

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. 5, MUMBAI BENCH

CP (IB) 3703/MB/2019

Under Section 7 of the I&B Code,
2016

In the matter of

Rani Agro Private Limited,

Village Lohar Pipliya, Near Kshipra,
A. B. Road, Dewas, Madhya
Pradesh- 455001

... Petitioner

Vs.

S & H Grears Private Limited,

104, A Wing Atlantic Apartment Co-
Operative Housing Society, Swami
Samarth Nagar, Lokhandwala
Complex, Andheri, Mumbai-
400053

... Corporate Debtor

Order delivered on: 24.01.2020

Coram: Hon'ble Smt. Suchitra Kanuparthi, Member (J)
Hon'ble Shri V. Nallasenapathy, Member (T)

For the Petitioner: Adv. Manoj Mishra

For the Corporate Debtor: Adv. Sneha Vani, Adv. Ankit More, Adv. S. R.
Venunath

Per: V. Nallasenapathy, Member (T)

ORDER

Pronounced On: 09.01.2020

1. Rani Agro Private Limited (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process against S & H Grears Private Limited (hereinafter called the 'Corporate Debtor') on the ground that the Corporate Debtor committed default to the extent of ₹5,82,84,297/- inclusive of interest at the rate of 15% per

annum, as provided under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereafter called the 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Petition reveals that the Corporate Debtor approached the Petitioner for the financial help on various occasions. It was communicated by the Petitioner to the Corporate Debtor on various occasions that the given amount shall be refunded when the business of the Corporate Debtor starts smoothly and its profitability increases. On these verbal assurances, since the Corporate Debtor was from the house of promoters of the Petitioner, the Petitioner extended the financial support by way of disbursements from its bank account to the accounts maintained by the Corporate Debtor during 01.04.2011 to 31.03.2018.
3. The Petitioner reminded the Corporate Debtor on several occasions for the payment of the debt amount but the Corporate Debtor did not repay despite raising demand from time to time. On non-repayment of debt amount, the Petitioner issued a recall notice dated 29.04.2019 to the Corporate Debtor demanding total outstanding of ₹5,82,84,297/-.
4. The Petitioner has produced their balance sheet as on 31.03.2018 wherein the loan given to the Corporate Debtor was shown under the head "other current assets" acknowledged its dues to the Petitioner through its financial statement and various communications received by it over a period of time.
5. The Petitioner being Financial Creditor has made this application under Section 7 of IBC, 2016 to initiate CIRP against this Corporate Debtor being a Corporate Guarantor for an amount of ₹5,82,84,297/- as on 31.03.2018.
6. The Corporate Debtor filed reply to the Petition and contended that the Corporate Debtor became financially sick and non-viable, therefore the Corporate Debtor proposed to pay the dues by realising its assets through the process of IBC.
7. The Petitioner has annexed the statement of account of the Corporate Debtor in the books of the Petitioner and bank account statement of the Petitioner. Further the audited balance sheet of the Petitioner and the Corporate debtor for the years ending on

31.03.2017 and 31.03.2018 were also annexed to the Petition. The balance sheets reveal that the Corporate Debtor owes financial debt to the Petitioner as claimed in the Petition.

8. On 13.12.2019, the Counsel for the Petitioner was asked to file amended Form 1 by claiming correct amount as per their balance sheet. The Petitioner then filed the amended Form 1 as per which the principal outstanding is ₹2,43,46,536/- which is reflected in the balance sheet of the Petitioner as well as the Corporate Debtor and Petitioner agreed to give up the interest portion of the claim since there is no agreement to charge interest.
9. During the hearing of the Petition, the Counsel for the Corporate Debtor accepts the liability as well as the default. In view of this, the Petition deserves admission.
10. This Bench having been satisfied with the Petition filed by the Petitioner which is in compliance of provisions of Section 7 of the Code admits this Petition, declaring Moratorium with the directions as mentioned below:
 - (a) that this bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or other in any court of law; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
 - (b) that the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
 - (c) that the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
 - (d) that the order of moratorium shall have effect from 24.01.2020 till the completion of the CIRP or until this Bench approves the

resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.

(e) that the public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code.

(f) that this Bench hereby appoints Mr. Navin Khandelwal, having office at 206, Navneet Plaza 5/2, Old Palasia, Indore, Madhya Pradesh- 452018, having email address navink25@yahoo.com, having Registration No. IBBI/IPA-001/IP-P00703/2017-18/11301 as an Interim Resolution Professional to carry out the functions as mentioned under the Code.

11. The Registry is hereby directed to communicate this order to both the parties and to the Interim Resolution Professional immediately.

SD/-
V. Nallasenapathy
Member (T)

SD/-
Suchitra Kanuparthi
Member (J)