

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP No. 2684/IBC/NCLT/MB/MAH/2018

Under Section 7 of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of

Global Rural Netco Limited
..... Financial Creditor

V.

Evershine Advisory Services Private Limited.
..... Corporate Debtor

Heard on: 07.02.2019
Pronounced on: 25.02.2019

Coram :

Hon'ble M.K. Shrawat, Member (J)

For the Petitioner :

Advocate Chandrakant Mhadeshwar.

For the Respondent :

None present.

Per: M.K. Shrawat, Member (J)

ORDER

1. The Petitioner/Applicant viz. 'Global Rural Netco Limited' (hereinafter as **Financial Creditor**) has furnished Form No. 1 under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter as **Rules**) in the capacity of "**Financial Creditor**" on 10.07.2018 by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code (hereinafter as **Code**) against 'Evershine Advisory Services Private Limited' (hereinafter as '**Corporate Debtor**'). The registered address of the Corporate Debtor is stated to be 204, 2nd Floor, D-Definity, jai Prakash Nagar No. 1, Goregaon East, Mumbai.
2. In the requisite Form, under the head "Particulars of Financial Debt" the total amount of **debt granted is ₹13,30,00,000/- Crores** along with interest @ 6% p.a. and the total amount claimed to be in default is stated to be **₹14,21,62,411/-** (inclusive of interest) as on 04.07.2018. The Date of Default is stated to be 27.03.2018.

A) Brief History of the case:

3. The Financial Creditor, has granted financial limits to the tune of ₹13,30,00,000/- to the Corporate Debtor vide agreement dated 28.03.2017. The said amounts were disbursed on various dates viz.
₹7,50,00,000/- on 03.04.2017
₹4,00,00,000/- on 30.06.2017
₹1,80,00,000/- on 04.07.2017
4. The amounts granted were repayable after a period of 12 months from the date of agreement. However, the Corporate debtor defaulted in its repayment. Hence, this petition.

Submissions by the Financial Creditor

5. The Financial Creditor has shown various correspondences between itself and the Corporate Debtor wherein, the Corporate debtor has requested the Financial creditor to disburse certain amounts in view of the loan agreement dated 28.03.2017. The Corporate Debtor has confirmed the receipt of ₹13,30,00,000/- vide letter dated 07.07.2017. The Financial Creditor vide its Final Call Letter dated 10.04.2018 called upon the Corporate Debtor to repay its dues within 7 days along with interest. But nothing fructified. Thereafter, again on 27.04.2018, a letter for payment of ₹14,06,32,000/- was issued to the Corporate Debtor, but no response.
6. The Bank statement of the Financial Creditor corroborates its claim qua the amounts disbursed to the Corporate Debtor on various dates.
7. The Financial Creditor further argues that the petition is complete in all respects, the Corporate Debtor is not making the payment and all the procedural formalities have been complied with, this Petition/Application may be Admitted for the initiation of the CIRP.

B) No Submissions by the Corporate Debtor :

8. The Corporate Debtor has never appeared before this Bench during the course hearings in this matter despite the service of petition by the Financial Creditor. Affidavit of service has been placed on record. The Corporate Debtor neither replied to the Final Call Letter of Financial Creditor nor to this petition. The conduct of the Corporate Debtor shows that there is no valid defence to this petition and hence the petition is fit to be admitted.

C) Findings :

9. On perusal of the arguments of the Financial Creditor and the documents and evidences placed on record, this Bench is of the view that the liability in the present case in hand is an admitted liability by the Corporate Debtor and so far no express objection has been raised against the admission of the present petition. The statement

of accounts produced on record prove the disbursement of various loan facilities granted by the Financial Creditor.

10. In the present case, by not replying to the letters of the Financial Creditor, and by not filing an affidavit in reply to this petition for contesting its liability, the Corporate Debtor has admitted its liability. Moreover, there are multiple acknowledgements of the Corporate Debtor for admission of its liability on record.
11. The Petitioner's claim of existence of debt and default has been corroborated with ample evidence and is enough to hold a view in its favour. On going through the facts and submissions of the petitioner and upon considering the same, it is concluded that the Financial Creditor has established that the loan was duly sanctioned and duly disbursed to the Corporate Debtor but there has been default in payment of Debt on the part of the Corporate Debtor.
12. Considering the above facts, I come to conclusion the nature of Debt is a "Financial Debt" as defined under section 5 (8) of the Code. It has also been established that admittedly there is a "Default" as defined under section 3 (12) of the Code on the part of the Debtor.
13. As a consequence, keeping the admitted facts in mind, it is found that the Petitioner has not received the outstanding Debt from the Respondent and that the formalities as prescribed under the Code have been completed by the Petitioner, I am of the conscientious view that this Petition deserves '**Admission**'.
14. Further that, I have also perused the Form – 2 i.e. written consent of the proposed Interim Resolution Professional submitted along with this application/petition by the Financial Creditor and there is nothing on record which proves that any disciplinary action is pending against the said proposed Interim Resolution Professional.
15. Hence, after perusal of the provisions of the Code and facts and circumstances of this case along with the submissions of the petitioner, it is hereby held that this Petition/Application is **Admitted**.
16. The Financial Creditor has proposed the name of Insolvency Professional. The IRP proposed by the Financial Creditor, **Mr. Manoj Kumar Jain**, having registration No. IBBI/IPA-001/IP-P00535/2017-18/10960 is hereby appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process.
17. Having admitted the Petition/Application, the provisions of **Moratorium** as prescribed under **Section 14 of the Code** shall be operative henceforth with effect from the date of order shall be applicable by prohibiting institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the "Corporate Debtor" shall not be terminated during Moratorium period. It shall be effective till completion of

the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under Section 31 of the Code.

18. That as prescribed under **Section 13 of the Code** on declaration of Moratorium the next step of **Public Announcement** of the Initiation of Corporate Insolvency Resolution Process shall be carried out by the IRP immediately on appointment, as per the provisions of the Code.
19. That the Interim Resolution Professional shall perform the duties as assigned under **Section 18** and **Section 15** of the Code and inform the progress of the Resolution Plan and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.
20. The Petition is hereby **“Admitted”**. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of the Order.
21. Ordered Accordingly.

Dated : 25.02.2019

js

SD/-
M. K. SHRAWAT
MEMBER (JUDICIAL)