

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

CP 429 (IB)/MB/2019

Under Section 7 of the I&B Code, 2016
In the matter of:

**JM Financial Asset Reconstruction Company
Limited**

...Financial Creditor/ Applicant
v/s

Raipur Treasure Island Private Limited
...Corporate Debtor

Order Dated 22nd October 2019

Coram: Hon'ble Member (Judicial) Mr V.P. Singh
Hon'ble Member (Technical) Mr Rajesh Sharma

For the Petitioner: Adv. Rubina Khan

For the Respondent: PCS. Manish Jain

Per Rajesh Sharma, Member (Technical)

ORDER

1. This is an application being CP 429/2019 filed by JM Financial Asset Reconstruction Company Limited, Financial Creditor or Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against Raipur Treasure Island Private Limited, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**) claiming a default of ₹1,40,33,29,995.29/- (Rupees One Hundred and Forty Crore Thirty Three Lakh Twenty Nine Thousand Nine Hundred and Ninety Five only)
2. This application is filed by Mr. Vaibhav Shetty, being duly authorised vide Board Resolution dated 27.04.2018. Copy of the Board Resolution is annexed to the Application.
3. The Applicant is an asset reconstruction company and assignee of the UCO Bank (The Original Lender). The Corporate Debtor defaulted in repayment of loans availed from UCO Bank. The Assignee has taken legal action under the SARFAESI Act, 2002 and filed an Original Application before the Ld. Debt Recovery Tribunal, Jabalpur. Copy of the Assignment deed dated 26.03.2014 is annexed to the Application.



4. The Applicant has filed this Application on the basis of the Final Order dated 22.10.2016 passed by Ld. Debt Recovery Tribunal, Jabalpur in Original Application No.225/2013 allowing the claim of the Applicant and it was held that the Corporate Debtor is liable to pay a sum of ₹85,94,62,955/- (Rupees Eighty Five Crore Ninety Four Lakh Sixty Two Thousand Nine Hundred and Fifty Five Only) together with interest pendente lite and future interest at 12% per annum from the date of filing the OA. i.e 30.09.2013 till its realisation. The Total claim amount of ₹1,40,33,29,995.29/- (Rupees One Hundred and Forty Crore Thirty Three Lakh Twenty Nine Thousand Nine Hundred and Ninety Five only) includes the Decretal amount along with the interest as per the abovementioned order. Copy of the Order dated 22.10.2016 is annexed to the Application.
5. The Applicant has filed Affidavit of Service with respect to intimation of next date of hearing, which shows that the notice was served by way of paper publication.
6. The Counsel for the Corporate Debtor was given sufficient opportunity to file its Reply however, the Corporate Debtor chose not to file its Reply. However, the Counsel for the Corporate Debtor orally submitted that the Application is barred by limitation as the default in repayment of the loan was made in the year 2013. However, the Application is based on the Order dated 22.10.2016. The Corporate Debtor has failed to comply with the said order and the date of default is 22.10.2016 which is well within limitation.
7. We have heard the parties and perused the records.
8. On perusal of the records, it is observed that the Application is filed on the basis of Order dated 22.10.2016 passed by the Ld. DRT, Jabalpur in O.A No. 225/2013. It is pertinent to mention that the order passed is a final order and the same concludes that the Corporate Debtor is liable to pay a sum of ₹85,94,62,955/- (Rupees Eighty Five Crore Ninety Four Lakh Sixty Two Thousand Nine Hundred and Fifty Five Only) together with interest pendente lite and future interest at 12% per annum from the date of filing the OA. i.e 30.09.2013 till its realisation. The said order is passed after



- considering the documents in relation to the Credit facilities availed by the Corporate Debtor.
9. This Application being filed on the basis of order dated 22.10.2016 is well within the period of limitation.
 10. However, on perusal of the order dated 22.10.2016, and the date of default of the Order being 22.10.2016, it is established that the Corporate Debtor is in due and default more than ₹1,00,000/- and the application is complete in proper Form 1.
 11. The Applicant has proposed the name of **Mr Rajesh Jhunjhunwala**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-001/IP-P00647/2017-18/11102]** as **Interim Resolution Professional**, to carry out the functions as mentioned under I&B Code. In Form 2 annexed to the Application, the proposed IRP has declared that there are no disciplinary proceedings pending against him.
 12. The Application under Section 7 of I&B Code, 2016 filed by the financial creditor for initiation of CIRP in prescribed Form No.1, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 is complete. The existence of financial debt of more than Rupees One Lakh against the Corporate Debtor and its default is also proved. Accordingly, the petition filed under section 7 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This petition filed under Section 7 of I&B Code, 2016, filed by **JM Financial Asset Reconstruction Company Limited**, Financial Creditor or Applicant, against **Raipur Treasure Island Private Limited**, Corporate Debtor for initiating corporate insolvency resolution process is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

- 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- d) the recovery of any property by an owner or lessor where such property is occupied by or in 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 the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code 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 the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.
- VI. That this Bench appoints **Mr Rajesh Jhunjunwala**, a registered insolvency professional having Registration Number **[IBBI/IPA-001/IP-P00647/2017-18/11102]** as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall be in



compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

13. The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

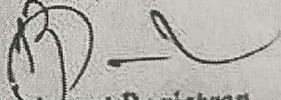
Sd/-
RAJESH SHARMA
Member (Technical)

22nd October 2019

Sd/-
V.P. SINGH
Member (Judicial)



Certified True Copy
Copy issued "free of cost"
On 8/11/19


Assistant Registrar

National Company Law Tribunal Mumbai Bench