



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

C.P. No. 964/IBC/MB/2020

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

Intec Capital Limited

(CIN: L74899DL1994PLC057410)

Having registered office at: 708, Manjusha Building, 57 Nehru Place New Delhi South Delhi-110019.

.....Petitioner/Financial Creditor

Vs

Innova Plastic Technologies Private Limited

(CIN: U25206PN2005PTC020576)

Registered office at: Plot No. 20, D-111, MIDC, Chinchwad Pune, Maharashtra-411019.

.....Corporate Debtor

Order Dated: 27.07.2022

Coram:

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

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

For the Petitioner: Adv. Nidhi Shah

For the Respondent: None Present

Per: Anuradha Sanjay Bhatia, Member (Technical)

**ORDER**

1. The above Company Petition is filed by *Intec Capital Limited* hereinafter called as **Financial Creditor/Petitioner** seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against *Innova Plastic Technologies Private 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. 1,52,88,333/-**.
2. The brief facts of the Petition are as follows:
The Petitioner is a Non-Banking Financial Institution which commenced its operations in 1994. It is in the business of financing small and medium enterprises (SME) spread across the country. The Petitioner works on a sound business model that focuses on building and nurturing long-term relationships with their stakeholders i.e. machinery manufacturers, customers that in turn, promotes sustainable growth.
3. The Corporate Debtor approached the Petitioner for availing the financial facility (Loan for acquiring Machinery) to the tune of Rs. 1,01,20,000. The loan secured by a hypothecation to purchase multiple machines, defined in the Sanction Letter & Scheduled- I of Loan Agreement of Loan Account No. LNPUN03315- 160005574. A copy of the loan Application form dated 16th March 2015 submitted by the Corporate Debtor along with Sanction Letter dated 30th April 2015 and a copy of the Loan Agreement dated 30th April 2015 is annexed to the Petition.
4. On execution of the Loan Agreement dated 30th April 2015 and after deduction of the collateral money, processing fees and other charges etc. amounting to Rs. 22,46,084/-. The loan



amount was disbursed to the Machine Vendor on behalf of Corporate Debtor on 18th May 2015. The same was received by the Machine Vendor on 19th May 2015. The loan was repayable in 48 monthly instalments of Rs. 2,76,544/- each. The loan carried interest @ 14% p.a. The Proof of disbursement of the loan to the Machine Vendor from which Corporate Debtor purchased the machinery financed by the Petitioner, as stated in Loan Agreement.

5. It was mutually agreed between the Petitioner and the Corporate Debtor that the first charge exclusively would be created in the favour of the Petitioner on the assets acquired through the facilities granted, by way of hypothecation.
6. The Corporate Debtor then started making defaults in the repayment schedule in the Loan accounts due to which legal proceedings were initiated against the Corporate Debtor and its guarantors. Despite repeated requests and reminders to the Corporate Debtor and its representatives in this regard, failed to regularize the Loan Account.
7. The Corporate Debtor has wrongfully withheld the legitimate money and thereby caused wrongful loss to the Petitioner and wrongful gain to themselves. This act of the Corporate Debtor constitutes “Events of Default” as defined under Clause no. 14 of Loan Agreement. Clause no. 15 of the same on the other hand provides for the remedies available to the Petitioner in case of commission of “Events of Default” by the Corporate Debtor, including termination of Loan Agreement and enforcement of all or any of the security of all or any of the security (ies) provided/furnished by the Corporate Debtor.
8. Thus, seeing the conduct of the Corporate Debtor, in terms of Loan Agreement No. LNPUN03315160005574, the Petitioner



sent the “Notice of termination and Reference to Arbitration” dated 23rd August 2017 to the Corporate Debtor.

9. After giving several opportunities to the Corporate Debtor, the Ld. Sole Arbitrator passed an award in favour of the Petitioner on 6th July 2018,

The arbitration award stated the follows: -

“The Corporate Debtor would be jointly and severally liable to pay a sum of Rs. 55,79,191/- (Fifty-Five lakhs Seventy-Nine thousand One hundred and Ninety-One Only) with interest from 22nd August till date of realization of the same.

The Financial Creditor was entitled to repossess and dispute off property namely:

- *MODEL: ES 2000/350*
- *MODEL: ES 2000/450K*
- *MODEL: ES 700/200*
- *MODEL: ES 600/150*

The Financial Creditor was entitled to recover the cost of Arbitration i.e., Rs. 25,000 from the Corporate Debtor.

The Financial Creditor was entitled to recover all costs and expenses incurred in seeking recovery of the amount of awarded including cost of repossession of subject vehicle/equipment and expenses incurred in conducting sale of the same from the Corporate Debtor

The Corporate Debtor was directed to comply with the terms of the award within 30 days.”

A copy of the Arbitral Award passed in favour of Petitioner is annexed to the Petition.

10. The award passed by the Ld. Arbitrator was being executed by the Petitioner. Thereafter, after passing of the award, no compliance was made by the Corporate Debtor.



11. It is to be noted that the Petitioner has still not filed any financials with the ROC since 31st March 2016, thus concealing the financial status of the company. In light of all these circumstances the Petitioner was constrained to file present a Section 7 Petition under the Insolvency Bankruptcy Code.
12. The Counsel for the Petitioner submitted that the petition was served on the Corporate Debtor and proof of service was filed to that effect.
13. The Corporate Debtor has failed to appear on several previous occasions i.e. on 05.11.2020, 10.12.2020, 28.01.2021, 05.03.2021, 29.07.2021, 31.08.2021, 06.09.2021, 01.10.2021. On 01.12.2021 when the matter was listed for hearing, the Corporate Debtor has failed to appear before the Bench and thus, the Corporate Debtor was set ex-parte.
14. The matter was further listed from time to time and the Corporate Debtor had failed to appear. The Bench heard the Petitioner on 14.07.2022, and there is no representation from the side of the Corporate Debtor.
15. On hearing the counsel for the Petitioner and on going through the Form-1 filed by the Petitioner and the related materials this Bench is of the view that the Corporate Debtor defaulted in repaying the loan availed by the Corporate Debtor. The Petitioner claimed an amount of Rs. 1,52,88,333/-, and the counsel for the Petitioner argued that this Petition deserves admission.
16. The Petitioner also suggested the name of Interim Resolution Profession along with his consent letter in Form II. Thus, the present Company Petition satisfies all the necessary legal requirements for admission and this Bench did not find any reasons to dismiss the same.



17. Accordingly, the above Petition is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) 964 (MB)/2020 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Innova Plastic Technologies Private Limited.
- b. Since, the counsel appearing for the Petitioner informed that this Bench that the earlier IRP is not interested to act as an IRP and therefore requested this Bench to appoint somebody from the IBBI panel accordingly, this Bench hereby appoints **Mr. Divyesh Desai** Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00169/2017-2018/10338 residing at Moore Stephens Singhi Advisors LLP, B2 - 402, Marathon Innova, 4th Floor ,Off Ganpatrao Kadam Marg, Lower Parel, Mumbai, Maharashtra, 400013, Email id: divyeshdesai@singhico.com, Phone No. 9820289402, 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, this Petition 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)**