

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP (IB) -3954/I&BP/MB/2018

Under Section 7 of the I&B Code, 2016

In the matter of

Reliance Commercial Finance Limited,
Reliance Centre, 6th Floor, South Wing,
Off. Western Express Highway,
Santacruz (East), Mumbai-400 055

.... Petitioner

Vs.

Sharp Knife Company Private Limited,
Plot No. C-13, Nice Area, MIDC Satpur,
Nashik Maharashtra- 422007

.... Respondent

Order delivered on: 21.01.2019

Coram:

Hon'ble Bhaskara Pantula Mohan, Member (J)

Hon'ble V.Nallasenapathy, Member (T)

For the Petitioner: Ms. Anjala Parveen, Advocate

For the Respondent: None

ORDER

Per: V. Nallasenapathy, Member (T)

1. Reliance Commercial Finance Limited (hereinafter called the 'Petitioner') has sought the Corporate Insolvency Resolution Process of Sharp Knife Company Private Limited (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default in repayment of credit facility granted to the Corporate Debtor to the extent of Rs. 1,26,94,918/-, 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 Reliance Capital Ltd. had granted a term loan of Rs. 1,75,00,000/- on 30.09.2013 to the Corporate Debtor for purchase of CNC Laser Machine. The Corporate Debtor executed the following documents in respect of the Term loan:
 - a. Demand promissory note dated 01.10.2013 for Rs. 1,75,00,000/-.
 - b. Letter of continuity for demand promissory note dated 01.10.2013.

- c. Facility cum hypothecation agreement dated 01.10.2013.
 - d. Irrecoverable power of attorney in favour of the Petitioner to deal with the equipment purchased out of the loan and exercises all rights in respect of the said asset.
 - e. Form 8 filed with the Registrar of companies for creation of charge over the assets.
3. The Petitioner stepped into the shoes of Reliance Capital Limited by way of a demerger vide a scheme of arrangement approved by the Hon'ble Bombay High Court vide its order dated 09.12.2016.
4. The Petitioner enclosed the statement of account for the Term loan wherein it was found that the instalment overdue is there which shows that the Corporate Debtor has defaulted in making payment.
5. Reliance Capital Limited, on 08.07.2016, through their Counsel, sent a notice recalling the entire loan and demanded the Corporate Debtor to pay the dues of Rs. 90,01,149/-.
6. The Petitioner filed proof of service showing that the Petition was served on the Corporate Debtor on 05.11.2018. Further, the Petitioner intimated the date of hearing to the Corporate Debtor. However the Corporate Debtor failed to appear before this bench.
7. The above facts shows that the Corporate Debtor defaulted in making the payment towards the liability to the Petitioner and the petition deserves to be admitted.
8. 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. Pankaj Sham Joshi, having his address at Omega Business Solutions Pvt Ltd., Unit 12, Kakad Industrial Estate, Lady Jamshedhi Cross Road No. 3, Mahim (West), Mumbai - 400016 having Registration No. IBBI/IPA-002/IP-N000507/2017-18/11556 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

9. Accordingly, this Petition is admitted.

10. 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)