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

CP (IB) No. 39/7/NCLT/AHM/2019

Coram: Hon'ble Mr. MADAN BHALCHANDRA GOSAVI, MEMBER (JUDICIAL)
Hon'ble Mr. VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE NATIONAL COMPANY LAW TRIBUNAL , AHMEDABAD BENCH ON 10.09.2020

Name of the Company:

Bank of Baroda
(erstwhile Dena Bank)
V/s
M/s. Vardhman Vitrified Pvt. Ltd.

Section: Section 7 the Insolvency & Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 10th day of September 2020.

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-I

CP (IB) No.39/7/NCLT/AHM/2019

(Application for initiating Corporate Insolvency Resolution Process under Section 7 of the Insolvency & Bankruptcy Code, 2016 r.w. Rule 4 of the Insolvency & Bankruptcy Code, 2016 (Application to Adjudicating Authority Rules, 2016)

In the matter of :

Bank of Baroda
(erstwhile Dena Bank)
Through Authorized Officer
registered office at:
10-C, "G" Block, Bandra Kurla Complex,
Bandra(E) Mumbai-400 051

Branch at:
46-48 Shakti Chambers-1
N.H. 8-A Trajpar, Dist. Morbi
PIN: 363 642, known as
"Trajpar Branch" ..Financial Creditor

V/s

M/s. Vardhman Vitrified Pvt. Ltd.,
CIN:U2691GJ2009PTC057603
Registered office at:
S. No. 113/1 & 113/2/1,
Village-Lakaddhar
Tal: Wankaner, Dist. Rajkot ..Corporate Debtor

Date of Pronouncement of Order 10th September, 2020

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

Appearance:

Learned Counsel Mr. Avtarsinh Panesar for the Financial Creditor

Learned Counsel Mr. L.M. Patel for the Corporate Debtor.

ORDER

[Per: MADAN B. GOSAVI, MEMBER(J)

1. An Application is filed by the **Bank of Baroda** (erstwhile Dena Bank) (hereinafter referred to as the 'Financial Creditor') through its Authorised Signatory under Section 7 of the Insolvency & Bankruptcy Code, 2016, r.w. Rule 4 of the Insolvency & Bankruptcy Code, 2016, to start Corporate Insolvency Resolution Process (hereinafter referred to as the 'CIRP') against the **M/s. Vardhman Vitrified Pvt. Ltd.** the Corporate Debtor, on the ground that, it has committed a default in paying the outstanding debt of **Rs. 7,82,64,651.08.** The date of default is stated as 29th June, 2018.

2. That, in pursuance to Notification dated 2nd January, 2019 issued by the GoI, Ministry of Finance, New Delhi, the Dena Bank has been amalgamated with the 'Bank of Baroda' w.e.f 01.04.2019. Hence, in pursuance to order dated

27.05.2019 passed by this Tribunal, the Financial Creditor has carried out necessary amendment.

3. The brief facts of the case are as under :

I. The Financial Creditor sanctioned and disbursed Loan Facilities of Rs. 18,37,80,000/- on 6th January, 2010 to the Corporate Debtor.

II. The Corporate Debtor M/s. Vardhman Vitrified Pvt. Ltd. is incorporated on 24.07.2009 under the provisions of the Companies Act, having registered office at survey No. 113/1, 113/2/1 Village Lakaddhar, Tal: Wankaner, Dist.Rajkot-363622. The Corporate Debtor availed financial assistance from the Financial Creditor. The Corporate Debtor has executed various security documents (hypothecated/mortgaged) in favour of the Financial Creditor, which was duly approved by the Corporate Debtor in its Board Resolution passed on 30th July, 2011.

III. The Corporate Debtor has also acknowledged and admitted the due debt by executing Revival Letters dated 30th June, 2016 & 31st March, 2018 *inter-alia* confirmed and admitted the liability of outstanding dues.

IV. The Corporate Debtor in its Audited balance sheet for the year 2017-2018 has also admitted the liability of outstanding dues.

4. On filing of this Petition, this Tribunal has issued Notice to the Corporate Debtor on 6th March, 2019 for inviting the reply/objection. On receipt of the notice on 13th August, 2019, Learned Counsel Mr. L.M. Patel appeared for the Corporate Debtor and requested time to file reply/objection. Despite sufficient opportunities the Corporate Debtor failed to file his reply, hence, the stage for filing reply was closed on 4th October, 2019.

5. We have heard the submissions made by the Learned Counsel for the Financial Creditor and Learned Counsel for the Corporate Debtor. Learned Counsel for the Financial Creditor submitted that Corporate Debtor has not filed his affidavit-in-reply, despite sufficient opportunities, hence, matter should be heard on its merits and disposed of accordingly. Learned Counsel Mr. L.M. Patel for the Corporate Debtor submitted that this Adjudicating Authority may pass an order of admission on its merits.

6. Perused the material available on record. There is no dispute as regards to the sanction and disbursement of

loan by the Financial Creditor to the Corporate Debtor. It is also not in dispute that such outstanding debt is due and payable, both in law and in-fact and it is not barred by limitation. There is a default in repayment of the same. Thus, the application under Section 7 of the Insolvency & Bankruptcy Code, 2016 is required to be admitted, as it meets the basic ingredients thereof. The Application is complete in all respects and meets requirements of Regulations made under Insolvency & Bankruptcy Code, 2016.

7. The Financial Creditor has proposed the name of Interim Resolution Professional to initiate Corporate Insolvency Resolution Process. The proposed IRP has given his written consent and no disciplinary proceedings are pending against him.

8. The Application filed under Section 7 of the Insolvency & Bankruptcy Code, 2016 is defect free, hence, we admit the application and Corporate Insolvency Resolution Process (CIRP) is commenced by following order :

ORDER

1. **M/s. Vardhman Vitrified Pvt. Ltd.**, the Corporate Debtor is allowed in Corporate Insolvency Resolution Process (CIRP) under the provisions of the Insolvency

& Bankruptcy Code, 2016 and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

(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 Securitisation 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 the possession of the corporate debtor.

2. 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 Adjudicating Authority approves the Resolution Plan under sub-section (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

3. The Financial Creditor has proposed the name of the

Interim Resolution Professional(IRP). Therefore, this Adjudicating Authority hereby appoint **Mr. Sunit Jagdishchandra Shah IBBI/IPA-001/IP-P00471/2017-18/10814** to act as an IRP under Section 13(1) (c) of the Code.

4. 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 under Section 19 of the Code 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, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

5. This Adjudicating Authority direct the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.

6. It is further directed that the supply of goods/service to the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period.

7. 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. **The Financial Creditor is directed to pay an advance of Rs. 1,00,000/- (Rupees One lakh only) to the IRP within two weeks from the date of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority alongwith First Progress Report.**

8. The Registry is directed to communicate a copy of this order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within seven working days

and upload the same on website immediately after pronouncement of the order.

9. Accordingly, **CP(IB) No. 39/7/NCLT/AHM/2019 is allowed.**

10. The matter to be listed on 03.11.2020 for further consideration.

10/9/2020

(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

10/9/2020

(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Signed on this, the 10th September, 2020

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