IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-I

CP (IB)/ 998 (MB) 2023

Under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of

M/s Small Industries Development Bank of India

[Identification number: AABCS3480N]

… Applicant/Financial Creditor

Versus

M/s Green India Building Systems & Services Pvt. Ltd.

[CIN: U45400MH2009PTC197838]

… Respondent/Corporate Debtor

Order Pronounced on : 24.01.2024

Coram:

Hon'ble Member (Judicial): Kuldip Kumar Kareer

Hon'ble Member (Technical): Sh. Prabhat Kumar

Appearances:

For the Financial Creditor : Ms. Bharti Nawlani, Advocate

For the Corporate Debtor	:	Mr. Vishal Shriyan, Advocate a/w Ms. Riddhi Wagle, Advocate i/b Vishal Shriyan

ORDER

Per: Prabhat Kumar

1. This Company Petition is filed under section 7 of the Insolvency and Bankruptcy Code, 2016 **("IBC/Code**") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by **M/s Small Industries Development Bank of India** ("hereinafter referred to as Applicant/ Financial Creditor"), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **M/s Green India Building Systems & Services Pvt. Ltd.** ("hereinafter referred to as Respondent/Corporate Debtor").
2. The Corporate Debtor is a Private Limited company incorporated on 14.12.2009 under Companies Act, 1956 with the Registrar of Companies, Maharashtra, Mumbai. Its registered office being situated at New Bridge Business Centre, Boomerang, Ground floor, B wing, B1-04/05, Chandivali Road, Andheri East Mumbai, Maharashtra - 400072. Therefore, this Bench has jurisdiction to deal with this Petition. The Authorised share capital of the Corporate Debtor is Rs. 25,00,000/- whereas the paid up capital is Rs. 13,39,040/-.
3. The Corporate Debtor is a company involved in the business of manufacturing Geothermal systems, LED lighting, hot water system, etc.

4. The present Application was filed before this Adjudicating Authority on the ground that the Respondent has defaulted to repay total amount of Rs. 6,67,71,411/- (Rupees Six Crores Sixty Seven Lakhs Seventy One Thousand Four Hundred and Eleven only). The date of Default is stated to be 08.06.2017.

5. The Corporate Debtor approached the Applicant for a facility of Venture loan 100.00 lakh, (Rupees Hundred Lakhs only), OCD" & Equity Investment of Rupees 100.00 lakh, (Rupees Hundred Lakhs only) and Working Capital Loan of 200 Lakhs (Rupees Two Hundred Lakhs only). The Applicant after verifying the credentials of the Corporate Debtor sanctioned a loan facility of Rs.1,00,00,000 (Rupees One Crore Only) under "Venture Debt-Startup Assistance Schemes for MSMEs', Rs. 1,00,00,000/- (Rupees One Crore Only) in the form of Optionally Convertible Debt (OCD) under the Startup Assistance Scheme (SAS) for MSMEs and Rs.2,00,00,000 (Rupees Two Crore Only) under the "Working Capital Term Loan Scheme" and accordingly issued a Letter of Intent dated 27th March, 2014, 24th September, 2014 and 25th February, 2016 respectively containing the terms and conditions of the said loan.

6. The particulars of disbursal of debt to the Applicant is detailed as under:

Amount of Debt granted	**Date of Disbursement**
25.03.2014	Rs. 1 Crore
15.09.2014	Rs. 1 Crore
01.03.2016	Rs. 2 Crore
Total	Rs. 4 Crore

