

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP (IB) - 4312/I&BP/MB/2018

Under Section 7 of the I&B Code, 2016
In the matter of
Dena Bank
C-10, G Block, Bandra Kurla Complex,
Bandra (East), Mumbai-400 051
.... Petitioner

Vs.

M/s. Asahi Industries Limited
Ecomax, Musrane, Tal. Wada, Thane,
Maharashtra -421312

.... Respondent

Order delivered on: 21.01.2019

Coram:

Hon'ble Bhaskara Pantula Mohan, Member (J)

Hon'ble V.Nallasenapathy, Member (T)

For the Petitioner: Mr. Anup Khaitan, Advocate i/b Anup Khaitan & Co.

For the Respondent: None Present.

Per: V. Nallasenapathy, Member (T)

ORDER

1. Dena Bank (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process of M/s. Asahi Industries Limited (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default on 01.04.2016 in making payment to the extent of Rs. 8,19,72,958/- 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 Petitioner sanctioned an overdraft facility of Rs. 12 crores under Dena Mortgage Scheme to the Corporate Debtor repayable in 84 months with interest @13.50% p.a. The Petitioner enclosed the following security documents in respect of the said loan:
 - i. Demand promissory note dated 30.03.2012 for Rs. 12 crores executed by the Corporate Debtor.
 - ii. Letter of continuity dated 30.03.2012 executed by the Corporate Debtor.
 - iii. Letter of general lien and set off for borrowing arrangements dated 30.03.2012.

- iv. Letter of guarantee dated 30.03.2012 executed by Mr. Sanjay Kumar Tayal, Mr. Navin Kumar Tayal and Mr. Pravin Kumar Tayal for Rs. 12 crores.
- v. Dena Mortgage Loan Agreement dated 30.03.2012 executed by the Corporate Debtor.
- vi. Extension of Mortgage Deed dated 08.06.2012 executed by Mr. Rampratap Radhakishan Tayal as security for the loan of Rs. 12 crores granted to the Corporate Debtor.



The Petitioner issued notice on 26.04.2017 u/s 13(2) SARFAESI Act, 2002 claiming a sum of Rs. 6,32,00,000/- wherein it was also stated that the account of the Corporate Debtor was classified as Non-Performing Asset on 01.07.2016. Subsequently, the Petitioner issued several reminders to the Corporate Debtor to pay the dues to the Petitioner.

4. The Petition was served on the Corporate Debtor on 07.01.2019. The Petitioner also intimated the date of hearing of this Petition. However, the Corporate Debtor failed to appear before this Bench.
5. On reading the Petition and on hearing the submissions of the Counsel for the Petitioner, it is clear that the Corporate Debtor enjoyed the credit facility extended by the Petitioner, but failed to repay the same. Hence, the Petition deserves to be admitted.
6. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the loan availed and also placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional and there being no disciplinary proceedings pending against the proposed resolution professional, therefore the Application under sub-section (2) of Section 7 is taken as complete, accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:

- (I) (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 (SARFAESI Act);

(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.

(II) 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.

(III) 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.

(IV) That the order of moratorium shall have effect from 21.01.2019 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, as the case may be.

(V) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

(VI) That this Bench hereby appoints Mr. Ankur Kumar, Office No. 18 10th Floor Pinnacle Corporate Park, G Block, BKC, Bandra East, Mumbai-400 051, having Registration No. IBBI/IPA-002/IP-N00113/2017-18/10283 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

7. Accordingly, this Petition is admitted.

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

SD/-
V. Nallasenapathy
Member (T)

SD/-
Bhaskara Pantula Mohan
Member (J)