; LOU-LOC : Letter of Undertaking – Letter of Credit)
5. Further, it is stated by the Petitioner that the CD had sent a Balance Confirmation dated 12.04.2017 to the petitioner confirming a balance of Rs. 107,94,29,655.06/-. Balance Confirmation dated 12.04.2017 has been annexed as **Annexure P-19 at Page 453 of the application**. However, it is stated that the CD could not adhere to timelines of payment and thereby committed default of the credit



facilities. In view of the same the default was registered with with Information Utility (IU) on 02.05.2019. Further the CD was informed by the Petitioner vide letter dated 03.05.2019 that LCs issued have been devolved and there are no transaction in the CC account and that its account has been declared as NPA on 02.05.2019. Further, CD was advised to regularize its account within 3 days. Letter dated 03.05.2019 has been annexed as **Annexure P-7 at Page 70-71 of the application.**

(If the buyer fails to pay the amount to the seller, the Letter of Credit is called devolved)

6. The Petitioner then issued a notice u/s 13(2) of the SARFAESI Act, 2002 thereby calling upon the CD to pay the loan amount, however the CD could not repay the loan amount. Notice u/s 13(2) of the SARFAESI Act, 2002 is annexed as **Annexure P-21 at Page 457-468 of the Application.** It is pertinent to mention herein that the Applicant Bank, jointly with consortium members, filed Original Application before the DRT - 2 Delhi for recovery of its dues amounting to Rs. 101,62,11,729.00 as on the date of institution of the said OA. Based on meeting between the Petitioner and CD, the CD also submitted a settlement Proposal dated 07.03.2022. The proposal has been annexed as **Annexure P-18 at Page 448-452 of the application.** However the settlement could not fructify between the parties. In view of the same, the petitioner registered the default with NESL. The record of default issued by NESL has also been filed and the same has been annexed as **Annexure P-11 at page 164-171 of the application.**
7. Ld. Counsel appeared on behalf of the CD stated on instructions that the default in payment of loan is admitted on the part of the CD.
8. Having regard to the conspectus of the present case (as discussed above) we are inclined to **ADMIT** the present petition bearing No. (IB)-230(PB)/2024 under Section 7 of IBC, 2016.
9. Accordingly, the petition bearing no. (IB)-230(PB)/2024 filed by Petitioner under Section 7 of the IBC, 2016 for initiating



CIRP against Corporate Debtor i.e. **Magnifico Minerals Private Limited** is hereby **ADMITTED**.

10. As a consequence, thereof, the petition being admitted in terms of Section 7 of the IBC, 2016, the moratorium as envisaged under the provisions of Section 14(1) of the IBC, 2016 shall follow in relation to Corporate Debtor as per clauses (a) to (d). However, during the pendency of moratorium period, terms of Section 14(2) to Section 14 (3) of the IBC, 2016 shall come into force.
11. The Financial Creditor has proposed the name of Mr. Anil Kohli, having Registration No. IBBI/IPA-001/IP-P00112/2017-2018/10219 (Email: insolvency@arck.in) as the Interim Resolution Professional (“IRP”) of Corporate Debtor. The proposed Interim Resolution Professional (“IRP”) has given his written communication in Form-2 as required under Rule 9 (1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 with a copy of registration annexed. Copy of written consent has been annexed as Annexure P-3 at Page 53 – 55. **Accordingly, Mr. Anil Kohli, having Registration No. IBBI/IPA-001/IP-P00112/2017-2018/10219 (Email: insolvency@arck.in), (Mobile No. 9810071182) is appointed as the IRP.**
12. In pursuance of Section 13 (2) of the IBC, 2016, we direct the RP to make public announcement immediately with regard to the admission of this application under Section 7 of the Code. The expression immediately means within three days as clarified by Explanation to Regulation 6(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
13. During the CIRP period, the management of the CD shall vest in the IRP/RP, in terms of Section 17 of the IBC. The officers and managers of the CD 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. There shall be no further opportunity given in this regard.



14. The IRP is expected to take full charge of the CD's assets, and documents without any delay whatsoever. He is also free to take police assistance and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
15. The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the CD. The FC shall deposit a sum of Rs. 5,00,000/- (Rupees Five Lakhs only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to the approval of Committee of Creditor (CoC).
16. The Registry is hereby directed to communicate a copy of the order to the FC, the CD, the IRP and the Registrar of Companies, NCR, New Delhi, by Speed Post and by email, at the earliest but not later than seven days from today, and upload the same on website immediately after pronouncement of the order. The Registrar of Companies shall update his website by updating the status of the CD and specific mention regarding admission of this petition must be notified.
17. The registry is further directed to send the copy of the order to the IBBI also for their record.
18. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.
19. List the case for further consideration **on 07.10.2024.**

Sd/-
(RAMALINGAM SUDHAKAR)
PRESIDENT

Sd/-
(AVINASH K. SRIVASTAVA)
MEMBER (TECHNICAL)

07.08.2024
Vinod Arora