



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Casebook Issue

33:

**Insolvency Tale of
Mrunmaha Agro
Foods Limited**

**INSOLVENCY
UNCOVERED**

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About Mrunmaha Agro Foods Private Limited¹

Mrunmaha Agro Foods Private Limited is a Non-government company, incorporated on 26th March, 2010. It is a private unlisted company and is classified as company limited by shares.

Company's authorized capital stands at Rs 154.0 lakhs and has 89.670456% paid-up capital which is Rs 138.09 lakhs. Mrunmaha Agro Foods Private Limited was majorly in Manufacturing (Food stuffs) business from last 10 years. Board of Directors were Ms. Tejaswini Santosh Shinde and Ms. Santosh Gulab Shinde.

Company is registered in Pune (Maharashtra) Registrar Office. Mrunmaha Agro Foods Private Limited registered address was GAT NO 987 AT Perne Phata Taluka Haveli Pune MH -412216

Major Financial Creditors/Bankers

The Financial creditor for Corporate Debtor (“CD ”) was Andhra Bank .

CIRP OF MRUNMAHA AGRO FOODS PRIVATE LIMITED

M/s. Fairmacs Shipping & Transport Services Private Limited filed an application for initiating CIRP under section 9 of the Insolvency and Bankruptcy Code, 2016 ²

Company filed Petition under Section 9 of the Insolvency & Bankruptcy Code, 2016 ("IBC") read with Rule 6 of Insolvency & Bankruptcy (AAA) Rules, 2016, by an Operational Creditor, (hereinafter referred as 'the Creditor')namely, M/s.Fairmacs Shipping & Transport Services Private Limited, who was appointed as Clearance & Forwarding Agent to the Corporate Debtor. The Corporate Debtor, namely, M/s. Mrunmaha Agro Foods Private Limited (hereinafter referred as 'the Debtor'), have committed default on 28.04.2017 in making payment of Rs. 30,51,543/-. the Corporate Debtor along with its sister concern, Trimurti Corn Agro Foods Pvt. Ltd. had exported various goods through the Operational Creditor. The Operational Creditor rendered services for exporting their shipments and raised invoices upon Corporate Debtor for making payment of the same. The Bench appointed Mr. Sandeep Dar, as the IRP to carry the functions as mentioned under the Code.

Registry is hereby directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email and by speed post.

Order of Moratorium & Public Announcement³

Moratorium shall have effect from 20th November, 2018, it shall remain effective till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) Section 31 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, as the case may be.

Public announcement of the Corporate Insolvency Resolution Process was made immediately as specified under section 13(2), IBC, 2016

Decisions taken by CoC ⁴

Application filed by Andhra Bank in connection with CP(IB) 1569/2017 under Section 22 of the IBC, 2016 and Rule 11 of the NCLT Rules, 2016. being the only Financial Creditor having 100% vote share in the CoC.

Minutes of the CoC meeting dated 18.12.2018 were placed, wherein resolution has been passed to replace Mr Sandeep Dar, IRP with Mr. Fanendra Harakchand Munot as Resolution Professional. It is further stated in the application that CIRP costs incurred by IRP was not acceptable. The fees of the RP as proposed was not acceptable thus the same was not approved. The CoC has also not approved the confirmation of IRP as RP.

The CoC with not less than vote share of 66%, can decide to change the RP. Here the CoC consists of only one Financial Creditor, i.e. the applicant Andhra Bank , with a vote share of 100%, has not confirmed the appointment of IRP as RP and further approved the appointment of Mr Fanendra Harakchand Munot as RP

The Bench appointed Mr. Fanendra Harakchand Munot as RP and directed IRP to handover all the documents to the newly appointed RP with immediate effect. The COC is directed to decide the IRP costs within seven days from date of order.

Appointment of RP 5

Financial Creditor filed an application that the CoC in it's meeting dated 06th September, 2018, has decided not to continue with IRP as being RP. Mr. Fanendra Harakchand Munot was hereby appointed as Resolution Professional. The said resolution was passed with 100% voting in the CoC.

Resolution Professional ("RP") files application for extension of CIRP⁶

Resolution Professional (RP), Mr. Fanendra Harakchand Munot filed an application in NCLT for extension of CIRP under section 12(2) of Code read with Regulation 40(2) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Corporate Debtor was authorised to file an application before the Hon'ble NCLT, for extending the time limit for completion of Insolvency Resolution Process by another 90 days from 20th May, 2019. The application is supported by the resolution passed by the CoC in it's 04th Meeting dated 04th May, 2019. Accordingly, the period is extended by another 90 days.


NCLT passes the Liquidation Order 7


The CoC in its Meeting has resolved for liquidation of Corporate Debtor and directed the applicant to file Application u/s 33 of the Code. The 330 days of the resolution period had expired. No resolution plan was approved by CoC. Accordingly, the Resolution Professional filed this application for liquidation of the Company as provided u/s 33 of the Insolvency & Bankruptcy Code, 2016 (Code).

Mr. Fanendra Harakchand Munot, to act as liquidator under section 34(1) of the IBC, 2016. was appointed as Liquidator. He will have all powers of the board of directors, key managerial personnel and the partners of the Corporate Debtor, as the case may be, shall cease to have effect and shall be vested with the liquidator.


The Liquidator for conduct of the liquidation proceedings would be entitled to the fees as provided in Regulation 4 of the IBBI (Liquidation Process Regulations), 2016 and the same will be paid to the Liquidator from the proceeds of the Liquidation Estate u/s 53 of the code. The Liquidator is directed to carry out the functions of the Liquidator as envisaged in the IBC, 2016 and IBBI (Liquidation Process) Regulations, 2016.


Timeline


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- 20.11.2018
 - NCLT admitted application for CIRP.

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- 20.11.2018
 - Order of Moratorium & Public Announcement

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- 07.01.2019
 - Application by Financial Creditor

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- 07.01.2019
 - Appointment of Resolution Professional

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- 19.06.2019
 - Application for Extension of CIRP period

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- 26.05.2020
 - Liquidation Order passed by NCLT

Bibliography

1<http://www.mca.gov.in/mcafoportal/companyLLPMasterData.do>

2<https://nclt.gov.in/sites/default/files/Interim-order-pdf/FAIRMACS%20SHIPPING%20%26%20TRANSPORT%20%20CP%201569-2017%20NCLT%20ON%2020.11.2018%20FINAL.pdf>

3<https://nclt.gov.in/sites/default/files/Interim-order-pdf/FAIRMACS%20SHIPPING%20%26%20TRANSPORT%20%20CP%201569-2017%20NCLT%20ON%2020.11.2018%20FINAL.pdf>

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7<https://nclt.gov.in/sites/default/files/Feb-final-orders-pdf/Mrunmaha%20Agro-22.05.2020-%20Liqdtn%20Order.pdf>