IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI

IBA/1327/2019 filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

In the matter of M/s. RDC Motor Private Limited

1. Pankaj P Jain
No. 156, Mint Street,
Chennai-600079.

2. Priya P Jain
No. 156, Mint Street,
Chennai-600079.

3. Lalit Shah HUF
Rep. by its Kartha Mr. Lalith Shah
97/104, Audiappa Naicken Street,
Chennai-600001

4. Kishanlal Rajbeesh Kumkar HUF
Rep. by its Kartha Mr. Kishanlal Rajneesh
No.26, Tilak Street, T. Nagar,
Chennai-600017

5. Hanja Bai
1088, P.H Road Vimalachal Aprt
B Block, 3rd Floor, Flat No. 304,
Vepery, Chennai-600017

6. Ashika N Shah
No. 10/3, Barnaby Road,
Kilpauk, Chennai-600010

7. **Bhagyawanthi Bai**
No. 10/3, Barnaby Road,
Kilpauk, Chennai-600010

8. **Sri Sankeshwara Holding**
Proprietary Concern of Nikhil K Jain HUF
Rep. by its Kartha Mr. Nikhil Jain
No. 210 & 212 Cochraine Basin Road,
Block-B, Flat No. 203 & 204
Korukkupe, Chennai-600021

---Applicants/Financial Creditors

-Vs-

M/s. RDC MOTOR PRIVATE LIMITED,
[CIN: U50400TN2012PTC087488]
No.18/178, 1st Floor,
Defence Officers Colony,
Ekkaduthangal, Chennai-600 035

---Respondent/Corporate Debtor

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
B. ANIL KUMAR, MEMBER (TECHNICAL)

For the Applicant : *Shri. Srenik S Jain, Advocate*
Shri T. Sri Krishna Bhagavat, Advocate
Shri. Moheet Rathore, Advocate

For the Respondent : *Shri P. Jesus Moris Ravi, Advocate*

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 30.04.2021

This application is filed under Section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and

Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (**"AAA Rules, 2016"**) by the Financial Creditors i.e., **Pankaj P Jain and 7 others** (hereinafter referred to as **"Applicants" or "Financial Creditors")** for initiation of Corporate Insolvency Resolution Process **(in short "CIRP")** against **M/s. RDC Motor Private Limited** (hereinafter referred to as **"Respondent" or "Corporate Debtor"**) on the ground of debt and default committed by the Corporate Debtor. The Registered Office of the Corporate Debtor Company is situated at No.18/178, 1st Floor, Defence Officers Colony, Ekkaduthangal, Chennai-600 035. The Company was incorporated on 04.09.2012 bearing CIN No.U50400TN2012PTC087488. The eight applicants have jointly filed this application claiming the total amount of Rs,2,50,00,000/-(Rupees Two Crores and Fifty Lakhs only) due and payable by the Corporate Debtor to the Applicants. All the Applicants claimed to be the Financial Creditors and loans were granted to the Corporate Debtor repayable in 10(Ten) Equated Monthly Installments.

2. On perusal of this application, the averments made in the Application, the 1st Applicant Mr. Pankaj P Jain had given financial loan to the tune of Rs.30,00,000/- to the Respondent. The 1st Applicant has filed a copy of Demand Promissory Note dated 23.07.2018 executed by the Respondent/Corporate Debtor agreeing to pay sum of Rs.30,00,000/- together with interest at the rate of 19.8% per annum. The 1st Applicant has also filed a copy of the bank statement dated 23.07.2018 wherein a sum of Rs.25,05,000/- was debited from the account of the 1st Applicant and transferred to the Respondent/Corporate Debtor through RTGS. The amount of Rs.25,05,000/- was credited to the account of the Respondent/Corporate Debtor after debiting interest for 10 months at the rate of 19.8% per annum. The 1st Applicant has also submitted ledger account enclosed at Page 14-15 of the application wherein the 1st Applicant has stated that the Respondent has repaid a sum of Rs.18,00,000/-. However, at page 16 of the application in the Repayment Schedule, the Applicant has stated that 7th, 8th, 9th and 10th installments are due and payable by the Respondent to the

1st Applicant. Out of the total amount of Rs. 30,00,000/-, the Respondent has paid only sum of Rs.18,00,000/-.

