

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH-IV

CP (IB) No.744/MB-IV/2020

Under Section 7 of the I&B Code, 2016

In the matter of:

**SAMATA NAGARI SAHKARI
PATSANSTHA MARYADIT**

...Financial Creditor/Applicant

V/s.

**CHAITANYA NEER JAL PRIVATE
LIMITED**

[CIN: U15543MH2007PTC172082]

...Corporate Debtor/Respondent

Order Dated: 06.06.2023.

Coram:

Mr. Prabhat Kumar

Hon'ble Member (Technical)

Mr. Kishore Vemulapalli

Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner(s) : Mr. Raghunath Sarangapani CA ,
a/w Adv. Seetalaxmi Swamy
Authorised Representative.

For the Respondent(s) : None

ORDER

Per: Prabhat Kumar, Member (Technical)

-
1. This is an application being C.P. (IB) No. 744/NCLT/MB/C-IV/2020 filed by Samata Nagari Sahkari Patsanstha Maryadit, the Financial Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) for initiating Corporate Insolvency Resolution Process (CIRP) in the case of Chaitanya Neer Jal Private Limited, Corporate Debtor,.
 2. The Application is filed by Mr. Sachin Bhattad, authorised representative of Financial Creditor vide its Board Resolution dated 03.12.2019, claiming total default of Rs. 1,87,60,430/- (Rupees one crore eighty-seven lakh sixty-thousand four hundred thirty only). The date of default is 12.08.2018. The petition is filed on 21.02.2020. The petition filed is well within limitation.
 - 1.1. The Corporate Debtor has approached the Financial Creditor for credit facilities i.e. Working Capital Loan aggregating to Rs. 1,00,00,000/- (Rupees One Crores only) for the expansion of its business in August 2016 and the same was approved vide Resolution dated 29.08.2016.
 - 1.2. The Corporate Debtor executed the Deed of Mortgage dated 30.09.2016 and rectified mortgage deed dated 13/01/2017 in favour of the Financial Creditor. The Financial Creditor agreed to grant Loan to the Corporate Debtor and has sanctioned the credit facilities vide its Resolution dated 19/01/2017. The amount was disbursed on 25/01/2017.
 - 1.3. The Corporate Debtor did not repay the principal or interest on the aforesaid facility. The Corporate Debtor made an application for renewal of the Credit facility seeking

enhancement to Rs. 1,50,00,000/- (Rupees One Crore Fifty Lakhs only) inclusive of interest.

- 1.4. The Financial Creditor considered the application, received from the Corporate Debtor, for renewal of credit facility and approved the same vide its Resolution No.4 dated 29/03/2018.
- 1.5. The terms of the credit facility included payment of monthly interest within 8 days from the date of debit in the account which is mentioned in the Working Capital C.C.
- 1.6. The Corporate Debtor defaulted in the repayment of the credit facilities and interests thereon, whereupon the Applicant initiated legal action by filing a case on 29/09/2018 under Section 101 of Maharashtra Co-Operative Societies Act, 1960, for the recovery of an amount of Rs. 1,51,03,659/- (Rupees One Crores Fifty-One Lakhs Three Thousand Six Hundred Fifty-Nine only) plus interest. The Corporate Debtor has not made the payment which is due. Hence, Certificate for recovery U/s. 101 of the Maharashtra Co-Operative Societies Act, 1960 was issued on 04/12/2018.
- 1.7. The Corporate Debtor has failed to deposit the said amounts within the stipulated period, despite the issuance of the Certificate u/s. 101 of the Maharashtra State Cooperative Societies Act, 1960. Therefore, the Applicant served Demand notice dated 13/12/2018 asking the Corporate Debtor to make the payment on an immediate basis. The Applicant also

served Attachment notice dated 28/12/2018 to attach the immovable property. Even after the demand notice and attachment notice, payment was not made by the Corporate Debtor.

1.8. The Order No. 5375/2018-19 dated 23/01/2019 came to be passed attaching the Immovable Property, and Special Recovery & Sales Officer attached the immovable properties of the financial creditor pursuant thereto. As per the notice dated 08.03.2019 it proceeded for recovery of the arrears by sale of the immovable property. Despite action as above initiated by the Financial Creditor, the Corporate Debtor has failed to pay the principal as well as interest due thereon.

