

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP (IB) -404/MB/2018

Under Section 7 of the I&B Code,
2016

In the matter of

Mr. Vijay Oswal, Partner of
Power Saver Solutions
53C, Vandana Nagar, Indore –
452001, Madhya Pradesh
.... Petitioner

Vs.

Han UI Technologies Private
Limited
Janaki, Plot No. 27, VidyaNagar,
Pune – 411032, Maharashtra
.... Corporate Debtor

Order delivered on : 05.11.2018

Coram:

Hon'ble Mr. Bhaskara Pantula Mohan, Member (J)
Hon'ble Mr. V. Nallasenapathy, Member (T)

For the Petitioner: Mr. Rishabh Gupta, Advocate
For the Respondent: None present.

Per: V. Nallasenapathy, Member (T)

ORDER

1. Mr. Vijay Oswal, Partner of Power Saver Solutions (hereinafter called as "Petitioner") filed this Petition against the Corporate Debtor Han UI Technologies Private Limited for initiation of Corporate Insolvency Resolution Process on the ground that Corporate Debtor defaulted on 25.07.2018 in making the payment of Hire-purchase Instalment dues, which works out to Rs. 1,40,76,000/-, under Section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The Petitioner submits that a Sale – Hire back agreement was entered into between the Petitioner and the Corporate Debtor on 19.01.2015 for installation of Light Emitting Diodes (LEDs) lighting system by the Petitioner for Rs. 2,81,52,000/-. The agreement provides that the price of the LED is fixed at Rs. 2,81,52,000/- and the Corporate Debtor shall make the Hire-purchase instalment at the rate of Rs. 3,91,000/- p.m. for 72 months. The Corporate Debtor has paid 6 hire-purchase instalments for the period from February 2015 to July 2015. The Corporate Debtor defaulted the hire purchase instalments from August 2015 to July 2018 (till the filing of this Petition) which works out to Rs. 1,40,76,000/-. Accordingly the petitioner has claimed the defaulted amount of Rs. 1,40,76,000/-
3. The Petitioner served the Petition to the Corporate Debtor and filed proof of service. Subsequently the Petitioner has filed MA No. 912/2018 for amendment of the Form-1 wherein the amount claimed was rectified and brought down to Rs. 1,40,76,000/- instead of Rs. 2,00,79,444/- as already claimed. This amended Petition was also served on the Corporate Debtor and the Affidavit of Service was also filed. The Corporate Debtor was absent for all the hearings. The above stated MA No. 912/2018 was allowed on 22.10.2018.
4. The Counsel for the Petitioner submitted that the amount of debt herein is a Financial Debt as provided u/s 5(8)(d) of the Code which provides that Financial Debt means a Debt along with interest, if any which is disbursed against the consideration for the time value of money and includes, the amount of any liability in respect of any lease or hire-purchase contract which is deemed as Finance or Capital lease under the Indian Accounting Standards or such other Accounting Standards as may be prescribed. In view of the above said provision the debt claimed in this Petition is a Financial Debt. The Corporate Debtor after making payment of six hire-purchase instalments for six months from February 2015 to July 2015 failed to make the remaining payments and the Petitioner has claimed the defaulted hire-purchase instalments up to July 2018 which works out to Rs. 1, 40,76,000/-

5. 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 05.11.2018 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 Mrs. Jeena Agrawal, 304, Shanti Niketan, Chandralok Colony, Khajrana Road, Indore, MP-452001 Email:- jeenashah2001@yahoo.co.in, having Registration No. IBBI/IPA-001/IP-P00879/2017-18/11476, as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

6. Accordingly, this Petition is admitted.

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

SD/-

V. Nallasenapathy
Member (Technical)

SD/-

Bhaskara Pantula Mohan
Member (Judicial)