

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

CP (IB) NO.33/ALD/2021

In the matter of

An application under section 7 of Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of:

Small Industries Development Bank of India

Having Registered office at

‘SIDBI Tower’, 15, Ashok Marg,
Lucknow, 226001

.....**Financial Creditor**

Versus

Kriti Prakashan Private Limited

Having Registered Office at

Vedang Tower, Amrapali Bazar,
Sector-22, Indira Nagar,
Lucknow, U.P. 226020

...

Corporate Debtor

Order reserved on 18.05.2022

Order pronounced on 13.06.2022

Coram:

Mr. Rajasekhar V.K.

: Member (Judicial)

Mr. Virendra Kumar Gupta

: Member (Technical)

Appearances (via video conference):

For Financial Creditor

: Mr. Rahul Kapoor, Advocate

For Corporate Debtor

: Sh. Shyam Lal, Advocate

Sh. Mrityunjay Pratap Singh, Advocate

ORDER

Rajasekhar V.K., Member (Judicial)

1. The present company petition filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (*hereinafter referred to as “IBC “ or “the Code”*) read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Small Industries Development Bank of India

—Sd—

(hereinafter referred as “the Financial Creditor”), seeking initiation of Corporate Insolvency Resolution Process (CIRP) in respect of the Kriti Prakashan Private Limited (hereinafter referred as “the Corporate Debtor”).

Facts of the case:

2. The facts, in brief, are that the Corporate Debtor approached the Financial Creditor for grant of financial assistance on 27.11.2015, which was approved by the Financial Creditor on 24.10.2016. Accordingly, a loan of ₹1,00,00,000/- (Rupees one crore only) was disbursed on 22.11.2016. The loan had a moratorium period. The repayment of principal amount was to be made in four annual instalments of ₹25,00,000/- each. In addition, the Corporate Debtor was to pay interest on monthly basis.
3. On failure of the Corporate Debtor to pay the first annual instalment, the account of the Corporate Debtor was declared NPA in February 2019. However, subsequently, there were talks between the Corporate Debtor and the Financial Creditor for restructuring of the loan. On failure of these talks, the Financial Creditor issued a letter on 02.09.2019, which was replied to by the Corporate Debtor by letter dated 16.09.2019. It was admitted therein that the monthly interest instalment which was due during the month of July 2019 could not be paid due to financial crunch. In this letter, the Corporate Debtor also requested for a period of seven to eight months for discharge of its liabilities. It was also stated by the Corporate Debtor that they will pay pending interest and ₹5,00,000/- as Equated Monthly Instalment (EMI) before 28.09.2019. However, this promise was not fulfilled. The Financial Creditor thereafter filed this application.
4. Ld. Counsel appearing on behalf of Financial Creditor after narrating the above facts and drew our attention to the relevant page of the petition to show that the first instalment of the principal amount, which was due in July 2019, had also not been paid. It was further submitted that all the conditions required for admission of an application filed under section 7 of the Code had been met. Hence, this application was liable to be admitted on merits of the case.

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5. Though the matter had been set *ex parte* against the Corporate Debtor, the Ld. Counsel appeared and prayed for setting aside *ex parte* order passed by this Adjudicating Authority. However, a query was posed by this Bench as to what effective grounds could be raised against the admission of this application. The Ld. Counsel was not able to give any reply and merely pleaded that due to pandemic conditions or other situations, the business of the Corporate Debtor suffered a setback, hence, the amount of loan could not be repaid as per agreed schedule.
6. We have considered the submissions made by both the sides and material on record.
7. It is an admitted fact that the loan has been advanced by Financial Creditor to the Corporate Debtor. The quantum of such loan as well as other conditions as regard to repayment of such loan after the moratorium period and interest thereon are also not in dispute. The first instalment of repayment of principal amount of ₹25,00,000/- has fallen due on 10.07.2019 which has not been paid. Even monthly interest was not paid thereafter. Despite the attempt at restructuring, the conditions for implementation thereof have not been met by the corporate resulting into failing of such restructuring exercise.
8. Thus, in this case, there is a debt which is due and payable both in law and fact. The amount of default is more than the threshold limit as prescribed under section 4 of the Code.
9. The Financial Creditor has proposed the name of **Mr. Aditya Agrawal [Reg. No.IBBI/IPA-001/IP-P00529/2017-2018/10954]** to be appointed as Interim Resolution Professional (IRP) whose consent is on record. There exists no material to show that any disciplinary proceedings are pending against the proposed IRP or that he is otherwise not eligible for appointment.
10. Thus, this application complies with all requirements of the Code and Regulations made thereunder.

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11. Accordingly, we admit this application and pass the following orders :-

- (a) The application filed by Small Industries Development Bank of India, the Financial Creditor under section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, Kriti Prakashan Private Limited, is admitted.
- (b) There shall be a moratorium under section 14 of the IBC.
- (c) 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.
- (d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (e) **Mr Aditya Agrawal [Reg No.IBBI/IPA-001/IP-P00529/2017-18/ 10954]**, having address at 3A/105, Azad Nagar, Kanpur Nagar, Uttar Pradesh, 208002, having AFA No. AA1/10954/02/270123/103843, to act as the IRP under Section 13(1)(c) of the Code. is hereby appointed as the Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code. The fee payable to the IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions 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 Code.
- (f) 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 one week from the date of receipt of this Order, in default of which coercive steps will follow. It is directed that the key managerial personnel of the Corporate Debtor shall coordinate with the

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