

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**JAIPUR BENCH (RAJASTHAN)**

**IB No. 707(PB)/2018**

**TA No. 78/2018**

**CORAM: SHRI R. VARADHANRAJAN, MEMBER (JUDICIAL)**

**IN THE MATTER OF SECTION 9 OF IBC, 2016.**

**IN THE MATTER OF:**

**M/s Indus Container Lines Pvt. Ltd.  
702, 7<sup>th</sup> Floor, Vishal Bhawan-95,  
Nehru Place, New Delhi-110070**

**...FINANCIAL CREDITOR**

**VERSUS**

**M/s Jadoun International Pvt. Ltd.  
511, Alankar Plaza, Central Spine,  
Vidhyadhar Nagar, Jaipur-302023**

**...CORPORATE DEBTOR**

**FOR PETITIONER (S) : MR. ANSHUL RAI, ADV.**

**FOR RESPONDENT(S) : MR. SUSSHIL DAGA, ADV.  
MS. SANYA JOSHI, ADV.**

**ORDER**

1. This application seeking for initiation of Corporate Insolvency Resolution Process (CIRP) under Section 7 of Insolvency and Bankruptcy Code, 2016 (IBC, 2016) has been filed by petitioner in the capacity as a Financial Creditor against the Corporate Debtor in view of defaults in repayment of the amount given as loan having not been repaid by the Corporate Debtor. Reference to Part-4 of the application filed under Section-7 of IBC, 2016 discloses that the amount which is being claimed is to the extent of Rs. 46,44,131/- comprising of outstanding principal amount of Rs. 38,75,928/- along with unpaid account accumulated interest amount of Rs. 7,68,203/- as on 31.12.2017 along with further amount of Rs. 12,543/- being the amount deducted towards TDS, however not remitted to the Government to the credit of the Financial Creditor. The transactions leading to the above claim, it is averred is as follows: -

(a) That both the petitioner as well as the respondent are engaged in the business of liner shipping and international freight forwarding business and that in the month of November, 2015, the Corporate Debtor approached the Financial Creditor for a loan of Rs. 75 lakhs and being in the same line of business, the Financial Creditor agreed for providing financial facilities and in relation to the same a line credit agreement dated 23.11.2015 was entered into filed as annexure-7 along with the

petition and that in the year 01.03.2017, a promissory note was executed by the Corporate Debtor for a sum of Rs. 40 lakhs payable on demand (b) together with the interest at the rate of 30% p.a. on monthly rests and compounding for the value received. Further, security cheques were also issued post-dated for the said sum of Rs. 40 lakhs.

2. Consequent to the above, loan amount in a sum of Rs. 40 lakhs were also disbursed on 02.03.2017 through Kotak Mahindra Bank as evidenced from the bank statements furnished by the Financial Creditor. However, the Corporate Debtor failed to adhere to the timeline as committed by it for the repayment of the loan amount and that on the date of disbursement of the loan amount on 02.03.2017, only a sum of Rs. 1,24,072/- has been paid towards principal amount and towards interest a sum of Rs. 3,08,450/- has been paid till date and rest of the amounts are in default.
3. It is also averred in the application that the cheques which has been given as security cheques, when deposited after 23.02.2018 has also been dishonoured and returned by the bank due to insufficient funds, thereby, clearly pointing out the Corporate Debtor has committed a default of the amounts due to the Financial Creditor aggregating in all to a sum of Rs. 52,33,922.50/- and the default as of date continues on the part of the Corporate Debtor in repaying the amounts due to the Financial Creditor.
4. Record of the proceedings of this Tribunal shows that originally the matter was filed before the New Delhi Bench and subsequently by virtue of

Notification No. SO 3145(E) dated 28.06.2018 had been transferred to this Bench, namely, Jaipur Bench of the Tribunal in view of territorial jurisdiction ascertained based on the situation of the registered office of the Corporate Debtor.

