

IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT NO. I, MUMBAI BENCH

**C.P. (IB) No. 408/MB/2019**

Under Section 7 of the I&B Code, 2016

In the matter of:

**Bank of India Limited**

CIN: U99999MH1906PLC000243

Head office: star House, C-5, G Block,  
Bandra Kurla Complex, Bandra East,  
Mumbai-400051

Branch Office: Plot No. 34, Sector 24,  
Turbhe, Navi Mumbai- 400705.

...Financial Creditor / Applicant

V/s

**Saturn Rings & Forgings Private Limited**

CIN: U27320PN2012PTC144043

Address: Shreepad, Plot No. 444, Mahatma  
Co- Oprative Hosing Society, Near Gandhi  
Bhavan, Kothrud, Pune-411038

...Corporate Debtor / Respondent

Order Delivered on: 24.12.2021

**Coram:**

Hon'ble Member (Judicial) : Shri Bhaskara Pantula Mohan

Hon'ble Member (Technical): Shri Narender Kumar Bhola

**Appearances:**

For the Applicant: Mr. B. Gopalakrishnan, a/w Mr. Nilesh Ghadge and Mr. Ashish  
Dalal, Advocate.

For the Respondent: Suyesha Kakarla Advocate

**Per: Shri Bhaskara Pantula Mohan, Hon'ble Member Judicial**

**ORDER**

1. This is an Application being C.P. (IB) No. 408/MB/2019 filed by Bank of India, the Financial Creditor / Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) against Saturn Rings & Forging Private

Limited, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (CIRP).

2. The Application is filed for claiming a total default of Rs.59,07,55,544.33 (Rupees Fifty-Nine Crore Seven Lakh Fifty-Five Thousand Five Hundred Forty-Four and Paise Thirty-Three Only) including interest.
3. It is submitted that on the request of the Corporate Debtor, the Applicant had sanctioned the following credit facilities to the Corporate Debtor, vide its sanction letter dated 30.01.2014 which was modified on 21.05.2014:

(i)	Rupee Term Loan – I	-	Rs.10.16 crore
(ii)	Rupee Term Loan-II	-	Rs.29.84 crore
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	Total	-	Rs.40.00 crore
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Copy of the said sanction letter is annexed to the Application as Exhibit N

4. The Applicant further submitted that the loan was secured by means of creating an equitable mortgage on the properties located at Gat No.457+458, Plot No.5 and 6, Situated at Village Shindewadi, Taluka Khandala, Dist-Satara and Plot No.444, Survey No.62+65, Mahatma Sahkari Grihrachana Sanstha Maryadit and by hypothecation of Plant and Machinery thereon. The loan was also guaranteed by the promoters namely, Mr. Satish Gopinath, Ms. Rupa Shah and Mr. Satish Akole. Apart from this a Corporate Guarantee was issued by M/s. Saturn Ventures & Advisors Pvt Ltd. Copy of the Memorandum of Entry creating Equitable Mortgage, copy of Hypothecation Agreement and copy of Letter of Guarantee are annexed to the Application as Exhibit 'E', 'F', 'G' and 'I' respectively.
5. The Applicant submitted that the account started showing stains and it was always advised to make good and service outstanding amount at various intervals, however, the same did not materialise and as a result the account was declared as a Non Performing Asset (NPA) on 31.12.2016 . Copy of the NPA certificate dated 01.01.2019 issued by the Financial Creditor is annexed with the Application as Exhibit-'B'.
6. The Applicant further submitted that a notice dated 25.01.2017 was issued under Section 13(2) of the SARFAESI Act, 2002 to the Corporate Debtor calling upon them to repay the dues alongwith the interest and other charges.

Sd/-

The Corporate Debtor inspite of giving 60 days clear notice, failed to repay the amount demanded and hence on 28.04.2017 a symbolic possession under Section 13(4) of the SARFAESI Act, 2002 was taken with respect to the factory land and building.

