

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP (IB) -4031/I&BP/MB/2018

Under Section 7 of the I&B Code, 2016

In the matter of

Dena Bank,
Dena Corporate Centre, C-10, G- Block,
Bandra - Kurla Complex, Bandra (East),
Mumbai - 400051

.... Petitioner

Vs.

Shalini Publicity & Creativity Pvt. Ltd.,
401-402, A-Wing, Trade Square, 4th Floor,
Near Pidilite Mehra Compound, Opp.
Orkay Mill, Sakinaka, Andheri East,
Mumbai-400072

.... Respondent

Order delivered on: 07.01.2019

Coram:

Hon'ble Bhaskara Pantula Mohan, Member (J)

Hon'ble V.Nallasenapathy, Member (T)

For the Petitioner: Mr. P. Gopalakrishnan, Advocate a/w Ms. Ishita Merchant,
Advocate i/b S.K. Sanghi & Co.

For the Respondent: Mr. Akhilesh Choubey, Advocate i/b ABG & Associates

Per: V. Nallasenapathy, Member (T)

ORDER

1. Dena Bank (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process (hereinafter called 'CIRP') of Shalini Publicity & Creativity Pvt. Ltd (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default on 31.08.2014 in repayment of facilities granted to the Corporate Debtor to the extent of Rs. 28,15,26,092/-, 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 Petitioner has enclosed sanction letter dated 26.02.2015 which shows that the following facilities were granted to the Corporate Debtor by the Petitioner.

Sr. No.	Nature of Facility	Amount
1	Cash Credit	11,00,00,000/-
2	Term Loan	2,94,00,000/-
3	Bank Guarantee	75,00,000/-
Total		14,69,00,000/-

3. The Petitioner has enclosed the following security documents connected with the sanction of loan facilities:

- (a) Copy of Certificate of Registration of Mortgage dated 08.10.2018.
- (b) Letter of general lien and setoff dated 30.08.2013 executed by the Corporate Debtor in favour of Petitioner.
- (c) Demand Promissory Note, Letter of Guarantee, Agreement of hypothecation etc.
- (d) Letter of acknowledgement of debt dated 26.02.2015.

4. The Petitioner has enclosed the Statement of Account for the facilities granted to the Corporate Debtor which shows that the amount claimed in the Petition is in consonance with the Statement of Account.

5. The Petitioner has enclosed notice under Section 13(2) of SARFAESI Act, 2002 dated 18.02.2016 demanding a sum of Rs. 16,31,06,448/- as on 17.02.2016 with further interest, charges etc which shows that the Corporate Debtor defaulted in repaying the credit facilities availed by them.

6. The Petitioner has annexed the certificate dated 10.10.2018 under Section 2A(a) of Banker's Books Evidence Act, 1891.

7. The Corporate Debtor filed reply to the petition wherein it was stated that the Corporate Debtor is trying to settle with the Petitioner and is taking steps in that regard and had requested for further time. It was submitted by the Corporate Debtor that the OA No. 1194 of 2016 is pending for adjudication before the Debts Recovery Tribunal, Mumbai and in view of this the Application cannot be admitted. However, the pendency of proceedings before the DRT is not a bar for initiation of CIRP and hence this objection is not sustainable. The Corporate Debtor further contended that the Reserve Bank of India has come up with a new scheme for restructuring the loan account of Medium Small and

Micro Enterprises (MSME) up to Rs. 25 crores, hence, they are willing to restructure the account and sought time. The Corporate Debtor has neither disputed the liability nor the default.

8. The Counsel for the Corporate Debtor during the course of arguments submitted that One Time Settlement Proposal (OTS) was made to Petitioner on 04.12.2018. The Counsel for the Petitioner submits that the said OTS proposal was rejected by the Petitioner.

9. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the loans 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 07.01.2019 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. Sameer Kakar, 105, Gulmohar Complex, Near Bus Depot, Station Road, Goregaon (East) Mumbai - 400063, Email:-sameerkakar@gmail.com, having Registration No. IBBI/IPA-001/IP-P00218/2017-18/10418 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

10. Accordingly, this Petition is admitted.

11. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional within seven days from the date order is made available.

SD/-
V. Nallasenapathy
Member (T)

SD/-
Bhaskara Pantula Mohan
Member (J)