



IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-II

CP (IB) No.585/MB/2024

[Under Section 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:

SHRIRAM FINANCE LIMITED

[Erstwhile Shriram City Union Finance Limited]

[CIN: L65191TN1979PLC007874]

Sri Towers, Plot No. 14A

South Phase, Industrial Estate, Guindy

Chennai-600032, Tamil Nadu.

...Financial Creditor

Vs.

BAFNA MOTORS RATNAGIRI PRIVATE LIMITED

[CIN: U34100MH1996PTC097465]

Unit No. 712, 7th floor

World Trade Centre No. 1, Cuffe Parade,

Colaba, Mumbai-400005

Maharashtra.

...Corporate Debtor

Pronounced: 17.09.2025

CORAM:

HON'BLE SHRI ASHISH KALIA, MEMBER (JUDICIAL)

HON'BLE SHRI SANJIV DUTT, MEMBER (TECHNICAL)

Appearances: Hybrid

Financial Creditor: Adv. Rohit Gupta a/w. Adv. Prakhar Tandon & Adv. Nitu

Chaturvedi i/b. Adv. Agam H Maloo

Corporate Debtor: None (*ex-parte*)



ORDER

[PER: SANJIV DUTT, MEMBER (TECHNICAL)]

1. BACKGROUND

- 1.1 This C.P. (IB) No. 585/MB/2024 (Application) was filed on 09.08.2022, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as “AAA Rules”) by Shriram Finance Limited, (hereinafter referred to as “the Financial Creditor”), through Mr. A. Ramanujam, Vice President (Legal) of the Financial Creditor, authorised *vide* Specific Power of Attorney dated 26.12.2022, for initiating Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) in respect of Bafna Motors Ratnagiri Private Limited (hereinafter referred to as “the Corporate Debtor”).
- 1.2 The Financial Creditor is an NBFC engaged in the business of providing finance to a wide range of customers including small and medium enterprises. The Corporate Debtor carries on the business as a dealer and manufacturer in automobiles, automobile spare parts and components etc.
- 1.3 The Corporate Debtor availed a loan for Rs.5,00,00,000/- (Five Crore Rupees) from Shriram City Union Finance Limited (hereinafter referred to as “the Original Lender”) *vide* Loan Agreement dated 27.03.2018 which was repayable in 60 monthly instalments. However, the Corporate Debtor defaulted in the payment of monthly instalments.
- 1.4 The total amount claimed to be in default is Rs.6,17,15,056/- (Six Crore Seventeen Lakh Fifteen Thousand and Fifty-Six Rupees) as on 09.05.2022. The date of



default as mentioned in Part-IV of the Application is 27.09.2021. Since the Corporate Debtor defaulted in payment of its outstanding dues, the Financial Creditor prays that CIRP may be initiated in respect of the Corporate Debtor under Section 7 of the Code.

2. AVERMENTS OF FINANCIAL CREDITOR

- 2.1 The Corporate Debtor for business purposes sought credit facilities from the original lender. The said loan amount of Rs.5,00,00,000/- was granted to the Corporate Debtor by the Original Lender vide Sanction Letter dated 27.03.2018 by way of Unsecured Term Loan for a period of 5 (Five) years at the rate of 14 (Fourteen) percent per annum. The monthly interest amount of Rs.5,87,917/- was payable every month for 60 (Sixty) months from 27.04.2018 to 27.03.2023. Both the parties executed the Loan Agreement dated 27.03.2018 wherein the Corporate Debtor was liable to pay the total amount of Rs.8,52,75,000/- including the interest of Rs.3,52,75,000/-.
- 2.2 The Corporate Debtor paid the monthly instalments on regular basis during the period from 27.04.2018 to 27.08.2021. However, the Corporate Debtor committed the default in payment of monthly instalment due for September, 2021, i.e., on 27.09.2021. The Financial Creditor has placed the copy of the statement of Corporate Debtor's Loan Account from 27.04.2018 to 09.05.2022 on record.
- 2.3 Pursuant to the Corporate Debtor's default in loan repayment, the Original Lender was compelled to issue the Demand Notice dated 09.05.2022 for demanding repayment of the outstanding amount of Rs.6,17,15,056/- including interest.
- 2.4 The Original Lender was later amalgamated with Shriram Transport Finance Limited through a composite scheme of amalgamation which was approved by



NCLT, Chennai Bench *vide* its order dated 09.11.2022 in CP(CAA) No. 69-76/CHE/2022 in CA(CAA) No. 05/CHE/2022, CA(CAA) No. 07-08/CHE/2022 & CA(CAA) No. 36-40/CHE/2022. The Registrar of Companies had approved the name change of the Financial Creditor from Shriram Transport Finance Limited to Shriram Finance Limited vide Certificate of Incorporation dated 30.11.2022. The Financial Creditor has placed the copy of the Certificate of Incorporation dated 30.11.2022 regarding its name change on record.

- 2.5 The Financial Creditor has also furnished the Corporate Debtor's record of default (RoD) in Form D on the Information Utility (hereinafter referred to as "the IU") as on 23.11.2023. As per the said IU report, the date of default is 27.09.2021 with Rs.6,11,26,727/- as default amount while the status of authentication of Corporate Debtor's default is stated as '*Deemed to be Authenticated*'.

3. CONTENTIONS OF CORPORATE DEBTOR

- 3.1 The Corporate Debtor was served a copy of the said Application through email dated 30.03.2023 at its registered email address as per the Master Data of the Corporate Debtor. Later, the Corporate Debtor was served fresh notices on 03.09.2024 and 26.03.2025 through the Registry, which were returned with the endorsement "Item Returned Addressee Left without instructions".
- 3.2 Since the Corporate Debtor remained unrepresented in the proceedings, it was set as ex-parte on 15.01.2025 and 08.05.2025 and its right to file reply was forfeited. Hence, we proceed to deal with the matter based on the materials available on record.



