



McLEOD RUSSEL
Believe in tea

6th August 2021

The Secretary,
BSE Ltd.,
P.J. Towers, Dalal Street,
MUMBAI-400 001.
Scrip Code: 532654

The Secretary,
National Stock Exchange
of India Ltd.,
Exchange Plaza,
5th Floor,
Plot No.C/1,G Block,
Bandra-Kurla Complex,
Bandra (E),
MUMBAI-400 051.
Scrip Code: MCLEODRUSS

The Secretary,
The Calcutta Stock Exchange,
Association Ltd.,
7, Lyons Range,
KOLKATA-700 001.
Scrip Code: 10023930

Dear Sir/Madam,

Sub: Intimation under Regulation 30 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements), 2015

This refers to the application filed by Techno Electric & Engineering Company Limited against the Company before Hon'ble National Company Law Tribunal (NCLT) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC).

We would like to intimate you that the Hon'ble National Company Law Tribunal, New Delhi Bench has vide Order dated 6th August 2021 admitted this said matter.

By the said Order, Mr. Kanchan Dutta having Registration Number: IBBI/IPA-001/IP-P00202/2017-18/10391 has been appointed as the Interim Resolution Professional (IRP) under the provisions of IBC.

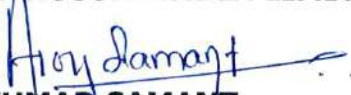
Copy of the said aforesaid Order dated 6th August, 2021 is attached herewith.

Please treat this as compliance with Regulation 30 of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements), 2015.

Thanking you,

Yours faithfully,

McLEOD RUSSEL INDIA LIMITED


ALOK KUMAR SAMANT
COMPANY SECRETARY

Registered Office :

McLEOD RUSSEL INDIA LIMITED

Corporate Identity Number (CIN) : L51109WB1998PLC087076

FOUR MANGOE LANE, SURENDRA MOHAN GHOSH SARANI, KOLKATA - 700 001

TELEPHONE : 033-2210-1221, 2248-9434 / 35, FAX : 91-33-2248-8114 / 6265

E-mail : administrator@mcleodrusel.com Website : www.mcleodrusel.com



A Williamson Magor Group Enterprise

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-VI
AT NEW DELHI

TP 38 of 2020
in
CP (IB) No. 1071/KB/2019

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

In the matter of:

Techno Electric & Engineering Co. Ltd.

Applicant/Financial Creditor

Vs.

McLeod Russel India Limited

Respondent/Corporate Debtor

Judgment delivered on: 06.08.2021

CORAM:

P.S.N. Prasad, HON'BLE MEMBER (JUDICIAL)

Narender Kumar Bhola, HON'BLE MEMBER (TECHNICAL)

Counsel for Applicant: Mr. P.S. Narsimha, Sr. Advocate, Mr. Udit Gupta, Mr. Kumar Anurag Singh, Mr. Masoom Shah, Mr. Suresh Mongia and Mr. Anup Jain, Advocates

Counsel for Respondent: Mr. Virendra Ganda, Sr. Advocate, Ms. Eshna Kumar, Ms. Santosh Kumari, Mr. Ritoban Sarkar, Mr. Vishal Ganda, Mr. Aditya Maheshwari, Mr. Prithvi Singh, Mr. Ayandeb Mitra and Ms. Anoushka Sarkar, Advocates



ORDER

Per: P.S.N. Prasad, Member (J)

1. M/s Techno Electric & Engineering Co. Ltd. has filed the instant application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') with a prayer to trigger Corporate Insolvency Resolution Process in respect of respondent Company M/s. McLeod Russel India Limited, referred to as the corporate debtor.
2. The Respondent Company M/s. McLeod Russel India Limited (CIN No. L51109WB1998PLC087076) against whom initiation of Corporate Insolvency Resolution Process has been prayed for, was incorporated on 28.01.2005 having its registered office situated at 4, Mangoe Lane, Surendra Mohan Ghosh Sarani, Hare Street, Kolkata-700001 (West Bengal). The matter was transferred from Kolkata Bench to this Bench vide order dated 10.09.2020



