

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

CP (IB) - 982/I&BP/MB/2019  
Under Section 7 of the I&B Code, 2016

**In the matter of**

Bank of India  
28. SV Road,  
Andheri (West)  
Mumbai – 400 058

.... Petitioner

Vs.

Resource World Exim Pvt. Ltd.,  
606, Eco House, Vishweshwar Nagar,  
Off Aarey Road, Goregaon (East),  
Mumbai – 400 063

.... Corporate Debtor

**Order delivered on: 19.11.2019**

**Coram:**

Hon'ble Shri Bhaskara Pantula Mohan, Member (J)  
Hon'ble Shri Shyam Babu Gautam, Member (T)

For the Petitioner: Mr. Jonathan Jose, Advocate, i/b Argus Partners

For the Corporate Debtor: Ms. Prachi Wazalwar, Advocate

***Per: Shri Shyam Babu Gautam, Member (T)***

**ORDER**

1. This is an application filed under Section 7 of the Insolvency and Bankruptcy (I & B) Code, 2016 by Bank of India (hereinafter called the 'Petitioner') seeking the Corporate Insolvency Resolution Process against Resource World Exim Private Limited (hereinafter called the 'Corporate Debtor'), on the ground that the Corporate Debtor committed default on 07-11-2017, in repayment of cash credit facilities aggregating to Rs. 14,87,08,681.66 as on 30.09.2018.
2. The petitioner contends that there have been successive defaults in payment of instalments on behalf of the Corporate Debtor despite of several intimations, the outstanding amount due and payable given to them by the Petitioner, even after the declaration

of the loan facility as an NPA there have been no response from the Corporate Debtor.

3. In support of the contentions made by the learned counsel for the petitioner, the documents have been annexed and placed reliance upon which are as follows:
  - a. Copy of Statement of accounts.
  - b. Copy of particulars of security held.
  - c. Copy of Certificate of registration of charge issued by the RoC for secured assets of Corporate Debtor.
  - d. Copy of the Loan Agreement and security documents.
  - e. Copy of Demand Notice dated 15.05.2018 under section 13 (2) of the SARFAESI Act.
  - f. Copies of Legal Notice dated 26.10.2018.
4. The Corporate Debtor requested the Petitioner to grant them credit facilities from time to time which were lastly renewed in January 2016. The charge of the Petitioner was registered with the RoC on 26.11.2010, which was modified from time to time and lastly on 04.01.2016. Certificate for the same was issued on 14.01.2016.
5. It was on 07.11.2017, the Corporate Debtor defaulted in payment of dues of the Petitioner and failed to repay despite various reminders and therefore, the Corporate Debtor's account was declared as NPA.
6. The Petitioner issued a demand notice dated 15.05.2018 to the Corporate Debtor and its Guarantors under section 13 (2) of the SARFAESI Act. However, despite the said notice the Corporate Debtor and their Guarantors did not clear the dues.
7. Therefore, the Petitioner finally vide its notice dated 26.10.2018 called upon the Corporate Debtor and its Guarantor to pay the Petitioner's dues to the tune of Rs. 14,87,08,681.66 with further interest and additional penal interest till payment. However, even then since the Corporate Debtor and its Guarantors failed to pay the dues of the Petitioner, this Petition is filed.

8. The Corporate Debtor filed his reply and has raised various objections with regards to the Petition filed. According to the Corporate Debtor, since there is no board resolution authorising Mr. Mahesh Batra or Mr. Mrityunjay Kumar Gupta to file the Petition under the Code, the Petition is defective and should be dismissed.
9. The Petitioner has filed his Rejoinder, denying all the claims and averments made by the Corporate Debtor and they submit that even though there is no Board Resolution, there is a Power of Attorney authorizing both Mr. Mahesh Batra and Mr. Mrityunjay Kumar Gupta, to file the petition under the Code.
10. We have gone through all the documents and submissions made by the both the parties and are of the view that:

### **ORDER**

11. Primarily, it is to be noted herein that on the previous occasions whenever the matter was listed for hearing, the Corporate Debtor had sought various opportunities to settle the matter with the Petitioner. But both the parties failed to come to any agreeable settlement.
12. In the submissions made by the Corporate Debtor, he has candidly on various instances has admitted the debt and default on his part. Further, upon perusal of all the documents and evidences produced by the petitioner, we believe there has been default on the part of the Corporate Debtor herein.
13. The technical objection raised by the Corporate Debtor regarding the absence of a Board Resolution in the petition holds no water, because this issue has already been settled by the National Company Law Appellate Tribunal in the case of Palogix Infrastructure Private Limited VS ICICI Bank Limited (Company Appeal (AT) No. 30 of 2017), the Hon'ble NCLAT in this case held that:

**“38. This apart, if an officer, such as senior Manager of a Bank has been authorised to grant loan, for recovery of loan or to initiate a proceeding for 'Corporate Insolvency Resolution Process' against the person who have taken loan, in such case the 'Corporate Debtor' cannot plead that the officer has power to sanction loan, but such officer has no power to recover the loan amount or to initiate 'Corporate Insolvency Resolution Process', in spite of default of debt.**

**39. If a plea is taken by the authorised officer that he was authorised to sanction loan and had done so, the application under section 7 cannot be rejected on the ground that no separate specific authorization letter has been issued by the 'Financial Creditor' in favour of such officer designate.”**

It is important to point out that the abovementioned defence is the sheet anchor of the argument of the Corporate Debtor. However, the same cannot be of any assistance to the Corporate Debtor since this issue has already been settled by the NCLAT and the officers who have filed this petition are fully empowered to do so.