7. The Applicant further submitted that the Corporate Debtor has acknowledged the debt vide acknowledgement of Debt letter dated 17.03.2015. The copy of the said letter is annexed with the Application as Exhibit J.
8. The Applicant submitted that Original Application under the provisions of Recovery of Debts Due to Banks and Financial Institution Act, 1993 (RDDBFI Act) before the Hon'ble DRT-III, Mumbai being OA No.580 of 2017 was filed by the Financial Creditor on 01.06.2017 and the same is pending for adjudication.
9. The Applicant submitted that in terms of the procedure before filing of Original Application, another recall notice was issue, recalling the outstanding amount on 03.05.2017.
10. The Applicant submitted that there was no reply to the notice as filed under Section 13(2) or to the recall notice nor the Corporate Debtor has objected to taking the symbolic possession.
11. The Applicant submitted that since inspite of giving several chances, the Corporate Debtor failed to repay the dues of the Financial Creditor, they have filed the present Application on 28.01.2019 under the provisions of Section 7 of the IBC read with Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
12. The Financial Creditor has also attached a Certificate dated 04.12.2018 as required under the Bankers Book Evidence Act, 1891 as Exhibit 'P' and a CRILC report showing the Asset Classification as "Doubtful 2" as Exhibit 'O'. The above said documents having reflected that the debt has been in existence in between the parties, Central Depository Information of Large Credits has classified the asset as a doubtful debt, we are of the view that Applicant has furnished documentary proof to believe that debt and default is in existence as on the date.
13. The Financial Creditor has also filed the Form 2, i.e. the written communication by the proposed Interim Resolution professional, Mr S. Gopalakrishnan (Registration No. IBBI/IPA-002/IP-N00151/2017-2018/10398), a copy of which is annexed with the Application. In Form 2

annexed to the Application, the proposed IRP has declared that no disciplinary proceedings are pending against him.

14. The Corporate Debtor has filed an affidavit in reply dated 08.05.2019 to the Application. Among the other things the Corporate Debtor has submitted that-
  - a. The corporate Debtor is a 100% subsidiary of Saturn Ventures & Advisors Private Limited and same is registered as MSME and in operation since May 2011.
  - b. The Corporate Debtor deny that he is indebted to the Applicant to the amount of Rs.59,07,55,544.33.
  - c. The Corporate Debtor later received a letter declared as Non-Performing Assets on 31.12.2016. thereafter Corporate Debtor requested the executive director to arrange a meeting regarding the funding approval of Rs.10 crores. Which was not responded by the Applicant.
  - d. The corporate debtor thereafter made a various one-time settlement (OTS) offer to the Applicant and the same were rejected by the Applicant.
15. We have heard both the parties and perused the record.
16. On perusal of the documents submitted by the Applicant, it is evident that the debt and default of the Corporate Debtor have been established, and the Application deserves to be admitted.
17. The Hon'ble Supreme Court in the matter of *Innovative Industries Limited V. ICICI Bank & Anr.*[(2018) 1 SCC 407], has held that the provisions of section 7 become applicable as soon as financial debt is established and there is an existence of a default. The Hon'ble Court had observed that the moment the Adjudicating Authority is satisfied that a default in repayment of debt had occurred, the process of insolvency is to be triggered unless the Application is incomplete.
18. It is seen that the Corporate debtor has committed default in repayment of the dues and Applicant has issued a loan recall Notice dated 25.01.2017 under Section 13(2) of the SARFAESI Act, 2002. Even after 60 days clear notice, Corporate Debtor failed to repay the amount demanded and therefore, on 28.04.2017 a symbolic possession under Section 13(4) of the SARFAESI Act, 2002 was taken with respect to the factory land and building by the Applicant.

Which also not denied by the Corporate debtor. It is also seen that the Corporate Debtor has acknowledged the debt vide acknowledgement of Debt letter dated 17.03.2015. further the Corporate Debtor approaches to the Applicant for OTS offers and same was not workout. Hence it is clearly noticed that there is due and clearly admitted by the Corporate Debtor.

19. On the aspect of limitation, it is seen that the Corporate Debtor's account was declared as a Non-Performing Asset (NPA) on 31.12.2016 and if the said date is taken into consideration as a the date of default then, the present Application filed under section 7 of the Code, before this Bench on 28.01.2019 falls well within the period of limitation.
20. The Present Application under sub-section (2) of Section 7 of I&B Code, 2016 is complete. The existing financial debt of more than rupees one lakh is due and payable against the corporate debtor and its default is also proved. Accordingly, the Present Application 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.
21. Accordingly, this Application is admitted. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:
  - I. That this Bench 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 action 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.

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- III. 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.
- IV. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.
- V. That this Bench appoints Mr S. Gopalakrishnan a registered Insolvency Resolution Professional having Registration Number IBBI/IPA-002/IP-N00151/2017-2018/10398 as Interim Resolution Professional to carry out the functions as mentioned under I&B Code.
22. The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by email.

Scl/-

NARENDER KUMAR BHOLA  
Member (Technical)

Sd/-

BHASKARA PANTULA MOHAN  
Member (Judicial)