


**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

**PRESENT: HON'BLE SHRI K. ANANTHA PADMANABHA SWAMY, MEMBER - JUDICIAL
HON'BLE DR. BINOD KUMAR SINHA, MEMBER - TECHNICAL**

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 28.01.2020 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB)No. 220/7/HDB/2019
NAME OF THE COMPANY	Oil Country Tubular Limited
NAME OF THE FINANCIAL CREDITOR	State Bank of India
NAME OF THE CORPORATE DEBTOR	Oil Country Tubular Limited
UNDER SECTION	Sec 7 of the IBC, 2016

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
K. Anil	Advocate	9652161415	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Order pronounced in open court. CP admitted vide separate order.



MEMBER TECHNICAL



MEMBER JUDICIAL

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.220/07/HDB/2019

U/s. 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:-

M/s. Oil Country Tabular Limited

Between:

State Bank of India,
Stressed Assets Management Branch-III,
1st Floor, TSRTC Bus Stand Complex,
Kachiguda, Hyderabad.
Corporate Office:
State Bank Bhavan,
Madame Cama Road,
Mumbai – Maharashtra.
Rep. By its General Manager,
Mr. B.V.Rangadham.

...Petitioner/
Financial Creditor

And

M/s. Oil Country Tabular Limited,
'KAMINENI' 3rd Floor King Koti,
Hyderabad – 500 001,
Telangana.

...Respondent/
Corporate Debtor

Date of Order: 28.01.2020

**Coram: Shri. K. Anantha Padmanabha Swamy, Member Judicial.
Dr. Binod Kumar Sinha, Member Technical.**

Parties/Counsel Present:

For the Petitioner/
Financial Creditor:

Mr. Saini Keshav Rao
Mr. K.Anil Kumar,
Ms. Girishma Acharya,
Counsels.

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For the Respondent/
Corporate Debtor:

Mr. P.Soma Sekhara Naidu,
Mr. P.Srinivasa Rao,
Counsels.

Per: K. Anantha Padmanabha Swamy, Member Judicial.

ORDER

1. The present petition is filed by 'State Bank of India' (hereinafter referred to as 'Petitioner/Financial Creditor') under section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as IB Code, 2016) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 against M/s. Oil Country Tabular Limited (hereinafter referred to as 'Respondent/Corporate Debtor'), inter - alia seeking to initiate Corporate Insolvency Resolution Process against the Corporate Debtor herein.
2. Brief facts of the present case are as under:
 - 2.1 That the Financial Creditor provided cash credit limit of ₹45 Crores and Bank Guarantee of ₹37 Crores, wherein the cash credit limit of ₹45 Crores is running account (Limits originally sanctioned in the year 1989 and the last renewal done on 27.10.2015).
 - 2.2 That the total claim amount is of ₹53,84,89,580.48/-. The date of default was 31.12.2015 wherein, the account was declared NPA on 01.04.2016.
3. The list of copy of documents furnished by the Financial Creditor with regard to default is as follows:-
 - 3.1 Copy of the sanction letter dated 17.12.2009.
 - 3.2 Copy of sanction letter dated 24.06.2010.
 - 3.3 Copy of the Agreement of Loan for overall Limit in Form-I dated 23.07.2010.

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- 3.4 Copy of the Agreement of Hypothecation of Goods and Assets in Form-II dated 23.07.2010.
- 3.5 Copy of the sanction letter dated 02.04.2011.
- 3.6 Copy of supplemental Agreement of Loan for increase of overall limit in Form CI-A dated 17.01.2013.
- 3.7 Copy of supplemental Agreement of Goods and Assets for increase in overall limit in Form C-2A dated 17.01.2013.
- 3.8 Copy of supplemental agreements and letter regarding grant of individuals with in overall limit dated 17.01.2013.
- 3.9 Copy of Form - 17 showing particulars for satisfaction of charges dated 04.03.2013.
- 3.10 Copy of Memorandum of Satisfaction of mortgage issued by Registrar of Companies dated 29.03.2013.
- 3.11 Copy of confirmation of balance executed by Corporate Debtor dated 11.04.2015.
- 3.12 Copy of Sanction letter dated 10.11.2015.
- 3.13 Copy of Agreement of Loan for overall limit in Form C-I dated 28.01.2016.
- 3.14 Copy of Agreement of Hypothecation of Goods and Assets in Form C-II dated 28.01.2016.
- 3.15 Copies of entries in a Bankers Book in accordance with the Bankers Book Evidence Act, 1891 (18 of 1891) under section 2A(a) & (b) under The Bankers' Books of Evidence Act 1891.
- 3.16 Copy of letter regarding the grant of individual limits within overall limits dated 23.07.2010.