3. The case of the applicant precisely is that the applicant and the Corporate Debtor entered into a Loan Agreement dated 28.09.2018 to provide an inter-corporate deposit of Rs. 100 crores to the Corporate Debtor subject to the condition that the same would be utilized by the Corporate Debtor for the purpose of repayment of all loans relating to the four tea estates namely, Addabarie Tea Estate, Mahakali Tea Estate, Dirai Tea Estate and Rajmai Tea Estate due to banks and financial institutions to ensure that all encumbrances created on the four tea estates are released by the banks and financial institutions. The said amount was remitted on the same date. Thereafter, in order to secure repayment of the aforesaid loan amount the Corporate Debtor, inter alia, agreed that the original title deeds of the said four tea estates which were in possession of ICICI Bank would be handed over to the applicant upon repayment of loans availed by the Corporate Debtor from the concerned banks and financial institution. In addition to the aforesaid, the Corporate Debtor also caused mortgaged of



a property situated at 4, Sunny Park, Kolkata-700019 in favour of the Financial Creditor by deposit of title deeds.

4. The loan amount carried interest @ 14 % per annum which would be payable by the corporate debtor on a monthly basis and in the event any payment of interest remained outstanding beyond the stipulated due date, the rate of interest would further increase by 5 %. The entire loan amount together with interest was to be fully repaid on or before March 31, 2019.
5. However, the Corporate Debtor failed and neglected to hand over the original title deeds relating to the four tea estates to the Financial Creditor and also to repay the entire loan amount within the due date, i.e., 31st March, 2019. On April 5, 2019, the applicant had issued a letter to the Corporate Debtor calling upon the Corporate Debtor to repay the entire loan amount. However, the Corporate Debtor took no steps for repayment of the same.
6. Thereafter, the Financial Creditor filed an application under Section 9 of the Arbitration and Conciliation Act, 1996 before the Hon'ble High Court at Calcutta and by an

order dated April 30, 2019 the Hon'ble Court was pleased to pass an order restraining the Corporate Debtor from dealing with Rajmai Tea Estate and the property situated at 4, Sunny Park. It is claimed that in the said order the representative of the Corporate Debtor had admitted the claim of the Financial Creditor but however, has expressed its inability to pay the loan with interest due to some financial difficulties.

7. As per part IV of the application an aggregate amount of Rs. 1,04,81,21,676/- is outstanding as on June 30, 2019 to be paid by the Corporate Debtor to the Financial Creditor Rs. 100 crores being the principal amount and Rs. 4,81,21,676/- on account of interest as per agreed rate.
8. The respondent corporate debtor has filed its reply. Both the parties were heard at length and the order was reserved.
9. The respondent has raised objection against the admission of present application that there is no default occurred under the Loan Agreement. It is claimed that as per clause 16 and 17 of the Loan Agreement the amount

has yet not become due because the said clause says that recovery is first supposed to be done from secured assets and if anything remains then from borrower. The respondent argued that securities are sufficient to clear the liability and there will be no arrears left to be recovered from the respondent. Clause 17 is reproduced below:

“17. The Parties further agree that in case the Lender is not able to recover the entire Loan Amount and all other amounts due and payable to the Lender under this Agreement even after enforcing all securities extended by the Borrower as mentioned in clause 5 of this Agreement including sale of mortgaged properties, then under the said circumstances, the Lender shall have a right to recover the remaining amount from the Borrower.”

10. The applicant in its rejoinder argument has submitted that there is violation of the clause 9 and other clauses of the agreement and hence the default has taken place. Clause 17's pre-requisite is default committed by the respondent and it does not affect the present proceeding under Section 7. The applicant further argued that the said clause has been misinterpreted and only protects respondent until and unless the applicant failed to recover default amount from secured assets and the applicant has not opted for selling of secured assets.



