

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

C.P. (IB) No. 4102/NCLT/MB/2018

Under Section 7 of the I&B Code, 2016

In the matter of:

Bank of Baroda

...Financial Creditor / Applicant

V/s

M/s. Texorange Corporation Limited

...Corporate Debtor / Respondent

Order Dated: 11th October 2019

Coram: Hon'ble Member (Judicial): Mr V. P. Singh
Hon'ble Member (Technical): Mr Rajesh Sharma

For the Applicant: Advocate Anup Khaitan and Advocate Rohit Kanmukh

For the Respondent: None present

Per: Rajesh Sharma, Member (Technical)

ORDER

1. This is an Application being CP 4102(IB)/MB/2018 filed by **Bank of Baroda (Earlier known as Dena Bank)**, the Financial Creditor / Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **M/s. Texorange Corporation Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).
2. The Application is filed claiming a total default of ₹28,85,58,604/- (Rupees Twenty Eight Crore Eighty Five Lakh Fifty Eight Thousand Six Hundred And Four Only). The Application is signed by Mrs. Madhavi Milind Kulkarni, Chief Manager, of the Financial Creditor duly authorised to file this Application vide Authority Letter dated 01.10.2018.

3. The Applicant submitted that it had sanctioned credit facilities of ₹24,00,00,000/- (Rupees Twenty Four Crore Only) to the Corporate Debtor vide Sanction Letter No. DB/OVB/ADV/213/2016 dated 09.02.2016. The Applicant along with Bank of India entered into Working Capital Consortium Agreement dated 27.12.2016 with the Corporate Debtor in respect of the said credit facilities, and Joint Deed of Hypothecation dated 27.12.2016 secured the credit facilities. The Applicant has also filed Joint Demand Promissory Note; Letter of Guarantee; Certificate of Registration for Modification of Charge, dated 27.12.2016 in support of its claim. Copies of the Documents mentioned supra are annexed to the Application.
4. It is submitted that the Corporate Debtor passed Board Resolution dated 15.02.2016 for availing the said credit facilities from the Applicant and further authorised its Directors, Shri Vikas Jhawar, Shri Nandkishore Jhawar and Shri Amit Sharma, to execute the loan documents on behalf of the Corporate Debtor. The copy of the said Board Resolution is annexed to the Application.
5. The Applicant submitted that the Corporate Debtor has confirmed and acknowledged the said debt vide "Letter of Acknowledgment of Debt by Borrower and / or Guarantor Acknowledgment of Debt" dated 17.02.2017. Copy of the said letter is annexed to the Application.
6. The Applicant submitted that Corporate Debtor defaulted in repayment of credit facilities and the Account of Corporate Debtor was classified as Non-Performing Asset (NPA) on 30.09.2017. The Applicant issued Notice dated 26.03.2018 under Section 13(2) of Securitisation & Reconstruction of Financial Assets & Enforcement of Security Interest Act, 2002 calling upon the Corporate Debtor, its Directors and Personal Guarantors to pay the amount due and payable of ₹27,55,65,734/- (Rupees Twenty Seven Crore Fifty Five Lakh Sixty Five Thousand Seven Hundred and Thirty Four Only). The copy of Applicant's Notice dated 26.03.2018 is annexed to the Application.

7. The Applicant has also annexed report dated 15.10.2018 of Corporate Debtor maintained with the Central Repository of Information on Large Credits (CRILC), showing the default of Corporate Debtor and reflecting the classification of Corporate Debtor's account as sub-standard. The Applicant has submitted the copy of Statement of Account along with the certificate under the Banker's Book of Evidence Act, 1891, certifying the account statements of the Corporate Debtor produced on record.
8. The Applicant filed present Application on 23.10.2018. The Applicant was directed to serve Court Notice to the Corporate Debtor vide our Order dated 17.12.2018 and 29.08.2019. The Applicant filed its affidavit of service dated 14.03.2019 and 25.09.2019 proving the service of notice upon Corporate Debtor.
9. On perusal of the documents submitted by the Applicant, it is clear that financial debt amounting to ₹24,00,00,000/- (Rupees Twenty Four Crore Only) is due and payable by the Corporate Debtor to the Applicant as on the date of filing of this Application. The Corporate Debtor has also admitted the financial debt in Letter of Acknowledgment of Debt dated 17.02.2017. Therefore, an amount of more than ₹1,00,000/- is due and payable and there is default by the Corporate Debtor in repayment of the loan amount. The Corporate Debtor has failed to appear before this Bench even after having service of notice of hearing. Therefore, we do not have any objection on record against the Application filed for initiation of CIRP against the corporate debtor.
10. The Application is complete and has been filed under the proper form. The debt amount of more than Rupees One Lakh and default of the Corporate Debtor has been established and the Application deserves to be admitted.
11. The Applicant has proposed the name of Mr Sudip Bhattacharya, a registered Insolvency Resolution Professional having Registration

Number [IBBI/IPA-003/IP-N0080/2017-18/10703] as **Interim Resolution Professional**, to carry out the functions of IRP along with his declaration in Form 2 that no disciplinary proceedings are pending against him, is annexed with the Application.

12. The 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 against the corporate debtor and its default is also proved. Accordingly, the 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.

ORDER

This Application filed under Section 7 of I&B Code, 2016, filed by **Bank of Baroda**, Financial Creditor / Applicant, against **M/s. Texorange Corporation Limited**, Corporate Debtor for initiating corporate insolvency resolution process is at this moment admitted. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this 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.
 - III. That the provisions of sub-section (1) of Section 14 of I&B Code 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 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.
 - V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.
 - VI. That this Bench at this moment appoints **Mr Sudip Bhattacharya**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-003/IP-N0080/2017-18/10703]** as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
13. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V. P. SINGH
Member (Judicial)

11th October 2019