1.9. The Financial Creditor holds the following securities:

Primary and Collateral Securities:

Sr. No.	Name of the owner of the property	Description of Security	Value of Security
1	Chaitanya Neer Jal Private Limited	Agriculture Land	Not Available

Sr. No.	Description of Mortgaged Property		
1	All the piece and parcel of the land situated in the jurisdiction of village Bidkin, Taluka and Potukadipaithan, District – Tukadi, Aurangabad, bearing Gat No. 839 admeasuring 1 H 0.0-16.33 R.		
	Sr. No.	Particulars	Estimated Value (In Crores)
	1	Gat no. 839	Not Applicable
	Total		

Personal Guarantees:

Sr. No.	Name of the Guarantors	Address
1.	Mr. Sanjay Chandrakant More	Survey No-38, Sector-1, Gulmohar Colony, Near CIDCO Natyagruh, CIDCO, District – Aurangabad.
2.	Mrs. Bharati Sanjay More	Survey No-38, Sector-1, Gulmohar Colony, Near CIDCO Natyagruh, CIDCO, District – Aurangabad.

3. The Corporate Debtor did not appear on earlier occasions. However, after issuance of notice through newspaper publication as per orders of this Bench, on 26.11.2021 there was a representation by the Counsel Mr. Rahul Totala who undertook to file Vakalatnama and reply. Time was allowed up to 01.01.2022 for the Corporate Debtor to file reply. However, as submitted by the Counsel appearing for the Financial Creditor, no reply has been served on them. There is no Vakalatnama on record. In view of this, the Corporate Debtor was therefore set *ex-parte* vide order dated 29.06.2022.
4. The Petitioner had earlier proposed the name of Mr. Mr. Rajesh Mittal as the proposed Interim Resolution Professional ("IRP"). However, the Applicant has filed an IA 3436/2022 dated 18.11.2022 to substitute the above proposed IRP with Mr. Debi Prasanna Sarangi Resolution Professionals who has given his consent form.

Findings:

5. We have heard both the parties and perused the material on record.

6. From the petition, pleadings made and arguments extended by the Counsel of both the sides, it is abundantly clear that there is a debt of Rs. 1,87,60,430/-, which is payable by the Corporate Debtor and the Corporate Debtor is in default in payment to the Financial Creditor. The Corporate Debtor has defaulted in repayment of the loans and financial assistance granted by the Financial Creditor from time to time. The Corporate Debtor has not disputed the claim of the Financial Creditor.
7. On perusal of the documents submitted by the Applicant, it is clear that Financial Debt amounting to more than Rs.1,00,000/- (Rupees One Lakh Only) is due and in default by the Corporate Debtor to the Applicant. The Application is complete and within limitation.
8. Considering the facts placed before us, this bench is of the view that in such circumstances, it is imperative that the Corporate Insolvency Resolution Process be initiated in the case of Corporate Debtor. Since, the debt and default exist and no representation has been received from the respondent disputing the claim of applicant, this bench is of the considered view, that the present case deserves to be admitted under Section 7 of the Insolvency and Bankruptcy Code, 2016.

ORDER

9. The petition bearing CP (IB) No.744/MB-IV/2020 filed by,
SAMATA NAGARI SAHKARI PATSANSTHA

MARYADIT (“the Financial Creditor”), seeking initiation of Corporate Insolvency Resolution Process (CIRP) in the case of **CHAITANYA NEER JAL PRIVATE LIMITED** against the Corporate Debtor is **admitted**.

- a) There shall be a moratorium under section 14 of the IBC, in regard to the following:
- (i) 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;
 - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - (iii) 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 (SARFAESI) Act, 2002;
 - (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (c) Notwithstanding the above, during the period of moratorium, -
- (v) 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;

- (vi) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (f) The bench hereby appoints Mr. Vinit Gangwal, an Insolvency Professional registered with Indian Institute of Insolvency Professionals of ICAI having registration number IBBI/IPA-002/IP-N00091/2017-2018/10235 and email- ip.vinitgangwal@sudharman.in . He is appointed as IRP for conducting CIRP of the Corporate Debtor and to carry the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.
- (g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession

and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

- (h) The Operational Creditor shall deposit a sum of Rs.5,00,000/- (Rupees two lakh only) with the IRP to meet the initial CIRP cost, if demanded by the IRP to fund initial expenses on issuing public notice and inviting claims. The amount so deposited shall be interim finance and paid back to the applicant on priority upon the funds available with IRP/RP. The expenses, incurred by IRP out of this fund, are subject to approval by the Committee of Creditors (CoC).
- (i) The Registry is directed to communicate this Order to the Operational Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (j) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)
06.06.2023.

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)