11. The respondent further argued that Balance Sheet of applicant for the F.Y. 2018-19 shows that there was a loan of 100 crores which is not reflected thereafter which means a refund is done of 100 crores or the debt has been assigned to someone else. This argument has no strength as respondent itself agreed that no repayment has been made. Applicant in its rejoinder submitted that on the basis of opinion received, the Financial Creditor has re-classified and disclosed the loan of Rs. 100 crores, which was disclosed under 'loans' in the financial statements for the year ended 31 March 2019, under 'other financial assets' and other 'assets' in the financial statements for the year ended 31st March 2020. In both these years this amount of Rs. 100 crores is included as part of 5 the total assets of the company. Pursuant to this reclassification, there was increase in other financial assets and other assets in the cash flow statement for the year ended 31st March 2020. This increase was included under trade and other receivables. In order to reconcile the cash flow statement, a reduction of Rs. 100 Crores. was presented under the heading



'refund/(payment)of loan (net). There was no change in total assets of the company due to this re-classification. The reclassification does not impact the right of the company against the borrower and meets the definition of asset as discussed below. The company is following Ind-AS accounting standards for the preparation of the financial statements. The same no way affects the rights of the creditor to recover from the defaulter.

12. The expressions "Financial Creditor" and "Financial debt" have been defined in Section 5 (7) and 5 (8) of the Code and precisely "Financial debt" is a debt along with interest, if any, which is disbursed against the consideration for time value of money.

13. The application filed by the applicant financial creditor under sub-section 5 (a) of Section 7 of the code, has to be admitted on satisfaction that:

- I. Default has occurred.*
- II. Application is complete, and*
- III. No disciplinary proceeding against the proposed IRP is pending.*

14. An application under Section 7 of the Code is acceptable so long as the debt is proved to be due and



there has been occurrence of existence of default. What is material is that the default is at least Rs. 100 lakhs. In view of Section 4 of the Code, the moment default is of Rupees one hundred lakhs or more, the application to trigger Corporate Insolvency Resolution Process under the Code is maintainable.

15. In the present matter the applicant has produced loan agreement executed between the parties, according to which the respondent has failed to repay the loan within stipulated time. The respondent has not denied the same. The objections raised by respondent regarding sufficient security is not sustainable as proceeding under this Code is not money recovery proceeding. The other objection raised about removal of loan amount from Balance Sheet will also not help respondent.

16. It is seen that in order dated 30.04.2019 passed by Hon'ble High Court of Calcutta, the court has observed that:

"this court is, prima facie, satisfied that Respondent having taken inter corporate deposit of Rs. 100 Crores admits to not to have repaid. Petitioner is entitled to interim measures."

From perusal of the above observation of High Court it is clear that it is an undisputed fact that the loan amount has not been repaid to applicant. That apart, a Demand Promissory Note dated 28.09.2018 was also executed by Respondent in favour of applicant, which prima facie proves the liability of Respondent to pay its dues with interest. In addition to this charge id 100208820 has been created in favour of applicant on the property of Respondent, this also proves that the applicant is still a secured creditor of Respondent.

- 17.** The respondent argued that a perusal of “Techno Electric & Engineering Q2 FY2020 Earnings Conference Call”, dated 14/11/2019, shows that Applicant’s CMD was questioned about the issues in respect of Applicant’s exposure to the Respondent. To this Applicant’s CMD categorically stated that the Applicant was out of the alleged debt exposure. Applicant’s CMD also explained that the money (exposure/alleged debt) has been replaced in the Applicant’s Company by its daughter’s in laws. Applicant’s CMD also elaborated that a proceeding for recovery of money was being pursued by the Applicant



against the Respondent "on behalf of" his larger family. On being further questioned on this issue, Mr. Gupta referred to the balance sheet of September 2019 and categorically stated that the exposure of the Applicant to the Respondent is nil. Further the respondent has submitted that this transcript is not an internal document. Being a listed company, the Applicant is statutorily bound to disclose the schedule and presentation of these Earnings Conference Call dated 14/11/2019, to the stock exchanges under Regulation 30 read with Point 15 of Schedule III (Part A) of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and to disseminate the same on its website under Regulation 46(2)(o) of the said Regulations. This regulation makes it incumbent upon every listed company to disclose all events or information related to the company including calls.

- 18.** In this respect it is seen that no assignment agreement has been placed on record by either party to show that the debt has been assigned to someone else's name. In the said Minutes also applicant's CMD clarified that the loan

