



NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COURT- V

33) C.P. (IB)/117(MB)2021

CORAM:

SMT. ANURADHA SANJAY BHATIA
Member (Technical)

SHRI H. V. SUBBA RAO
Member (Judicial)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL
COMPANY LAW TRIBUNAL ON **11.07.2022**.

NAME OF THE PARTIES: SREI EQUIPMENT FINANCE LIMITED

V/s

AMW Commercial Vehicle Applications Limited

UNDER SECTION 7 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Ms. Rima Desai, Advocate, the associate working with Parinam Law and associates, who is holding Vakalatnama in the above Company Petition on behalf of the Corporate Debtor, on instructions, reported no objection for allowing the above Company Petition.

Accordingly, the above Company Petition bearing No. 117 of 2021 is **admitted**. Detailed order follows.

SD/-

ANURADHA SANJAY BHATIA
Member (Technical)

SD/-

H. V. SUBBA RAO
Member (Judicial)

/n/k/



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
COURT-V, MUMBAI BENCH**

C.P. No. 117/IBC/MB/2021

Under Section 7 of the Insolvency and
Bankruptcy Code, 2016 read with Rule 4
of the Insolvency and Bankruptcy
(Application to Adjudication Authority)
Rule 2016)

In the matter of

SREI Equipment Finance Limited,

A non-banking financial company
incorporated under the provisions of the
Companies Act, 1956

(CIN: U70101WB2006PLC109898)

Having registered office at:

“Vishwakarma”, 86C, Topsia Road (South),
Kolkata-700046.

.....Financial Creditor/Petitioner

Vs

**AMW Commercial Vehicle Applications
Limited**

(CIN: U34105MH2010PLC198698)

Registered office at:

Peninsula Techno Park, Tower-1, 7th Floor,
Off Bandra-Kurla Complex, LBS Marg,
Kurla (West), Mumbai, Maharashtra-
400070.

.....Corporate Debtor

Order Dated: 11.07.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)



For the Petitioner: Mr. Dev Upadhyay, Advocate.

For the Corporate Debtor: Ms. Rima Desai, Advocate.

1. The above Company Petition is filed by SREI Equipment Finance Limited, hereinafter called as “Petitioner” seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against AMW Commercial Vehicle Applications Limited hereinafter called as “Corporate Debtor” by invoking the provisions of Section 7 Insolvency and Bankruptcy code (hereinafter called “Code” read with rule 4 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of an unresolved Financial Debt of Rs. 292,79,60,204/- as on 30.09.2020.
2. The Petitioner and the Corporate Debtor entered into 4 Loan Agreements wherein the Corporate Debtor borrowed loans on terms and conditions. In the requisite Form-1, under the head “Particulars of Financial Debt” the dates of disbursement for the Term Loan Facility granted of Rs. 16621,00,000/- is given and which is reproduced as below:

Contract No.	Financed amount (Rs.)	Date of Contract
113526	14421,00,000	03-08-2016
162572	500,00,000	03-08-2018
172226	700,00,000	03-10-2018
172693	1000,00,000	03-10-2018
Total	16621,00,000	



3. The Petitioner enclosed the following details of documents, records and evidence of default in respect of sanctioning the term loan facilities to the Corporate Debtor:
- i. Pledge Agreement dated 12.06.2014.
 - ii. Supplementary Pledge Agreement for contract no. 113526 dated 03.08.2016.
 - iii. Deed of mortgage dated 22.03.2016 executed between the Petitioner and the Corporate Debtor.
 - iv. Deed of personal guarantee dated 03.08.2016 for Contract No. 113526.
 - v. Deed of hypothecation dated 03.08.2016 executed by the Corporate Debtor in favour of the Petitioner for Contract No. 113526.
 - vi. Deed of hypothecation dated 03.07.2018 executed by the Corporate Debtor in favour of the Petitioner for Contract No. 162572.
 - vii. Deed of hypothecation dated 03.10.2018 executed by the Corporate Debtor in favour of the Petitioner for Contract No. 172226.
 - viii. Deed of hypothecation dated 03.10.2018 executed by the Corporate Debtor in favour of the Petitioner for Contract No. 172693.
 - ix. Deed of Corporate Guarantee dated 03.08.2016 for Contract No. 113526
 - x. Certificate of Registration for creation of charge and modification of charge as issued by RoC for all 4 contracts.
 - xi. Rupee Loan Agreements (Agreement No. 113526, 162572, 172226, 172693) executed between Petitioner and Corporate Debtor.
 - xii. Copy of CIBIL Report dated 05.11.2020.
 - xiii. Statement of accounts dated 30.09.2020 for Contract No. 113526, 162572, 172226, 172693.
4. The Petitioner on 19.10.2020 issued demand notice calling upon the Corporate Debtor to clear the outstanding dues within 7 days from the receipt of notice.



5. Ms. Rima Desai, Advocate, the associate working with Parinam Law and associates, who is holding Vakalatnama in the above Company Petition on behalf of the Corporate Debtor, on instructions, reported no objection for allowing the above Company Petition. Accordingly, the above Petition is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) 117 (MB)/2021 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. AMW Commercial Vehicle Applications Limited.
- b. This Bench hereby appoints Mr. **Avinash Ambikaprasad Shukla**, Insolvency Professional, Registration No: IBBI/IPA-003/IP-N00243/2019-2020/12839, having address at Level-3, Padma Palace, Plot No. 79, Sector-28, Vashi, Navi Mumbai, Maharashtra-400703 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Financial Creditor shall deposit an amount of Rs.5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by CoC.
- d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its



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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest 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.

- e. 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.
- f. 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.
- g. That the order of moratorium shall have effect from the date of pronouncement 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 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.



- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, CP 117 of 2021 is **admitted**.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-

ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)

SD/-

H.V. SUBBA RAO
MEMBER (JUDICIAL)