

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III**

C.P. No. 4251/IBC/MB/2018

Under Section 7 of the Insolvency and
Bankruptcy Code, 2016 read with Rule 4
of the Insolvency and Bankruptcy
(Application to Adjudication Authority)
Rule 2016)

In the matter of

**Pegasus Assets Reconstruction
Pvt. Ltd.**

C-55-56, 5th floor, Free Press House,
Nariman Point, Mumbai-21

.....FINANCIAL CREDITOR

Vs

M/s Monarch Multilayers Pvt. Ltd.

Shubham 47, Khare Town,
Dharmapeth, Nagpur 440010

.....Corporate Debtor

Order delivered on: 04.08.2021

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Applicant: Mr. Ayush J. Rajani

For the Respondent: Mr. Radhe Agrawal

Per: Shri H.V. Subba Rao, Member (Judicial)

ORDER

1. This Company petition is filed by Dena Bank (hereinafter called "Financial Creditor") seeking to initiate Corporate Insolvency Resolution Process (CIRP) against M/s Monarch Multilayers Pvt. Ltd. (hereinafter called "Corporate Debtor") alleging that the Corporate debtor committed default in making repayment of loans repayable to the Financial Creditor. This petition has been filed by invoking the provisions of Section 7 Insolvency and Bankruptcy Code, 2016 (hereinafter called "Code") read with Rule

- 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. Subsequently, the debt was assigned to M/s Pegasus Assets Reconstruction Pvt. Ltd. by Dena Bank and M/s Pegasus Assets Reconstruction Pvt. Ltd. was substitute in the name of the Dena Bank vide order of this Tribunal dated 26.07.2021.
 3. The Financial Creditor sought for resolution in a sum of Rs. 11,74,14,610/-under 3 loan facilities granted to the Corporate Debtor.
 4. The Corporate Debtor filed detailed reply containing as many as 48 pages along with certain sale certificates relating to the sale of mortgage properties belonging to Corporate Debtor through auction conducted by the Financial Creditor SARFAESI. The Corporate Debtor also mentioned the details of various cases pending between the Corporate Debtor and the Dena Bank. Most of the averments mentioned in the reply filed by Corporate Debtor are not necessary for deciding the above petition and therefore they are not mentioned herein.
 5. Heard the counsel appearing on both sides and perused the record. The counsel appearing for the Financial Creditor invited the attention of this Tribunal to the various loan documents executed by the Corporate Debtor which were annexed to the Company Petition in support of their claim. The Financial Creditor has also invited the attention of this Tribunal to the statement of account relating to the Corporate Debtor in which the Corporate Debtor made various cash payments in 2016 in the loan account. The above Company Petition being filed on 15.11.2018 is well within limitation of 3 years from the date of various cash payments as per the law laid down by the Hon'ble Apex Court in various judgments including the judgment of *B.K. Educational Services Private Limited v. Parag Gupta (Civil Appeal No.23988 of 2017)*. The counsel appearing for the Financial Creditor further submitted that the debt and default are clearly established in this case and the debt is within limitation which are the only issues to be decided while dealing the above company Petition under Section 7 of the Code.
 6. The counsel appearing for the Corporate Debtor did not raise any serious legal pleas in opposing the above Company Petition. The

only prayer of the counsel appearing for the Corporate Debtor is that the Financial Creditor has already recovered the maximum outstanding dues by initiating various legal proceedings before DRT and the Corporate Debtor is ready and willing to settle the claim if reasonable time of two months is granted by this Tribunal for which this Tribunal is not inclined.

7. Therefore, for the reason stated above, there are no valid grounds warranting the rejection of the above Company Petition as the debt and default are clearly established and the debt is also within limitation. The petitioner has also suggested the name of proposed Interim Resolution Professional in part-3 of the Petition along with his consent letter in Form-2. Thus, the present Company Petition satisfies all the necessary requirement for admission.
8. Under these circumstances, this tribunal is of the considered opinion that the above company petition is liable to be admitted and accordingly the same is admitted by passing the following:

ORDER

- a. The above Company Petition No. (IB) -4251(MB)/2018 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Monarch Multilayers Pvt. Ltd.
- b. This Bench hereby appoints Mr. **Vikas Gupta** Insolvency Professional, Registration No: IBBI/IPA-007/IP-P00501/2017-18/10889 as the Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Financial Creditor shall deposit an amount of Rs.5 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its

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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest 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.

- e. 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.
- f. 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.
- g. That the order of moratorium shall have effect from the date of pronouncement 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 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-
CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Sd/-
H.V. SUBBA RAO
MEMBER (JUDICIAL)