

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 1

TP/MP/ 1 of 2019 [CP(IB) 33 of 2018]

Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
INDORE BENCH AT AHMEDABAD OF THE NATIONAL COMPANY LAW TRIBUNAL ON 08.02.2021

Name of the Company: Daimler Financial Services Pvt Ltd
V/s
Space Realcon India Pvt Ltd


Section: 7 of the Insolvency and Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 8th day of February, 2021.

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 1**

CP (IB) No.33/7/NCLT/AHM/2018

An application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016

In the matter of :

Daimler Financial Services Pvt. Ltd.,
(Mr. Navin Ajwani, Manager Legal)
Having registered office at
Unit No.202, 2nd Floor, Campus 3B,
RMZ Millennia Business Park,
No.143, Dr. M.G.R. Road, Perungudi,
Chennai-600 096 ..Financial Creditor

Versus

M/s Space Realcon India Pvt. Limited.,
CIN:U70101MP2010PTC022922
Registered Office at :
63, Ada Bazar, Indore,
Madhya Pradesh-452007 ..Corporate Debtor

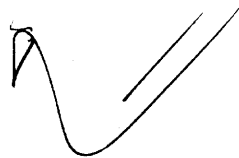

Date of Hearing: 4th day of February, 2021

Date of Pronouncement of Order 8th day of February, 2021

**Coram: MADAN B. GOSAVI, MEMBER(J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance:

Learned Counsel Mr. Rajan Patel a.w Learned Counsel Mr. Nikunj Mevada appeared for the Financial Creditor.



ORDER

[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]

1. The facts, in brief, are that the application filed under Section 7 by Financial Creditor to initiate CIRP against the Corporate Debtor M/s. Space Realcon India Pvt. Limited. The amount of debt in default has been claimed at Rs.61,37,285,52/- including interest. The date of default has been stated as 30.03.2016.

2. The facts, in brief, are that the Financial Creditor is a NBFC and financed a vehicle under loan Agreement whereby disbursed a sum of Rs.52,60,000/- payable in 60 instalments of Rs.1,18,340/- each per month starting from 23.08.2015 and ending on 23.07.2020. However, the Corporate Debtor failed to fulfil its commitment since beginning itself which resulted into issue of termination of loan Agreement on 10.12.2015 itself. Subsequently, demand-cum-insolvency notice was issued on 19.05.2017 whereby sum of Rs.61,32,914/- was demanded. Failing to

positive response from the Corporate Debtor, this application was filed on 10.01.2018.

3. Learned Counsel Mr. Rajan Patel appeared on behalf of Financial Creditor narrated these facts and contended that there was a debt which was due and payable and default had occurred in payment thereof, hence, this application was liable to be admitted. After making this basic legal contention, he drew our attention to all the documents and information contained in the application to substantiate his claims. It was also contended that name of IRP had also been proposed.

4. We have considered the submissions made by the Learned Counsel for the Financial Creditor and material on record. In the present case, admittedly, amount has been disbursed in July / August 2015. Early termination notice has been issued on 10.12.2015. Another demand-cum insolvency notice has been issued on 19.05.2017. It is also not in dispute that the even a single instalment is of the

value of more than Rs.1 lakh. EMI starts from 23.08.2015 and ends on 23.07.2020 and this application has been filed on 10.01.2018. Considering all debts i.e. whether initial debt or subsequent debt starting from second legal notice. Thus, considering the sequence of events and dates, the application is not barred by limitation. There is a default on the part of the Corporate Debtor as evident from the record produced before us. Thus, this application is liable to be admitted. The name of IRP had also proposed. However, we find that the Corporate Debtor is based at Indore whereas the proposed IRP resides at Varanasi and no material has been brought on record to show that such proposed IRP is having any active office at Indore. Hence, we shall be appointing an IRP from the list approved by IBBI as the guidelines issued by IBBI to support and mandate to appoint IRP / Resolution Professional from the place where the Corporate Debtor operations are situated so that CIRP can be conducted smoothly. Accordingly, we will appoint a

qualified person whose name is appearing in the list maintained by IBBI for the Indore.

5. Accordingly, we admit this application and order as under:

ORDER

1. Corporate Debtor M/s Space Realcon India Pvt. Limited is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.
2. We appoint Mr. Vichitra Narayan Pathak, registration no. IBBI/IPA-001/IP-P01353/2018-2019/12063 under section 13(1) (c) of the IB Code as IRP.
3. That the Moratorium under Section 14 of the Code shall come to effect from 08.02.2021 till the completion of 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.

4. That the Adjudicating Authority hereby prohibits the institution of suits or continuation of pending suit or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any Court of law and further prohibits a Tribunals, Arbitration Panels or other Authority(s), transferring, encumbering, alienating or disposing (of by the Corporate Debtor) any of Corporate Debtor assets or any legal right or beneficial interest therein; 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 SARFAESI Act, 2002 the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

5. Further, litigation or any application, if any, is pending before any competent Court of law under

the provisions of the SARFAESI Act and RDB Act, prior to pronouncement of this order such proceedings are expected to be dealt with in accordance with law i.e Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.

6. That the supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the Moratorium, period. The Corporate Debtor to provide effective assistance to the IRP as and when he takes charge of assets and management of the Corporate Debtor.

7. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.

8. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 &

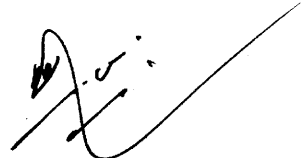
21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation as per Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

9. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.



10. We direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. 1,00,000/- (Rs. One lakh) as fees & expenses till the COC decides about his fees / expenses.
11. This CP(IB) 33 of 2018 stands allowed and disposed-off .
12. The Registry is directed to communicate this order to the Petitioner-Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.
13. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.


(Virendra Kumar Gupta)
Member (Technical)


(Madan Bhalachandra Gosavi)
Member (Judicial)

Signed on this, the 8th day of February, 2021.