

BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT 1

CP(IB) 289 of 2020

Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)  
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE  
AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 17.02.2021

Name of the Company:

Bank of Maharashtra  
V/s  
Afcan Impex Pvt Ltd

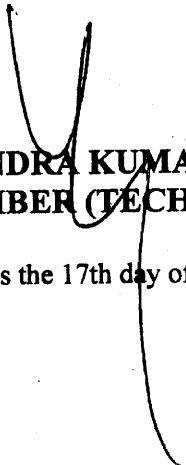
Section:

7 Insolvency and Bankruptcy Code, 2016

**ORDER**

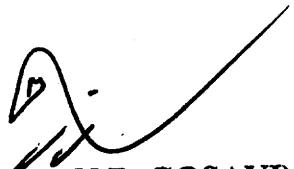
The case is fixed for pronouncement order.

The order is pronounced in open Court, vide separate sheet.

  
(VIRENDRA KUMAR GUPTA)  
MEMBER (TECHNICAL)

Dated this the 17th day of February, 2021

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(MADAN B. GOSAVI)  
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH  
COURT 1**

**CP (IB) No.289/7/NCLT/AHM/2020**

An application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016.

**In the matter of :**

**Bank of Maharashtra**

(A Body Corporate constituted by and under the Banking Companies (Acquisition & Transfer of Undertakings) Act, 1970.

Having its Head Office at:

“Lokmangal”, 1501,  
Shivajinagar, Pune-411005

And its branch office amongst other place at:

Gandhidham, Kutch

....Financial Creditor

Versus

**M/s. Afcan Impex Pvt. Limited**

Having its office at:

1002/A, Pinnacle,  
Corporate Road, Prahaladnagar,  
Ahmedabad-380015

....Corporate Debtor

Date of Hearing: 16<sup>th</sup> day of February, 2021

Date of Pronouncement of Order: 17<sup>th</sup> day of February, 2021

**Coram: MADAN B. GOSAVI, MEMBER(J)  
VIRENDRA KUMAR GUPTA, MEMBER (T)**

**Appearance:**

Learned Counsel Mr. Pranav G Desai appeared for the Financial Creditor.

No one for the Corporate Debtor.



**ORDER**

**[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]**

1. The application has been filed under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**IBC, 2016**”) by Financial Creditor to initiate Corporate Insolvency Resolution Process (hereinafter referred to as “**CIRP**”) against the Corporate Debtor- M/s. Afcan Impex Pvt. Limited. The amount of debt in default has been claimed at Rs. 8,44,15,488.00/- including interest. The date of default has been stated as 04.03.2020.
2. The facts, in brief, are that the Financial Creditor gave various loan facilities to the Corporate Debtor from time to time. However, Corporate Debtor failed to make the payment of outstanding dues. The relevant documents were also placed on record by the Financial Creditor.
3. This application was filed on 28.07.2020 and notice u/s 7 was issued to the Corporate Debtor on 24.08.2020. After two dates of hearing, Corporate Debtor neither filed Vakalatnama nor affidavit in reply. Hence, this Adjudicating Authority vide order dated 16.01.2021 decided to proceed the matter with ex-parte against the Corporate Debtor.

4. Learned Counsel Mr. Pranav G Desai for the Financial Creditor appeared and submitted that in the present case, the amount in default is more than threshold limit for initiation of CIRP under Section 7 of IBC, 2016. It was also submitted that the date of default is 04.03.2020 and application had been filed on 28.07.2020; hence, this application was not barred by limitation. It was also contended that there is a default in payment of debt which is due and payable. Further, Learned Counsel for the Financial Creditor submitted that Corporate Debtor had acknowledged and admitted the debt and to substantiate his such plea, he drew our attention to balance and security confirmation document dated 30.09.2016 and 15.07.2019 (at page 142 to 153 of paper book). Learned Counsel for the Financial Creditor further submitted that the name of Interim Resolution Professional (hereinafter referred to as "**IRP**") Mr. Nitin Narang had been proposed and whose consent was on record.

5. We have considered the submissions made learned counsel for the Financial Creditor material on record. Admittedly, there is an outstanding debt which is more than Rs. 1 lakh being the minimum at the relevant time

for filing of an application under Section 7 of IBC, 2016. The debt is due and payable to the Financial Creditor by the Corporate Debtor has committed default in repayment. The first acknowledgement of debt is well within the original period of limitation from the date of default. Second confirmation/acknowledgement also extends the limitation for filing this application. Thus, the debt is not barred by limitation. The name of IRP has also been proposed which is mandatory for filing of application under Section 7 of IBC, 2016. The consent of proposed IRP is on record and it appears that there are no disciplinary proceedings pending against such person, hence, we can appoint this person as IRP to conduct CIRP as per Rules.

6. The application is otherwise complete and compliances with the requirements of IBC, 2016 r.w. IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Accordingly, we admit this application and order as under:

**ORDER**

1. Corporate Debtor M/s. Afcan Impex Pvt. Limited is admitted in Corporate Insolvency Resolution

Process under Section 7 of Insolvency and Bankruptcy Code, 2016.

2. We appoint Mr. Nitin Narang, Registration No. IBBI/IPA-002/IP-N00828/2019-2020/12629, e-mail- [advocatenitinnarang@gmail.com](mailto:advocatenitinnarang@gmail.com); having address at: B-101, Ground Floor, Old Gupta Colony, Model Town, New Delhi-110009, under section 13(1) (c) of the IB Code as IRP.
3. That the Moratorium under Section 14 of the Code shall come to effect from 17.02.2021 till the completion of 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.
4. That the Adjudicating Authority hereby prohibits the institution of suits or continuation of pending suit or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any Court of law and further prohibits a Tribunals, Arbitration Panels or other

Authority(s), transferring, encumbering, alienating or disposing (of by the Corporate Debtor) any of Corporate Debtor 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 SARFAESI 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.

5. Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to pronouncement of this order such proceedings are expected to be dealt with in accordance with law i.e Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.
6. That the supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during



the Moratorium, period. The Corporate Debtor to provide effective assistance to the IRP as and when he takes charge of assets and management of the Corporate Debtor.

7. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.
8. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation as per Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-

operate with IRP, do not assist or Co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

9. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
10. We direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. **2,00,000/- (Rs. Two lakh)** as fees & expenses till the COC decides about his fees / expenses.
11. The Registry is directed to communicate this order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three

working days and upload the same on website immediately after pronouncement of the order.

12. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.

13. Accordingly, CP (IB) No. 289/7/NCLT/2020 is allowed and stands disposed of.



**(Virendra Kumar Gupta)**  
**Member (Technical)**



**(Madan B. Gosavi)**  
**Member (Judicial)**

Signed on this, the 17<sup>th</sup> day of February, 2021.

Rajeev Sen/ Stenographer