7. The Applicant states that in pursuance to the Letter of Intent(s) the Applicant has also executed General Condition Rupee Loan and Deed of Hypothecation, wherein the terms and conditions as mentioned in the LOI were reaffirmed.
8. The Applicant states that, owing to continued default on the part of the Corporate Debtor, the Applicant was also constrained to issue Loan Recall Notice to the Corporate Debtor dated 25th September, 2017, the Corporate Debtor has failed to pay the outstanding dues owed to the Applicant. However, this time also the Financial Creditor failed to make the payment of the debt due within the time prescribed in the recall notice.
9. The Applicant states that the loan facilities extended and granted to the Corporate Debtor were duly recorded with the information utility namely National e-governance Service Limited. As per the due process the said Information Utility has duly authenticated the default with the Corporate Debtor and has accordingly issued a record of default in form-D wherein the default committed by the Corporate Debtor is clearly established under default status 'Authenticated'.
10. Neither the Corporate Debtor nor its authorized representative appeared before us except on 14.12.2023. In view of this, vide order dated 21.11.2023, this bench proceeded ex-parte against the Corporate Debtor. Further no reply has been filed by the Corporate Debtor.

<u>Finding and Decision</u>

11. Heard learned Counsel and perused the material available on record.
12. We note from the record that the Corporate Debtor has acknowledged & admitted its liability towards the debt outstanding

and payable to the Financial Creditor by issuing balance confirmations, acknowledgement of debt from time to time. The Corporate Debtor has not disputed the claim of the Applicant.

13. On the request of the Corporate Debtor, the Financial Creditor had issued a copy of One-Time Settlement (OTS) Letter dated 21 December, 2021 regarding settlement of debts, however, the same is also not stated to have been honored.

14. It is clearly evident from the records produced before this Tribunal that the financial debt amounting to more than Rs. 1,00,00,000 (Rupees One Crore Only) is due & payable by the Corporate Debtor as on the date of filing the present Company Petition. Further, there is admission of default and outstanding liability by the Corporate Debtor in the confirmation as well as via OTS proposal.

15. The essential ingredients required to initiate Corporate Insolvency Resolution Process ("CIRP') against the Corporate Debtor such as Financial Debt as defined u/s 5(8) & Default as defined u/s 3(12) of the Code are proved by the Financial Creditor beyond reasonable doubt in the present case.

16. The application made by the Financial Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable and the default is in excess of minimum amount stipulated under section 4(1) of the IBC. Therefore, the debt and default stand established and there is no reason to deny the admission of the Petition. In view thereof, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.

17. The Financial Creditor has proposed the name of Mr. Shekhar Arvind Parkhi, Registration No. IBBI/IPA-001/IP-P-02494/2021-22/13801, as the Interim Resolution Professional of the Corporate

Debtor. He has filed his written communication in Form 2 as required under rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

18. It is, accordingly, hereby ordered as follows: -

(a) The petition bearing CP (IB) 998/(MB) 2023 filed by **M/s Small Industries Development Bank of India**, the Financial Creditor, under section 7 of the IBC read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **M/s Green India Building Systems & Services Pvt. Ltd.** [CIN: U45400MH2009PTC197838], the Corporate Debtor, is **admitted**.

(b) There shall be a moratorium under section 14 of the IBC, in regard to the following:

(i) 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;

(ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

(iii) 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 (SARFAESI) Act, 2002;

(iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

(c) Notwithstanding the above, during the period of moratorium:-

(i) 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;

(ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;

(d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

(e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(f) Mr. Shekhar Arvind Parkhi, Registration No. IBBI/IPA-001/IP-P-02494/2021-22/13801, having registered address at A-303, Yashwin Society, Susgaon Road, Behind Mercedez Benz showroom, near Vibgyor school, Pune, Maharashtra - 411021 Email ID: ip.shekharparkhi @gmail.com is hereby appointed as Interim Resolution

Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions issued/as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.

(g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

(h) The Financial Creditor shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC). The remuneration of the IRP shall be such as is fixed by the Applicant till constitution of CoC and thereafter the constituted CoC shall decide the remuneration payable to the IRP.

(i) The Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.

(j) IRP is directed to send a copy of this Order to the Registrar of Companies, Maharashtra, Mumbai, for updating the

Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-

Prabhat Kumar
Member (Technical)

Sd/-

Kuldip Kumar Kareer
Member (Judicial)

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