14. We have gone through all the pleadings filed and heard the arguments advanced by the petitioner and the corporate debtor. An amount was disbursed by the Petitioner, however, there is default to the tune of Rs. 14,87,08,681.66 as on 30.09.2018 by the Corporate Debtor. Based on the same, above facts shows that the corporate debtor clearly defaulted in making the payments towards the liability to the Petitioner and the petition deserves to be admitted.
15. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that Corporate Debtor defaulted in repaying the loan availed. Therefore, the Application under sub-

section (2) of Section 7 is taken as complete, accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:

- (I)
  - (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 (SARFAESI Act);
  - (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.
- (II) 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.
- (III) 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.
- (IV) That the order of moratorium shall have effect from 19.11.2019 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.
- (V) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (VI) That this Bench hereby appoints, Nr. Sadak Ashfak Ahmed Saiyed, having office at Room No. 8097, Building No. 201 B Wing, Kannamwar Nagar 1, Vikhroli East, Mumbai; having Registration No. IBBI/IPA-001/IP-P01398/2018-

2019/12286 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

16. Accordingly, this Petition is admitted.
17. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional immediately.

**Sd/-**  
**Shyam Babu Gautam**  
**Member (Technical)**

**Sd/-**  
**Bhaskara Pantula Mohan**  
**Member (Judicial)**

/PT/

NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, MUMBAI

17. C.P.(IB)-982(MB)/2019

CORAM :SHRI BHASKARA PANTULA MOHAN, MEMBER (J)

SHRI SHYAM BABU GAUTAM, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **05.12.2019**

NAME OF THE PARTIES: Bank Of India

V/S

Resources World Exim Private Limited

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

This case was already admitted by this Tribunal vide its order dated 19.11.2019. A written application shown to this bench across the bar by the petitioner to change the name of IRP. Petitioner is directed to file a Miscellaneous Application for the same.

No order is called for.

Sd/-

SHYAM BABU GAUTAM  
Member (Technical)

/RS/

Sd/-

BHASKARA PANTULA MOHAN  
Member (Judicial)



**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI  
MUMBAI BENCH**

**M.A. No. 3989/2019 in C.P. No. 982/2019.**

**CORAM:**

Shri. Bhaskara Pantula Mohan, Member (Judicial)

Shri. Shyam Babu Gautam, Member (Technical)

**MR. YOGESH GYANCHAND CHOUDHARY (New Resolution  
Professional)**

..... Applicant

**IN THE MATTER OF**

**Bank of India**

..... Petitioner / Financial Creditor

Versus

**Resource World Exim Private Limited**

..... Respondent / Corporate Debtor

**CORRIGENDUM ORDER**

1. This is an Application filed by the Petitioner/Financial Creditor to this Tribunal for seeking rectification of the order dated 19<sup>th</sup> November, 2019 to replace from Ms. Sadaf Ashfak Ahmed Saiyed having registration no. IBBI/IPA-001/IP-P-01398/2018-2019/12286 to Mr. Yogesh Gyanchand Choudhary having registration no. IBBI/IPA-001/IP-P00454/2017-2018/10797.
2. The petitioner seeks to rectify para 15(VI) of the said order.



Accordingly, in the abovementioned case the order dated 19.11.2019 shall be replaced as below:

*“That this Bench hereby appoints Mr. Yogesh Gyanchand Choudhary having office at Jain & Choudhary Chartered*

Accountants, 80/84, Dadiseth Agiyari Lane, off No. 22, 2<sup>nd</sup> floor, Kalbadevi, Mumbai-400 002 having registration no. IBBI/IPA-001/IP-P00454/2017-2018/10797 as Interim Resolution Professional to carry the functions as mentioned under the Insolvency and Bankruptcy Code.”

3. Rest of the order will remain unaltered.

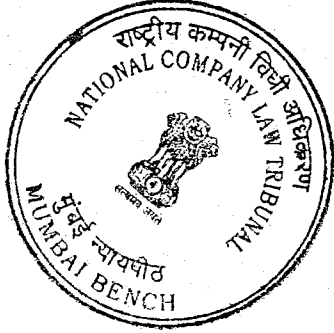
4. Accordingly, a Corrigendum order is issued.

Sd/-

**SHYAM BABU GAUTAM  
MEMBER (TECHNICAL)**

Sd/-

**BHASKARA PANTULA MOHAN  
MEMBER (JUDICIAL)**



Certified True Copy  
Copy Issued "free of cost"  
On 21.01.2020

Assistant Registrar  
National Company Law Tribunal Mumbai Bench