

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD
SPECIAL BENCH - COURT 1 (URGENT HEARINGS THROUGH VIDEO CONFERENCE)
PRESENT: HON'BLE SHRI K ANANTHA PADMANABHA SWAMY – MEMBER JUDICIAL
HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 18.01.20201 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No. 313/7/HDB/2020
NAME OF THE COMPANY	Bharani Commodities Pvt Ltd
NAME OF THE PETITIONER(S)	Platina Properties and Projects Ltd
NAME OF THE RESPONDENT(S)	Bharani Commodities Pvt Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

The petition is admitted vide separate order.


MEMBER (TECHNICAL)


MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No. 313/7/HDB/2020

U/s 7 of IBC, 2016
R/w Rule 4 of I & B (AAA) Rules, 2016

IN THE MATTER OF:

BHARANI COMMODITIES PRIVATE LIMITED

BETWEEN

PLATINA PROPERTIES AND PROJECTS LIMITED
H.No.62/7, Fort, Opp. Dist Central Library
Kurnool-518 001
Shri P.Venkata Ramana Reddy,
Director

...Petitioner/
Financial Creditor

AND

M/s BHARANI COMMODITIES PRIVATE LIMITED
Registered Office at Plot no. 48,
Ground Floor, Nagarjuna Hills,
Punjagutta, Hyderabad,
Telangana.

Respondent/
Corporate Debtor

Date of order: 18.01.2021

Coram:

Shri. K. Anantha Padmanabha Swamy, Member Judicial.
Shri Veera Brahma Rao Arekapudi, Member Technical.

Parties / counsels present:

For the Petitioner : Shri Mayur Mundra, Advocate.

For the Respondent: Shri Naveeni Jain, Advocate

PER: Shri Veera Brahma Rao Arekapudi, Member Technical.



Heard on: 06.01.2021.

ORDER

1. The Present Petition is filed by the Financial Creditor to initiate Corporate Insolvency Resolution Process in the matter of M/s.Bharani Commodities Private Limited. The Petitioner stated that the respondent/ corporate debtor is due and liable to pay an amount of Rs.1,18,75,000/- (consisting of Principal 95,00,000/- and interest @12%) as on 01.05.2020. Hence the petition is filed under Section 7 of Insolvency and Bankruptcy Code, 2016, Read with Rule 4 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 seeking commencement of Corporate Insolvency Resolution Proceedings CIRP against the Corporate Debtor.
2. The averments of the petition filed by the Petitioner/Financial Creditor in brief are:
 - (i) It is averred that financial creditor was in the activity of Construction and development. Corporate debtor is with the objective of trading in steel. In July, 2017 Corporate debtor has approached Financial creditor for a hand loan of Rs.100.00 lacs and promised that the same will be returned within 2 or 3 months.
 - (ii) It is averred that with regard to the relationship with the corporate debtor, financial creditor arranged Rs.95.00 lacs. Financial Creditor after three months of time requested corporate debtor for return of the money but the corporate debtor had requested time.



- (iii) It is averred that corporate debtor has accepted to pay the amount in 6 quarterly installments with interest @12% p.a. Subsequently, both the parties entered into a loan agreement in March, 2018. But the corporate debtor did not honor any of the installments. Thus the financial creditor has approached the NCLT for recover of money along with interest.

3. The respondent/corporate debtor filed reply. The objections raised in the counter in brief are as under:-

- (i) The respondent/ corporate debtor has denied the averments made by the financial creditor in the Company petition. Further stated that petition liable to be dismissed.
- (ii) It is averred that corporate debtor is in the business of trading of steel and allied products. In the year 2017, corporate debtor is facing financial crunch, and thus approached the financial creditor seeking financial assistance in the form of hand loan of Rs.95,00,000/-
- (iii) It is averred that business of corporate debtor was severely affected during the year 2017 to 2019 because of which the corporate debtor was unable to pay the amount in default to the financial creditor. It is averred that the lenders of the corporate debtor i.e banks were not inclined to provide additional credit facilities enabling the corporate debtor to bridge over its financial problems.
- (iv) It is averred that though the corporate debtor was not in a position to pay the debt and facing financial problems, financial creditor started demanding for the payment of debt. Further, both the parties i.e financial creditor and



corporate debtor has entered into an unregistered loan agreement on 30.03.2018. As per the terms of loan agreement corporate debtor has agreed to pay the amount claimed to be in default in six quarterly instalments from June, 2018.

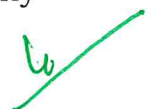
- (v) It is averred that the financial position of the corporate debtor has become worsen and thus failed to honour the terms of the loan agreement. Further due to global pandemic i.e COVID-19 lockdown has affected the corporate debtor severely. It is averred that the corporate debtor is now receiving orders and will be able to repay its debts in future.
- (vi) It is averred that due to financial problems corporate debtor is unable to honour the term of loan agreement and thus prayed the Tribunal to dismiss the petition.

5. We have heard the counsel for financial creditor and the counsel for the corporate debtor. The case of the financial creditor is that corporate debtor is due an amount of Rs.1,18,75,000/- (Consisting of Principal of Rs.95,00,000/- and Interest @ 12%) as on 01.05.2020 along with interest. In pursuance of the loan agreement and for payment of loan amount reminder letters has been served on the corporate debtor but corporate debtor sought 30 days' time for making payment. Counsel for financial creditor had filed copy of loan agreement, and copy of letters addressed to corporate debtor informing receipt of loan amounts which is annexed to the petition at Page no.22-24. Counsel for financial creditor has also filed the copy of loan agreement entered between the parties, which is annexed at Page no.27-29. Thus the learned Counsel for the financial creditor filed the petition



is therefore liable to be admitted as the corporate debtor committed default of debt.

6. On the other hand it is the case of corporate debtor that corporate debtor was facing financial problems and the business of the corporate debtor was severely affected during the year 2017-19 because of which he is unable to pay the amount which is default to the financial creditor. Corporate debtor is facing numerous financial difficulties and was unable to pay the debt owed from the financial creditor. Further contended that corporate debtor is receiving orders and will be able to repay its debts in future. The counsel contended that there is no bonafide on the part of the financial creditor in initiating action against the corporate debtor and the application is liable to be dismissed.
7. We have gone through the documents filed on behalf of financial creditor. The grounds stated by corporate debtor will not prevent the financial creditor from initiating CIRP against corporate debtor. There are grounds to admit the petition. No tenable objections are raised by the corporate debtor. The financial creditor suggested the name of the IRP and filed his consent in Form-2. The petition is complete and therefore deserves to be admitted.
9. Hence, the Adjudicating Authority admits this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with the following directions:-
 - (i) The 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); 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 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 18.01.2021 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, whichever is earlier.
- (v) We hereby appoint Shri Bhaskar.B, Address:4/447A,7th Street, Aruna Street, K.Vadamadurai, PO, Coimbatore- 641017 as proposed Interim Resolution Professional (IRP), having Registration No.IBBI/IPA-002/IP-N00644/2018-19/12024, who has given his consent in Form-2.
- (vi) That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the code.



- (vii) Accordingly, petition is admitted.
- (viii) Registry to send a copy of this order to the Registrar of Companies, Hyderabad for appropriately changing the status of Corporate Debtor herein on the MCA-21 site of Ministry of Corporate Affairs.


Veera Brahma Rao Arekapudi
Member Technical


K. Anantha Padmanabha Swamy
Member Judicial

Pavani