

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT-II)**

**(IB)-3383(ND)2019**

**IN THE MATTER OF:**

**Corporation Bank**  
**M-93, SAMV, Connaught Place**  
**New Delhi- 110001**

**...Financial Creditor**

**VERSUS**

**M/s Sainov Spirits Private Limited**  
**107, Bharat Chambers**  
**70, Scindia House**  
**New Delhi-110001**

**...Corporate Debtor**

**Section: 7 of IBC, 2016**

**Judgment Delivered on: 05.02.2020**

**CORAM:**

**SMT. INA MALHOTRA, HON'BLE MEMBER (J)**

**SHRI. L. N. GUPTA, HON'BLE MEMBER (T)**

**PRESENT:**

For the Petitioner : Ms. Anjali Aggarwal and  
Mr. Ashutosh Kumar Pandey, Advocates  
For the Respondent : Mr. Syed Abdul Haseeb, Advocate



(IB)-3383(ND)2019  
Corporation Bank Vs. M/s. Sainov Spirits Pvt. Ltd.

## **JUDGEMENT**

### **PER SHRI L. N. GUPTA, MEMBER (T)**

The present Petition is filed, under the Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Corporation Bank (for brevity 'Financial Creditor') through its Authorized Representative Mr. Rakesh Kumar, who is duly authorized vide Letter of Authority dated 16.11.2019, with a prayer to initiate the Corporate Insolvency process against M/s Sainov Spirits Private Limited (for brevity 'Corporate Debtor').

2. The Corporate Debtor namely, M/s Sainov Spirits Private Limited is a Company incorporated on 02.04.2008 under the provisions of Companies Act, 1956 with CIN No. U15520DL2008PTC176272, having its registered office 107, Bharat Chamber, 70, Scindia House, New Delhi -110001.

3. The Authorized Share Capital of the Respondent Company is Rs.30,00,00,000 and Paid-up Share Capital of the Company is Rs.29,76,17,024 as per the averments made by the Petitioner.



4. It is submitted by the Financial Creditor that it had provided the following financial assistance to the Corporate Debtor :

*“Cash Credit Facility of Rs. 10.00 Crores & Term Loan Facility- I of Rs. 35 Crores as per sanction dated 01.01.2011 by Financial Creditor.*

*Cash Credit Facility of Rs. 10 Crores (Renewal) & Term Loan Facility- I (Review) of Rs. 30.50 Crores as per sanction dated 29.02.2012 by Financial Creditor.*

*Fresh Term Loan Facility-II of Rs. 20.00 Crores as per sanction dated 29.12.2012 by Financial Creditor.*

*Cash Credit Facility (Renewal cum Enhancement) of Rs. 14.53 Crores (Renewal) & Restructuring of Term Loan Facility-I & II of Rs. 38.50 Crores & Working Capital term Loan-I of Rs. 01.36 Crores & Working Capital term Loan-II of Rs. 02.35 Crores & Funded Interest Term Loan of Rs. 9.10 Crores as per sanction dated 13.06.2014 by Financial Creditor.*

*Adhoc Working Capital of Rs. 02.00 Crores by enhancing the Cash Credit Facility of Rs. 14.53 Crores to Rs. 18.88 Crores as per Sanction dated 29.06.2016 by Financial Creditor.*

*Adhoc Working Capital Limit of Rs. 02.15 Crores by enhancing the Cash Credit Facility of Rs. 14.53 Crores to Rs. 18.88 Crores as per sanction dated 29.09.2016 by Financial Creditor”*

5. As regards the amount involved in default and the Date of default, it is mentioned by the Financial Creditor in the Part IV of their Application that the total claim amount is Rs.70,34,19,678.23, out of which Rs.3,33,28,297.93 is the interest on the Principal Amount. It is added by the Financial Creditor that the account of the Corporate Debtor was classified as NPA on 30.09.2016.



6. That the Financial Creditor has annexed various documents viz., Copy of the Sanction Letter dated 11.01.2011, OTS Cancellation Letter dated 15.11.2019, CIBIL Report dated 16.11.2019, Customer Balance Report dated 16.10.2019 and Acknowledgement of Debt Letter (Revival Letter) dated 21.06.2017, as proof of existence of the Financial Debt.

7. That despite opportunities, the Corporate Debtor did not file its reply. During the course of the arguments, the Corporate Debtor has failed to give cogent reasons as to why the CIR Process shall not be triggered against it.

8. In the light of above facts and circumstances, the Financial Creditor has been successful in establishing the 'default' of the amount above Rs.1,00,000. This Bench is, therefore, inclined to initiate CIR Process against the Corporate Debtor.

9. In the given facts and circumstances, the present Petition being complete and having established the default in payment of the Financial Debt for the default amount being above Rs.1,00,000, the Petition is admitted in terms of Section 7(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry :



- “(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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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.”

10. As proposed by the Financial Creditor, this Bench appoints Mr. Pawan Trivedi as IRP having Registration No. IBBI/IPA-001/IP-P001739/2019-20/12694 (Email: capawantrivedi@gmail.com), subject to the condition that no disciplinary proceedings are pending against the IRP so named and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. The IRP is directed to take the steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016.

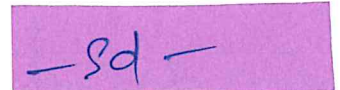


11. The Financial Creditor is directed to deposit Rs.2,00,000 (Two Lakh) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

12. In terms of the above, the Application stands admitted in terms of Section 7(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of this Order shall be communicated to the Applicant, the Respondent and the IRP mentioned above by the Registry of this Tribunal. In addition, a copy of the Order shall also be forwarded by the Registry to the IBBI for their records.



**(L. N. Gupta)**  
**Member (T)**



**(Ina Malhotra)**  
**Member (J)**