IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP 703 (IB)/MB/2019
Under Section 7 of the I&B Code, 2016
In the matter of
Corporation Bank
…Financial Creditor/ Applicant
v/s
General Composite Private Limited
...Corporate Debtor

Order Dated 03.09.2019

Coram: Hon'ble Member (Judicial) Mr V.P. Singh
Hon'ble Member (Technical) Mr Rajesh Sharma

For the Petitioner: Adv. Darshit Dave, Adv. Nishit Dhruva and Adv, Rohan Agarwal.
For the Respondent: Adv. Jamshed Ansari.

Per V.P. Singh, Member (Judicial)

ORDER

1. This is an application being CP 703/2019 filed by **Corporation Bank**, Financial Creditor or Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **General Composite Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**). The Petition is filed on 18.01.2019.

2. This application is filed by Mr Deepak Kumar, Chief Manager of the applicant Bank, who is duly authorised to do so.

3. The Applicant had sanctioned working capital loan to the Corporate Debtor for ₹6 crore and Import/Inland LC cum BG to the extent of ₹3 crore vide sanction letter dated 13.03.2012. Subsequently, the said loan facilities were restructured vide sanction letter dated 30.03.2016 wherein the Applicant extended cash credit facility for ₹4.6 crore and Working Capital facility for ₹4.4 crore.

4. The Applicant sent various demand notices dated 27.11.2017 and 19.05.2018 intimating that the account of the Corporate Debtor has been classified as Non-Performing Asset (NPA) on 31.01.2017 and demanding repayment of ₹9,96,79,108/- as outstanding on 20.11.2017.

5. The Applicant also sent a notice dated 12.06.2017 under section 13 (2) of SARFAESI Act claiming an outstanding amount of ₹9,49,65,873.42/- including interest. the applicant submits that as on 03.01.2019, the total outstanding amount in default is ₹11,68,94,071.05/- including interest.

6. The Applicant has filed a letter of the Corporate Debtor dated 03.12.2018 proposing one-time settlement by paying ₹7 crore against all its dues. The said OTS proposal was rejected by the Applicant vide letter dated 12.12.2018.

7. The Applicant has filed extracts of Commercial Credit Information Report (CIBIL) dated 16.01.2019reflecting the outstanding amount of ₹4,21,88,925/- against the facility offered by the Applicant and classification of the Corporate Debtor's account as sub-standard. The Applicant has also submitted the copy of the bank statement along with a certificate of the Applicant Bank dated 07.01.2018, certifying that the account statement is as per Ledger entries of the Bank Account of the Corporate Debtor for the period 01.04.2011 to 17.05.2018. The Appellant has also annexed the Corporate Debtor's ledger account for the period 01.04.2018 to 10.01.2019 reflecting a closing balance of ₹6,13,14,289.05/-.

8. The Corporate Debtor has filed its affidavit in reply wherein it has admitted that it took a loan from the Applicant in March 2012 which was later restructured in March 2016 for an aggregate amount of ₹9 crore. It is also admitted by the Corporate Debtor in its affidavit in reply that the outstanding amount is about ₹9.5 crore.

9. On perusal of the documents submitted by the financial creditor, it is clear that debt amounting to ₹11.6 crore is due and payable by the Corporate Debtor to the Applicant. The outstanding debt is even admitted by the Corporate Debtor in its affidavit in reply by stating that the amount of debt outstanding is ₹9.5 crore. The

outstanding amount that is admittedly in default is more than ₹1,00,000/-.

10. The application filed by the financial creditor is on proper form 1, as prescribed under the Adjudicating Authority Rules and application is complete.

11. The Applicant has proposed the name of Mr Ankur Kumar Shrivastav, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-002/IP-N00113/2017-18/10283] as **Interim Resolution Professional**, to carry out the functions as mentioned under I&B Code. In Form 2 annexed to the Application, the proposed IRP has declared that there are no disciplinary proceedings pending against him.

12. The Application under sub-section (2) of Section 7 of I&B Code, 2016 filed by the financial creditor for initiation of CIRP in prescribed Form No1, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016is complete. The existing financial debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the petition filed under section 7 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This petition filed under Section 7 of I&B Code, 2016, filed by **Corporation Bank**, against **General Composite Private Limited**, for initiating corporate insolvency resolution process is at this moment **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

   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 activity under the Securitization 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 possession of the corporate debtor.

II. That 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.

III. That the provisions of sub-section (1) of Section 14 of I&B Code 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 the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.

V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.

VI. That this Bench at this moment appoints Mr Ankur Kumar Shrivastav, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-002/IP-N00113/2017-18/10283] as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

13. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V.P. SINGH
Member (Judicial)

3rd September 2019