4. ANALYSIS AND FINDINGS

4.1 Upon hearing the Counsel for the Financial Creditor and having carefully gone through the pleadings and materials available on record, our findings in the matter are as under:-

4.2 We find that despite several opportunities granted by this Adjudicating Authority to the Corporate Debtor to file its reply and present its case on merits, it chose not to avail itself of these opportunities. As a result, the Corporate Debtor was set *ex-parte*. Therefore, there is no option but to adjudicate the matter on the basis of the pleadings and materials placed on record.

4.3 It is well-established that for the purpose of admission of Section 7 Application, what is paramount is the occurrence of default. As held by the Hon'ble Apex Court in ***Innoventive Industries Ltd. Vs. ICICI Bank (2018) 1 SCC 407***, the moment the Adjudicating Authority is satisfied that a default has occurred, the Application must be admitted. Considering the facts and circumstances of the case and the findings reached above, it is clear that the Financial Creditor in the present case has placed on record necessary evidence such as the Sanction Letter dated 27.03.2018 and the Loan Agreement dated 27.03.2018 to demonstrate the existence of financial debt exceeding the minimum threshold of Rs.1 Crore prescribed under Section 4 of the Code which was due and payable by the Corporate Debtor at the rate of 14% p.a. interest over a period of 60 months.

As per the repayment terms, the Corporate Debtor was to pay interest of Rs.5,87,917/- every month and the principal amount of Rs.5 Crore was repayable on 27.03.2023 whether demanded or not. It is observed from the record that the default in repayment of interest was committed by the Corporate Debtor on 27.09.2021. This led the Original Lender to issue Demand Notice dated 09.05.2022



inter alia calling upon the Corporate Debtor to immediately pay the total outstanding amount of Rs.6,17,15,056/- including interest. There is nothing to indicate that the Corporate Debtor has ever repaid the debt. In this connection, the Financial Creditor has also submitted record of the default on part of the Corporate Debtor in Form D as available on the IU showing the status of authentication of said default as “deemed to be authenticated”. Thus, we hold that the Financial Creditor has successfully demonstrated and proved the existence of financial debt as well as default in repayment thereof.

- 4.4 Further, it is observed that the Application has been filed in the prescribed form and is complete. The Financial Creditor has also filed an Affidavit of the Interim Resolution Professional (IRP) in compliance with Section 7(3)(b) of the Code. The Financial Creditor has proposed the name of Mr. S Kangayan, a registered Insolvency Professional having Registration Number IBBI/IPA-002/IP-N00866/2019-2020/12770, as the Interim Resolution Professional (hereinafter referred to as “the IRP”) to carry out the functions as mentioned under the Code. The proposed IRP has provided his valid Authorisation For Assignment in Form B and also given its written consent/ declaration in Form 2 dated 16.03.2023, *inter alia*, stating that no disciplinary proceedings are pending against him. Therefore, we find that all pre-requisites of Section 7(5)(a) of the Code are fulfilled and, accordingly, we are satisfied that the instant Application is fit for admission under Section 7 of the Code.

ORDER

In the result, this Application bearing **CP(IB) No.585/MB/2024** under Section 7 of the Code read with Rule 4 of the AAA Rules, filed by Shriram Finance Limited, the



Financial Creditor, for initiating CIRP in respect of Bafna Motors Ratnagiri Private Limited, the Corporate Debtor is **admitted**.

We further declare moratorium under Section 14 of the Code with consequential directions as follows:

I. We prohibit-

- 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;
- d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

II. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the Code or passes an order for the liquidation of the Corporate Debtor under section 33 thereof, as the case may be.

III. Notwithstanding the above, during the period of moratorium: -



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- (a) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;
- (b) That the provisions of sub-section (1) of section 14 of the Code shall not apply to -
- i. such transactions as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
 - ii. A surety in a contract of guarantee to a corporate debtor.
- IV. That the public announcement of the CIRP shall be made in immediately as specified under Section 13 of the Code read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.
- V. That this Bench hereby appoints **Mr. S Kangayan**, a registered Insolvency Professional having **Registration Number IBBI/IPA-002/IP-N00866/2019-2020/12770** and **e-mail address kangayan.s@gmail.com** and valid Authorisation for Assignment up to **31.12.2025** as the IRP to carry out the functions under the Code.
- VI. The fee payable to IRP/Resolution Professional (hereinafter referred to as "the RP") shall be in accordance with the Regulations/Circulars issued by the Insolvency and Bankruptcy Board of India (hereinafter referred to as "IBBI").
- VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of Code. The officers and managers of the Corporate Debtor are directed to provide effective assistance to the IRP as



and when he takes charge of the assets and management of the Corporate Debtor. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP within a period of one week from the date of receipt of this Order and shall not commit any offence punishable under Chapter VII of Part II of the Code. Coercive steps will follow against them under the provisions of the Code read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter referred to as "NCLT Rules") for any violation of law.

- VIII. That the IRP/IP shall submit to this Tribunal periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Financial Creditor is directed to deposit a sum of Rs.5,00,000/- (Five Lakh Rupees) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Financial Creditor on priority upon the funds becoming available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.
- X. A copy of this Order be sent to the Registrar of Companies, Mumbai Maharashtra, for updating the Master Data of the Corporate Debtor.
- XI. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.



XII. Registry is directed to immediately communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by way of e-mail and WhatsApp, not later than two days from the date of this Order.

XIII. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

**SANJIV DUTT
MEMBER (TECHNICAL)**

Sd/-

**ASHISH KALIA
MEMBER (JUDICIAL)**

//LRA-Tanmay Jain//