- 3.17 Copy of letter of the Bank of India Hyderabad Mid Corporate Branch dated 21.04.2011.
 - 3.18 Copy of letter of Canara Bank Industrial Finance Branch dated 15.06.2011.
 - 3.19 Copy of letter of Allahabad Bank, Himayathnagar Branch dated 16.06.2011.
 - 3.20 Copy of letter of overseas branch of erstwhile State Bank of Hyderabad dated 16.06.2011.
 - 3.21 Copy of letter regarding grant of individual limits within overall limit dated 08.07.2011.
 - 3.22 Copy of letter regarding the grant of individuals limits within overall limit dated 29.10.2011.
 - 3.23 Copy of letter of Indian Overseas Bank, Rajbhavan Road Branch dated 29.12.2011.
 - 3.24 Copy of letter regarding the grant of individual limits within overall limit in Form C-5 dated 04.10.2012.
 - 3.25 Copy of letter seeking pari-passu charge addressed by the overseas branch of erstwhile State Bank of Hyderabad dated 27.02.2013.
 - 3.26 Copy of letter of Indian Overseas Bank, Rajbhavan Road Branch represented by its Assistant General Manager (AGM) dated 03.07.2013.
 - 3.27 Copy of letter regarding grant of individual limits within overall limit in Form C-5 dated 28.01.2016.
 - 3.28 Copy of Legal Notice dated 17.09.2018.
4. Respondent filed counter dated 02.08.2019 in the registry, inter-alia stating the following contentions:





- 4.1 That the Corporate Debtor is the first Company in India to set up processing facility in the year 1989 for the processing of seamless pipes to casting, tubing and drill pipes with technical collaboration from Baker Hughes Tubular Services (USA), under the indigenization and import substitution programme of Govt. of India.
- 4.2 That the Corporate Debtor had faced certain Operational and marketing issues and the income of the Corporate Debtor got affected. To have smooth operations of the Corporate Debtor, it had reviewed the alternatives and approached the bankers for restructuring of the loan accounts. Accordingly, the joint lenders forum consisting of the Financial Creditors, who are Allahabad Bank, and Indian Overseas Bank in their meeting held on 30.01.2017 and 22.02.2017 opined that restructuring is the only option left which could be initiated to proceed further.
- 4.3 That the Corporate Debtor after discussions in the joint lenders forum meeting held on 30.01.2017 vide Letter No. OCTL/BANK/633/2017 dated 06.02.2017 proposed the following for smooth operations and in addressing the Working Capital issues:
- 4.3(i) Outstanding in cash credit account to be converted into Term Loan.
- 4.3(ii) Moratorium for repayment of principal and interest for a period of one year.
- 4.3(iii) Repayment period of Seven to Ten years on quarterly basis after moratorium period of one year, both for Principal and Interest.
- 4.3(iv) The Working Capital converted to Term Loan shall be secured by first charge on the Buildings, plant and machinery of the Company.


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- 4.3(v) Working Capital limits, fund based and Non-fund based to be provided based on the projections and CMA data and secured by stocks and trade receivables.
- 4.3(vi) In the interim, to provide bid bonds required for participation in the tenders being regularly floated by ONGC/OIL and to provide Performance Bank Guarantees when the Orders are received and to provide Letters of Credit for procurement of raw materials with 180 days period.
- 4.4 That the Corporate Debtor in its letters dated 16.11.2017 and 27.12.2017 had requested the Financial Creditor for restructuring the account and various options to regularize the account. However, the Financial Creditor and other bankers failed to restructure the Working Capital as proposed by the Corporate Debtor.
- 4.5 That the Financial Creditor had stated in the Application before this Adjudicating Authority that the amount claimed in default is Rs.53,84,89,580.48/- as on 31.12.2015 which is not correct and is misleading. It is submitted that the account of the Corporate Debtor was classified as NPA with effect from 01.04.2016. The outstanding amount as on 01.04.2016 as per the Bank statement is Rs.48.32 Crores only. Further, an amount of Rs.13.08 Crores had been paid after the account was classified as NPA and hence the balance outstanding is Rs.34.47 Crores only.
- 4.6 That the Corporate Debtor had submitted OTS proposal to the Financial Creditor on 29.09.2018 vide letter no. OCTL/SBI/059/2018 for an amount of Rs.15.52 Crores payable in Ninety (90) days in three equal instalments after receipt of approval of the Financial Creditor herein. However, the Financial Creditor in its letter no.SAMB:HYD:DSR:1223 dated 12.10.2018 informed the


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Corporate Debtor that OTS amount offered is low and demanded total outstanding loan of Rs.59.10 Crores as on 12.10.2018.

- 4.7 That the Corporate Debtor thereafter had discussions with the Financial Creditor on various occasions and it revised the OTS offer. Based on further discussions with the Bank the OTS proposal was further revised vide letter no. OCTL/SBI/005/2019 dated 29.04.2019.

Reiterating the above contentions, the counsel for the Respondent/Corporate Debtor prayed to dismiss the instant Application.