3. The 2nd Applicant Ms. Priya P Jain had given financial loan to the tune of Rs.20,00,000/- to the Respondent. The 2nd Applicant has enclosed a Demand Promissory Note dated 23.07.2018 duly signed by the Respondent enclosed at page 17 of the application, agreeing to repay on demand a sum of Rs.20,00,000/- together with interest at the rate of 19.8% per annum. The 2nd Applicant has also enclosed bank statement dated 23.07.2018 at Page 18 of the application wherein a sum of Rs.16,70,000/- was debited from the account of the 2nd Applicant and paid to the account of the Respondent through RTGS. The 2nd Applicant has also enclosed a copy of ledger account at page 19 of the application. At page 21 of the application in the Repayment Schedule, the 2nd Applicant has stated that 7, 8, 9 and 10th installments due have not been paid by the Respondent. Out of the total amount of Rs.20,00,000/-, the Respondent has paid only sum of Rs.12,00,000/-.

4. The 3rd Applicant is HUF, represented by Kartha Mr. Lalith Shah. The 3rd Applicant states that by Demand Promissory note dated 23.07.2018, the Respondent has agreed to repay a sum of Rs.50,00,000/- together with interest at the rate of 19.8% per annum. The 3rd Applicant has also enclosed bank statement dated 23.07.2018 wherein a sum of Rs.41,75,000/- was debited from the account of the 3rd Applicant and paid to the account of the Respondent through RTGS. The 2nd Applicant has also enclosed a copy of ledger account at page 24 of the application. At page 25 of the application in the Repayment Schedule, the 3rd Applicant has stated that 7th, 8th, 9th and 10th installments are due and payable by the Corporate Debtor.

5. The 4th Applicant is HUF, represented by Kartha Mr. Kishanlal Rajneesh Kumar. The 4th Applicant states that by Demand Promissory note dated 23.07.2018, the Respondent has agreed to repay a sum of Rs.50,00,000/- together with interest at the rate of 19.8% per annum. The 4th Applicant has also enclosed bank statement dated 23.07.2018 wherein a sum of Rs.41,75,000/- was debited from the account of the 4th Applicant and paid to the

account of the Respondent through RTGS. The 4th Applicant has also enclosed a copy of ledger account at page 28 of the application. At page 29 of the application in the Repayment Schedule, the 4th Applicant has stated that 7th, 8th, 9th and 10th installments are due and payable by the Corporate Debtor. The Respondent has paid Rs.32,50,000/-. However, the balance amount of Rs.18,31,641/- is due and payable by the Respondent to the 4th Applicant.

6. The 5th Applicant Hanja Bai has given financial loan to the tune of Rs. 25,00,000/- to the Respondent. The 5th Applicant has filed copy of Demand Promissory Note dated 09.08.2018 executed by the Respondent agreeing to pay sum of Rs.25,00,000/- together with interest at the rate of 19.8% per annum. The 5th Applicant has also filed a copy of the bank statement dated 09.08.2018 wherein a sum of Rs.20,87,500/- was debited from the account of the 1st Applicant and transferred to the Respondent through RTGS. The amount of Rs.20,87,500/- was credited to the account of the Respondent. The 5th Applicant has also submitted ledger account enclosed at Page 32 of the application wherein the 1st Applicant has

stated that the Respondent has repaid a sum of Rs.15,00,000/-. However, at page 33 of the application in the Repayment Schedule, the 5th Applicant has stated that 7th, 8th, 9th and 10th installments are due and payable by the Respondent. Out of total amount of Rs. 30,00,000/-, the balance amount payable is Rs.10,37,430/-.

6. The 6th Applicant Ms. Ashika N Shah has given financial loan to the tune of Rs.25,00,000/- to the Respondent The 6th Applicant has filed copy of Demand Promissory Note dated 07.08.2018 executed by the Respondent agreeing to pay sum of Rs.25,00,000/- together with interest at the rate of 19.8% per annum. The 6th Applicant has also filed a copy of the bank statement dated 07.08.2018 wherein a sum of Rs.20,87,500/- was debited from the account of the 6th Applicant and transferred to the Respondent through RTGS. The amount of Rs.20,87,500/- was credited to the account of the Respondent after debiting interest for 10 months at the rate of 19.8% per annum. The 6th Applicant has also submitted ledger account enclosed at Page 36 of the application wherein the 6th Applicant has stated that the Respondent has repaid a sum of Rs.12,50,000/-.

However, the 7, 8, 9 and 10th installments are due and payable by the Respondent to the 6th Applicant. Out of Rs. 25,00,000/-, the total amount payable is Rs.12,98,144/-.

