

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

CP 990 (IB)/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Jammu and Kashmir Bank Limited

...Financial Creditor/ Applicant

v/s

Pan India Utilities Distribution Company Limited

...Corporate Debtor

Order Dated 20.09.2019

Coram: Hon'ble Member (Judicial) Mr V.P. Singh

Hon'ble Member (Technical) Mr Rajesh Sharma

For the Petitioner: Adv. Dharmesh S Jain and Mr. Anil Agrawal.

For the Respondent: Adv. Karl Tamboly, Adv. Ekta Tripathi.

Per Rajesh Sharma, Member (Technical)

ORDER

1. This is an application being CP 990/2019 filed by **Jammu and Kashmir Bank Limited**, Financial Creditor or Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Pan India Utilities Distribution Company Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**). The Petition is filed on 11.03.2019.
2. This application is filed by Mr Fayaz Ahmed Wani, Branch Head, Andheri Branch Office of the applicant Bank, who is duly authorised to do so.
3. The Applicant had sanctioned Line of Credit Facility to the Corporate Debtor for ₹200crore vide sanction letter dated 17.12.2013 and loan agreement dated 27.12.2013. The loan amount is said be disbursed on 28.12.2013 and 30.12.2013. The said credit facility was further renewed vide sanction letter dated 18.11.2017. The said credit facility amount is secured vide mortgage over movable and immovable property as well as guarantees.
4. The applicant submits that as on 07.03.2019, the total outstanding amount in default is ₹70,38,74,189.51/- including interest. The date of default is stated as 28.12.2018.

5. The Applicant sent demand notice dated 31.01.2019 and 02.03.2019 intimating that the credit facility granted to the Corporate Debtor has matured on 28.12.2018 and an outstanding principal amount of ₹70crore is outstanding and shall be repaid. In reply to the said notice dated 02.03.2019 the Corporate Debtor vide its reply dated 05.03.2019 has admitted the debt and default thereof and has requested further time to realign the same.
6. The Applicant has filed extracts of Commercial Credit Information Report (CIBIL) dated 08.03.2019 reflecting the outstanding amount of around ₹70crore against the facility offered by the Applicant. The Applicant has also submitted a copy of the bank statement along with a certificate of the Applicant Bank dated 08.03.2019, certifying that the account statement is as per entries of the Bank Account of the Corporate Debtor for the period 28.12.2013 to 07.03.2019. The account statement of the Corporate Debtor is reflecting an outstanding balance of ₹69,96,71,800.37 as on 07.03.2019.
7. The Corporate Debtor has filed its affidavit in reply on 01.08.2019 wherein it has admitted that it took a loan of ₹200crore from the Applicant vide loan agreement dated 27.1.2.2013. It is also admitted by the Corporate Debtor in its affidavit in reply that the outstanding amount is about ₹70crore.
8. On perusal of the documents submitted by the financial creditor, it is clear that debt amounting to around ₹70crore is due and payable by the Corporate Debtor to the Applicant as on the date of filing of this application. The outstanding debt is even admitted by the Corporate Debtor in its affidavit in reply by stating that the amount of debt outstanding is ₹70crore. The outstanding amount that is admittedly in default is more than ₹1,00,000/-.
9. The application filed by the financial creditor is on proper form 1, as prescribed under the Adjudicating Authority Rules and application is complete.
10. The Applicant has proposed the name of Mr Hemant J Mehta, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-001/IP-P00027/2016-17/10060] as **Interim Resolution Professional**, to carry out the functions as mentioned

under I&B Code. In Form 2 annexed to the Application, the proposed IRP has declared that there are no disciplinary proceedings pending against him.

11. The Application under sub-section (2) of Section 7 of I&B Code, 2016 filed by the financial creditor for initiation of CIRP in prescribed Form No1, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 is complete. The existing financial debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the petition filed under section 7 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This petition filed under Section 7 of I&B Code, 2016, filed by **Jammu and Kashmir Bank Limited**, against **Pan India Utilities Distribution Company Limited**, for initiating corporate insolvency resolution process is at this moment **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
 - 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 activity 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 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 the moratorium period.
 - III. That the provisions of sub-section (1) of Section 14 of I&B Code 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 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.
 - VI. That this Bench at this moment appoints Mr Hemant J Mehta, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-001/IP-P00027/2016-17/10060] as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
12. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V.P. SINGH
Member (Judicial)

20th September 2019