

IN THE NATIONAL COMPANY LAW TRIBUNAL

JAIPUR BENCH

CP No. (IB)-171/7/JPR/2019

**CORAM: DR. POONDLA BHASKARA MOHAN, MEMBER
(JUDICIAL)
SH. RAGHU NAYYAR, MEMBER (TECHNICAL)**

IN THE MATTER OF SECTION 7 OF IBC, 2016.

IN THE MATTER OF:

9M Corporation

**108, 1st Floor, Anand Plaza,
Udaipur, Rajasthan- 313001**

...FINANCIAL CREDITOR

VERSUS

Bohra Pratisthan Pvt. Ltd.

**336-B, Anand Plaza University Road,
Udaipur, Rajasthan- 313001**

.... CORPORATE DEBTOR

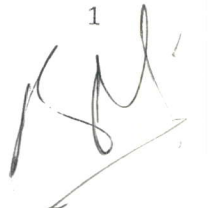
FOR PETITIONER(S) : Divanshu Mittal, Adv.

FOR RESPONDENT(S) : Saurabh Dubey, Adv.

Order Pronounced on: 05.08.2019

9M Corporation
Vs.
Bohra Pratisthan Pvt. Ltd.



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ORDER

1. This Company Petition has been filed under Section-7 of the IBC, 2016 read with Rule-4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by the Petitioner claiming to be a Financial Creditor against the Respondent Company as the Corporate Debtor seeking for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor.
2. On behalf of the Respondent his counsel filed a reply.
3. The substance of the dispute is that the Financial Creditor concern named as 9M Corporation is a proprietary concern having its Registered Office at Udaipur, State of Rajasthan. The Corporate Debtor is a private Company incorporated under the Companies Act, 1956 having its registered office at Udaipur, State of Rajasthan. The Financial Creditor states that it has supplied the raw material named as Rock Phosphate by issuing the invoice RM/01, RM/25 & RM/27 respectively for Rs. 36,700,366/- and the Corporate Debtor made supply of finished goods named as Rock Phosphate against purchase of Rs. 21,944,526/- by issuing invoices No. BPPL/ROCK/03, BPPL/ROCK/04 & BPPL/ROCK/05 respectively and the remaining outstanding Financial Debt of Rs. 14,755,840/- was converted into a Financial Debt by the Corporate Debtor through the Loan



Agreement dated 24.03.2018. Thus, the petitioner claims to be a Financial Creditor. As per the terms and conditions laid down in the Loan Agreement, the Corporate Debtor is required to repay the entire loan amount within one year of execution of such agreement along with interest at 21% p.a. by way of monthly instalments or in case of non-payment of interest or part payment thereof the Corporate Debtor is liable for payment of additional charge at 3% p.a. on the loan amount. The Corporate Debtor subsequently committed default of the agreement terms and that the total amount outstanding claimed in this Company Petition amounts to Rs. 1,91,47,151/- after complying with the formalities under Law. Now the Financial Creditor filed this Company Petition seeking initiation of Corporate Insolvency Resolution Process against the Corporate Debtor and claimed other reliefs also.

4. The Respondent has filed a reply stating that it is admitting the claim of Rs. 1,91,47,151/- made by the petitioner in its petition (Form-1) filed under Section 7 of IBC, 2016. The respondent further admits that due to some Financial Crises, it was heavily indebted and it was hardly possible to afford and keep up with the financial obligations. In view of admission and the commitment made in the reply, the Corporate Insolvency Resolution Process can be initiated against the Corporate Debtor.



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5. This Tribunal perused all the relevant papers and found them to be in order. The prosecution leading to the filing of the present petition has been detailed in the application prescribed under IBBI (Application to Adjudicating Authority) Rule, 2016. The matter is within the purview of Law of limitation.
6. The Financial Creditor has proposed his IRP Mr. Brij Kishor Sharma and submitted Form-2, a written communication by the proposal of Insolvency Resolution Professional (IRP). Mr. Brij Kishor Sharma is an IP, registered with ICSI institute of Insolvency Professionals, having Registration No. IBBI/IPA-002/IP-N00036/2016-17/10075.
7. It is apparent from the reply of the Respondent that the payment of claim amount has been defaulted by the Corporate Debtor to the Financial Creditor.
8. In these circumstances, the claim stands established and prima facie presumption raised that there is default in payment of the amount due to the Financial Creditor and in view of the reply of the Respondent the debt is admitted by the Respondent.
9. Hence, this Tribunal is inclined to initiate the Corporate Insolvency Resolution Process (CIRP) as against the Corporate Debtor as envisaged under the provisions of IBC, 2016.
10. Consequences of initiation of CIRP shall be inter-alia as follows:

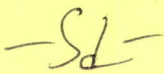


- (i) The Resolution Professional proposed by the Financial Creditor is Sh. Brij Kishor Sharma who is an IP registered with ICSI institute of Insolvency Professionals having Registration No. IBBI/IPA-002/IP-N00036/2016-17/10075. He is hereby appointed as the Insolvency Resolution Professional (IRP) to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of IBC, 2016 including issue of publication in widely circulated Newspaper as contemplated under the provisions of IBC, 2016 and calling for the claims from the creditors of Corporate Debtor and collecting of the same shall be done.
- (ii) Further, as a sequence of admission, moratorium as envisaged under Section 14 of IBC, 2016 is invoked in relation to the Corporate Debtor which will be in vogue during the Corporate Insolvency Resolution Process of the Corporate Debtor. The IRP shall carry out (CIRP) strictly as per the timelines specified and as envisaged under the provisions of IBC, 2016 in relation to the Corporate Debtor.
- (iii) The said IRP shall act strictly with the provisions of IBC, 2016 with a view to defray his expenses to be incurred and fees on account the Financial Creditor is directed to deposit a sum of Rs. 2,00,000/- (Two Lacs Only) to the account of IRP within three days from the date of this order. The IRP shall duly file a status report appraising

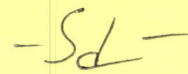


this Tribunal about the progress of CIRP unfolded in relation to the Corporate Debtor. In terms of Section 17 & 19 of IBC, 2016 all personnel of the Corporate Debtor including promoters and Board of Directors, whose powers shall stand suspended will extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.

- (iv) In terms of Section 9 of IBC, 2016 this order shall be communicated to the Financial Creditor, Corporate Debtor as well as the Interim Resolution Professional (IRP) appointed by this Tribunal to carry out the CIRP at the earliest not exceeding one week from today. A copy of this order shall also be communicated for IBBI for its records.
- (v) In the circumstances, this Company Petition is admitted.



**SH. RAGHU NAYYAR,
MEMBER (TECHNICAL)**



**DR. POONDLA BHASKARA MOHAN
MEMBER (JUDICIAL)**

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