5. The present petition was filed on 25.01.2019 and after scrutiny the same was first listed on 12.04.2019 and the counsel for Financial Creditor was directed to issue notice to the Respondent/Corporate Debtor for appearance and the matter was adjourned to 01.05.2019.

- 5.1 During the hearing held on 13.06.2019, Mr. P. Soma Shekar Naidu, counsel appeared for Corporate Debtor, filed vakalat and prayed time for filing counter. At his request, time was enlarged. The matter was adjourned to 04.07.2019. Thereafter, several adjournments were granted on the request of both sides on the ground of settlement between the parties.

- 5.2 During the hearing held on 30.09.2019, counsel for the Financial Creditor stated that the parties are discussing to settle the matter and in this regard Respondents have paid Rs.1,65,53,000/-. He further stated that OTS has already been granted subject to terms which was to be fulfilled within 3 weeks and prayed time for filing joint memo of settlement in case, if OTS is completed in time. The matter was adjourned to 24.10.2019.

- 5.3 During the hearing held on 24.10.2019, the Financial Creditor stated that the date of payment of 2nd instalment was on 26.10.2019 as agreed for settling the matter by way of OTS. Respondent's counsel also stated

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the same and said they had issued post-dated cheques for payments to be made on 26.10.2019 and the settlement agreement is likely to be signed after payment of 2nd instalment. At request of both sides, matter stood adjourned to 30.10.2019.

5.4 During the hearing held on 30.10.2019, the counsel for the Financial Creditor stated that talks for settlement between the parties have failed since accepted payments as promised earlier have not been made by the Corporate Debtor. At his request, matter stood adjourned to 01.11.2019.

5.5 Finally, during the hearing held on 06.11.2019, heard submissions of both sides and the matter was reserved for orders.

6. Heard both the sides and perused the records.

7. In the instant Petition, the Petitioner has proved its case by placing documentary evidence viz., Copies of Facility Agreements and sanction letters, date and details of all disbursements of the facilities etc., and copies of entries in Bankers Book in accordance with the Bankers Books Evidence Act, 1891 (18 of 1891) which proves that a default has occurred for which the present Corporate Debtor was liable to pay. In their counter affidavit, the Respondents have not denied the facts regarding the existence of 'financial debt' and 'default' committed by the Corporate Debtor for over Rs.1 Lakh. During the course of hearings also, the Corporate Debtor stated that they will settle the matter by way of OTS, which ultimately failed due to non-payment of accepted amounts on the agreed dates.

8. The Hon'ble Supreme Court, while deciding the matter in the case of *INNOVENTIVE INDUSTRIES LTD. Vs. ICICI BANK & ANR., in Civil Appeal Nos. 8337-8338 of 2017*, held as under:

".....The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days

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of receipt of a notice from the adjudicating authority. Under subsection (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.”

9. In the present case, this Adjudicating Authority is satisfied with the submissions put forth by the Financial Creditor regarding existence of 'financial debt' and occurrence of 'default'. Further, the Financial Creditor has fulfilled all the requirements as contemplated under IB Code in the present Company Petition and has also proposed the name of IRP after obtaining his written consent in Form-2. In view of the above, this Adjudicating Authority is inclined to admit the petition.
10. The instant petition is hereby admitted and this Adjudicating Authority Orders the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed as per the time line stipulated in section 12 of the IB Code, 2016, reckoning from the day this order is passed.
11. This Adjudicating Authority hereby appoint Mr. Sisir Kumar Appikatla having Regn. No. *IBBI/IPA-001/IP-P00751/2017-2018/11283* (IRP) as his name is proposed by the Financial Creditor and is also reflected in IBBI website. He has also filed his written consent in Form - 2. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date of receipt of this order and call for submission of claims in the manner as prescribed.
12. This Adjudicating Authority hereby declares the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process for the purposes referred to in Section 14 of the I&B Code, 2016. We order to prohibit all of the following, namely:

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- a) *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;*
- b) *Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*
- c) *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);*
- d) *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) *Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*


13. However, the supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has

not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.

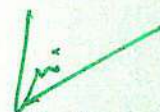
14. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.
15. The Petitioner/Financial Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
16. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
17. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
18. The address details of the IRP are as follows:-

Mr. Sisir Kumar Appikatla
Reg. No: IBBI/IPA-001/IP-P00751/2017-18/11283.
106, First Floor, Bharat Towers,
5th Lane, Dwarakanagar,
Visakhapatnam, Andhra Pradesh - 530016.
Email ID: sisir_appi@yahoo.co.in,
Ph.No. +91 9848486072.

19. The present Company Application bearing CP (IB) No.220/7/HDB/2019 is hereby admitted.


28.01.2020
Dr. Binod Kumar Sinha
Member Technical

Rathi/Rk


K. Anantha Padmanabha Swamy
Member Judicial