

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD**

SPECIAL BENCH - COURT 1 (VEDIO CONFERENCE)

PRESENT: HON'BLE SHRI BHASKARA PANTULA MOHAN – MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 26.04.2021 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No. 19/7/HDB/2021
NAME OF THE COMPANY	SVSVS Projects Pvt Ltd
NAME OF THE PETITIONER(S)	Bank of Maharastra
NAME OF THE RESPONDENT(S)	SVSVS Projects Pvt Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

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


Counsel for Respondent(s):

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

ORDER

Orders passed in CP(IB)No. 19/7/HDB/2021, vide separate orders.


Member(Technical)


Member(Judicial)

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

CP (IB) No.19/7/HDB/2021

U/s 7 of I&B Code, 2016 read with Rule
4 of I & B (AAA) Rules, 2016.

In the matter between :

Stressed Asset Management Branch
H. No.4-3-448 to 460 & 465 to 468
1st Floor, Vinoothna Pittie's Majesty
Gopal Bagh, Near Bank Street
Koti, Hyderabad, Telangana – 500001.

**.. Petitioner
Financial Creditor**

VERSUS

M/s SVSVS Projects Private Limited
Regd Office: Plot No.31, 2nd Floor
Near Central Bank of India, Phase-I
Kalyan Nagar, Hyderabad, Telangana-500 038.

**.. Respondent
Corporate Debtor**

Date of order : 26.04.2021

Coram:

**HON'BLE SHRI BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)**

and

**HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)**

Parties / counsels present:

For the Petitioner : Shri Trivikram Chitturu
Shri Srinivas Chitturu
Shri A. Harikrishna, Advocates

For the Respondent: Shri Gopinath Surey, Advocate

**Per: SHRI BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)**

Heard on: 25.01.2021, 16.02.2021, 15.03.2021, 22.03.2021 and
30.03.2021.

ORDER

The present petition is filed by Stressed Asset Management Branch of Bank of Maharashtra, which is a Public Sector Bank against the respondent/ SVSVS Projects Private Limited.

2. The Financial Creditor/ Bank of Maharashtra has its Head Office at Lokmangal, 1501, Shivajinagar, Pune – 411005 and it has Zonal Office at the address mentioned in the cause title.
3. The respondent/ Corporate Debtor is incorporated under the Companies Act, 1956 as SV SVS Projects Private Limited, vide Certificate of Incorporation dated 31.03.2005, issued by the Registrar of Companies, Hyderabad, having registered office as mentioned in Column 5, Part-II of the application. The main objects of the respondent/ CD are described in the Memorandum of Association (page 22 of the petition).
4. The present application is filed by the Financial Creditor against the respondent/ Corporate Debtor for default of financial debt as on 19.11.2020, amounting to **Rs.41,59,60,224.00**, consisting of Cash Credit together with invoked BGs amounting to Rs.31,64,00,224.00 and outstanding BGs of Rs.9,95,60,000.00.
5. Hence, this Petition is filed under Section 7 of Insolvency and Bankruptcy Code, 2016, read with Rule 4 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the petition, initiation of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.
6. It is averred that FC/ Bank Maharashtra has sanctioned Working Capital facilities consisting of Cash Credit facility with a limit of Rs.2.50 crores and Bank Guarantee facilities aggregating to Rs.48 crores on 25.03.2014; total facilities aggregating to Rs.50.50 crores to the CD/ Messrs SVSVS Projects Pvt Ltd.
7. The credit facilities availed by the CD are secured by hypothecation of the entire current assets exclusive charge in favour of Bank of



Maharashtra and also secured by counter guarantee of the CD, personal guarantees of its directors and equitable mortgage of immovable properties of third parties.

8. Due to the default committed by the respondent/ CD the FC had initiated proceedings under section 13(2) of SARFAESI Act by issuing Demand Notice dated 08.01.2019 (page 73) demanding total outstanding dues. Unable to get response from the CD the FC has taken symbolic possession of properties on 07.06.2019 and 20.06.2019. The same were published in newspaper on 09.06.2019 and 25.06.2019 respectively. Some of the properties of the CD were put to e-auction scheduled on 25.02.2020. However, the CD had preferred a writ petition before the Hon'ble High Court of Telanagana, which is sub-judice. Whereas, the FC has filed OA No.164 of 2020 on 16.03.2020 before the Debt Recovery Tribunal, Hyderabad, which is pending decision.

9. When the petition was listed on 25.01.2021 the Tribunal has issued notice returnable on 16.02.2021. On 16.02.2021, another notice was issued. On 15.03.2021, finding no representation on behalf of the respondent, the respondent was set ex-parte. On 22.03.2021, Shri Gopinath Sure, PCS filed memo on behalf of the respondent and sought permission to file counter. Since the respondent was already set ex-parte, the respondent cannot file counter. The Tribunal therefore, reserved the matter for orders on 30.03.2021 in presence of the learned counsel for both the parties.

OBSERVATIONS:

10. In an application filed under section 7 of the I&B Code, the Tribunal has to see whether debt and default exist. It is not in dispute that the Financial Creditor has disbursed the credit facilities to the respondent/ CD. We have perused the following documents:

- (i) Demand Promissory Notes dated 25.03.2014 produced at pages 42, 43 and 44;
- (ii) Composite Deed of Hypothecation for all facilities of even date (page 45);
- (iii) Renewal of credit facilities granted by the FC vide its letter dated 09.04.2016 (page 60)



- (iv) Balance and Security Confirmation letter dated 15.03.2017 (Page 71) signed by the sureties in respect of the credit facilities granted to the borrowers; and
- (v) Demand Notice dated 08.01.2019 (page 73) issued under section 13(2) of SARFAESI Act.

11. We find that due to defaults committed by the respondent/ CD, the account of the CD was classified as NPA on 27.12.2018. Subsequently, the FC has issued Demand Notice dated 08.01.2019 (page 73) under section 13(2) of SARFAESI Act demanding total outstanding dues. Unable to get response from the CD, the FC has taken symbolic possession of properties on 07.06.2019 and 20.06.2019.

12. We are conscious of the fact that both the parties have preferred proceedings before different forums. The respondent/ had preferred a writ petition before the Hon'ble High Court of Telanagana. The petitioner/ FC has preferred OA No.164 of 2020 on 16.03.2020 before the Debt Recovery Tribunal, Hyderabad. Both the above proceedings are pending decision. However, that would not deter the Adjudicating Authority from admitting the petition as long as debt and default is proved.

ORDER :

13. Hence, the Adjudicating Authority admits this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-

(A) The Bench hereby prohibits 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; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in 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 the date of this order till the completion of the Corporate Insolvency Resolution Process 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, whichever is earlier.

(E) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.

(F) That this Bench hereby appoints Shri Kasi Srinivas having Registration No. IBBI/ IPA-003/ IP- N00237/ 2019- 2020/ 12840, as Interim Resolution Professional, whose contact details are:

e-mail ID: srinivaskashyap111080@gmail.com

Address: Flat No.1-2-37/4B, Jains Bhavani Residency
St. No.3, Kakatiya Nagar, Habsiguda
Hyderabad – 500 007
Telangana.

as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

(G) Proposed IRP has filed Form-B issued by the Institute of Insolvency Professionals. Authorisation for Assignment is valid till 30.11.2021. This information is also available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.

14. Registry of this Tribunal is directed to send a copy of this order to the Registrar of Companies, Hyderabad for marking appropriate remarks against the Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.

15. Accordingly, this Petition is admitted.



VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)



BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

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