5. It is also further seen that on 10.08.2018 when the matter was listed before this Bench of the Tribunal, a representation has been made on behalf of the Corporate Debtor that reply will be filed, for which 10 days time was granted. However, despite grant of time when the matter was posted on 11.10.2018, a representation was made that the parties are in the process of settlement by the Corporate Debtor. However, IBC being a time bound process, this Tribunal was not inclined to grant further time for filing reply to the Corporate Debtor and in the circumstances, the right to file reply was closed and the matter was posted on 15.11.2018, when again a representation was made on behalf of the Corporate Debtor that the matter will be settled during the course of the day itself and that settlement will be reported in the matter. Despite the said commitment coming from the Corporate Debtor nothing was reported. Under the circumstances, counsel for the petitioner was heard in detail and orders were reserved.
6. Perusal of the documents filed and annexed along with the petition discloses that a loan agreement had been entered into between the Financial Creditor and the Corporate Debtor on 24.11.2015, wherein the borrower had agreed to borrow from the lender and the lender had agreed to sanction



to the borrower a revolving loan facility of Rs. 75 lakhs at the interest rate of 30% p.a. for 30 days, the lender being the Financial Creditor and the borrower being the Corporate Debtor as defined in the said agreement.

7. Further by annexure P-8, a promissory note has been executed, a copy of which has been made available on 01.03.2018 signed by the Corporate Debtor for a sum of Rs. 40 lakhs repayable on demand at 30% p.a.
8. Annexure P-9 shows that a sum of Rs. 40 lakhs has been given on 02.03.2017 to the Corporate Debtor by the Financial Creditor through banking channels. Cheque return memo in relation to a sum of Rs. 46,44,131/- along with the dis-honoured cheque dated 22.02.2018 for the said amount drawn on IndusInd Bank by the Corporate Debtor has also been enclosed.
9. It is also seen from the master data as maintained by MCA in relation to the Corporate Debtor that the registered office of the Corporate Debtor is situated in Jaipur. The application also discloses the name of the proposed Interim Resolution Professional as one Mr. Ajit Kumar Jha having registration No. IBBI/IPA-0003/IP-N00062/2017-18/10548 as an Interim Resolution Professional and the said Interim Resolution Professional has filed written communication in the prescribed format, namely, Form-2.
10. Taking into consideration the facts and circumstances of the case and since the documents clearly disclose that there has been default on the part of the Corporate Debtor in relation to the amount availed as loan from the

Financial Creditor and since the definition of 'Financial Debt' under Section 5(8) of IBC, 2016 stands satisfied, this Tribunal is constrained to initiate the CIRP as against the Corporate Debtor with attendant consequences of admission being a moratorium as envisaged under Section 14 of IBC, 2016 is invoked in relation to the Corporate Debtor which will be in force during CIRP process of the Corporate Debtor Mr. Ajit Kumar Jha is appointed having Registration No. IBBI/IPA-0003/IP-N00062/2017-18/10548, as the Interim Resolution Professional (IRP) to carry out the Corporate Insolvency Resolution Process as envisaged under the provisions of IBC, 2016, in relation to the Corporate Debtor.

11. The said IRP shall act strictly in compliance with the provisions of IBC, 2016. With a view to defray his expenses to be incurred and fees on account, the Operational Creditor is directed to deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs only) to the account of the IRP. The IRP shall duly file the status report apprising this Tribunal about the progress of CIR process unfolded in relation to the Corporate Debtor. In terms of Sections 17 and 19 of IBC, 2016 all the personnel of the Corporate Debtor including its promoters and Board of Directors whose powers shall stand suspended will extend all co-operation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP. In terms of Section 9 of IBC, 2016, a copy of this order shall be duly communicated to the Operational Creditor, Corporate Debtor as well

as the Interim Resolution Professional appointed by this Tribunal to carry out the CIR process at the earliest not exceeding one week from today. A copy of this order shall also be communicated to IBBI for its records. In the circumstances this application stands admitted.

Sd—

25.01.2019

(R. Varadharajan)  
Member (Judicial)

Shakti