7. The 7th Applicant , Bhagyawanthi Bai has given financial loan to the tune of Rs.25,00,000/- to the Respondent. In respect to that the 7th Applicant has filed copy of Demand Promissory Note dated 09.08.2018 executed by the Respondent agreeing to pay sum of Rs.25,00,000/- together with interest at the rate of 19.8% per annum. The 7th Applicant has also filed a copy of the bank statement dated 09.08.2018 wherein a sum of Rs.20,87,500/- was debited from the account of the 7th Applicant and transferred to the Respondent through RTGS. The amount of Rs.20,87,500/- was credited to the account of the Respondent after debiting interest for 10 months at the rate of 19.8% per annum. The 7th Applicant has also submitted ledger account enclosed at Page 40 of the application wherein the 7th Applicant has stated that the Respondent has repaid a sum of Rs.12,50,000/-. However, at page 41 of the application in the Repayment Schedule, the 7th Applicant has stated that 7th, 8th, 9th and

10th installments are due and payable by the Respondent. Out of Rs. 25,00,000/-, the total amount payable is Rs.12,96,788/-.

8. The 8th Applicant, Sri Sankeshwara Holding has given financial loan to the tune of Rs.25,00,000/- to the Respondent The 7th Applicant has filed copy of Demand Promissory Note dated 09.08.2018 executed by the Respondent agreeing to pay sum of Rs.25,00,000/- together with interest at the rate of 19.8% per annum. The 8th Applicant has also filed a copy of the bank statement dated 09.08.2018 wherein a sum of Rs.20,87,500/- was debited from the account of the 8th Applicant and transferred to the Respondent through RTGS. The amount of Rs.20,87,500/- was credited to the account of the Respondent after debiting interest for 10 months at the rate of 19.8% per annum. The 8th Applicant has also submitted ledger account enclosed at Page 44 of the application wherein the 8th Applicant has stated that the Respondent has repaid a sum of Rs.15,00,000/-. However, at page 45 of the application in the Repayment Schedule, the 8th Applicant has stated that 7th, 8th, 9th and

10th installments are due and payable by the Respondent. Out of Rs. 25,00,000/-, the total amount payable is Rs.10,37,430/-.

9. Hence, this application is filed by the eight Applicants jointly for the financial debt and default committed by the Corporate Debtor. In response to the same, the Corporate Debtor has filed its counter on 13.02.2020 in S.R. No.1069. The Respondent accepts that he has signed all the Demand Promissory Notes in favour of all the eight applicants and also admitted that part payments were made towards the outstanding dues payable to the Applicants. However, 7th, 8th, 9th and 10th installments were not paid. The same is not admitted by the Corporate Debtor. The Respondent states that there are no dues to the applicants. Apart from the above, the Corporate Debtor has not placed on record any concrete evidence to show that the debts are cleared to the Applicants. It is also further submitted that the Respondent has raised allegations that this application is not maintainable since all the eight applicants have given loan on different dates and the same has been clubbed together and filed as a joint application.

10. Heard the Counsel for both the parties and also pleadings submitted by both the parties. All the eight applicants have filed proof of financial loan granted to the Respondent repayable by 10(Ten) Equated Monthly Instalments together with interest @ 19.8% per annum. Admittedly, the Respondent has paid part of the loan. However, balance 7th,8th,9th and 10th instalments have not been remitted to the all the eight Applicants. In view of the above observations, this Bench is inclined to admit this Application as the Applicants has made out a case and also satisfied this Adjudicating Authority for admitting this Application. It is also proved that there is a debt due and default payable by the Corporate Debtor to the Applicants.

11. The Applicants/Financial Creditors have proposed the name of the Interim Resolution Professional. Hence, this Adjudicating Authority hereby appoints Mrs. J. Karthiga, having Regn. No.IBBI/IPA-001/IP-P00752/2017-18/11284 as Interim Resolution Professional.

12. As a consequence of the Application being admitted in terms of Section 9(5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

(I) That Moratorium is hereby declared prohibiting all of the following actions, namely,

(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 (SARFAESI Act);

(d) The recovery of any property by an owner or lessor where such property is occupied by or in the 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 moratorium period.

(III) 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.

(IV) That the order of moratorium shall have effect from 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.

(V) That the public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code.

(VI) That this Bench hereby appoints **Mrs. J. Karthiga, [Regn. No.IBBI/IPA-001/IP-P00752/2017-18/11284] E-mail: karthigasri@hotmail.com** with her consent to carry out the functions as mentioned under The Insolvency & Bankruptcy Code.

13. Accordingly, for the facts and discussions mentioned supra, this IBA/1327/2019 stands **admitted**.

14. **The Registry** is hereby directed to immediately communicate this order to the Financial Creditors, the Corporate Debtor and the Interim Resolution Professional by way of e-mail.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

VS