

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

CP (IB) 1598/MB/C-II/2019

Under section 7 of the Insolvency &
Bankruptcy Code, 2016 r.w. Rule 4 of the
Insolvency and Bankruptcy (Application
to Adjudicating Authority) Rules, 2016

In the matter of

Bank of Maharashtra

[CIN: U99999MH1935PTC002399]

...Financial Creditor

(Petitioner/Applicant)

Versus

**Nava Bharat Press (Bhopal) Private
Limited & 6 Ors.**

[CIN: U22120MH1982PTC028978]

...Corporate Debtor

(Respondent)

Order Delivered on 16.12.2019

Coram:

Hon'ble Member (Judicial) : Mr. M.K. Shrawat
Hon'ble Member (Technical) : Mr. Chandra Bhan Singh

Appearances:

For the Financial Creditor : Mr Digajmaan G. Mishra a/w Mr
Yashmaan G. Mishra i/b
Hammurabi Soloman, Advocates
For the Corporate Debtor : None

Per: Chandra Bhan Singh, Member (Technical)

ORDER

1. This is a Company Petition filed under section 7 of the Insolvency & Bankruptcy Code, 2016 (**IBC**) by Bank of Maharashtra ("the Financial Creditor"), seeking to initiate Corporate Insolvency

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Resolution Process (CIRP) against Nava Bharat Press (Bhopal) Private Limited ("the Corporate Debtor"). The Petitioner/Applicant i.e. Bank of Maharashtra has furnished Form 1 under Rule 4 of the Insolvency and Bankruptcy code 2016, Application to Adjudicating Authority Rules 2016, in the capacity of Financial Creditor on 16.03.2019.

2. In the requisite Form, Under the Head Particulars of "Financial Debt" is mentioned:

- i. Dues as per DRT Decree dated 05.08.2011 of Rs.24,93,08,874/-
- ii. Interest from 28.07.2009 to 30.09.2018 of Rs.58,43,50,816/-
- iii. Other Expenses from 05.08.2011 to 31.05.2018 of Rs.4,30,494/-

Total amount of claim as on 30.09.2018 Rs.83,40,90,183.00 (Rupees eighty-three crore forty lakh ninety thousand and one hundred and eighty-three only) along with Rate of interest @ 14.25%. The date of default is stated to be 31.03.2004.

3. The Corporate Debtor is a Private company limited by shares and incorporated on 27.12.1982 under the Companies Act, 1956, with the Registrar of Companies, Maharashtra, Mumbai. Its Corporate Identity Number (CIN) is U22120MH1982PTC028978. Its registered office is at Nava Bharat Bhavan, Cotton Market, Nagpur, Maharashtra - 440018. Therefore, this Bench has jurisdiction to deal with this petition.

4. **Submissions made by the Financial Creditor: -**

4.1 The Financial Creditor had on 22.10.2004 sanctioned First Term loan facility of Rs.6,63,00,000/- (six crore sixty three lakhs only).

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- 4.2 The Financial Creditor had on 23.03.2004 sanctioned Financial credit through its Directors of Rs.14.17 Crores. Despite enjoying the loan, cash and credit facility as availed, the Corporate Debtor defaulted on the repayment of the interest as well as the principal as per the schedule of repayment.
- 4.3 Thereafter on 11.07.2007 a Registered Recall Notice was sent by the Financial Creditor to Corporate Debtor for recalling the Credit/Loan facility demanding Rs.17,94,54,108.73 (seventeen crores ninety-four lacs fifty-four thousand one hundred and eight and paise seventy-three only)
- 4.4 The Loan account was declared NPA on 31.03.2004. As on 25.07.2009, the outstanding Loan was Rs.24,93,08,873.73 (Rupees twenty-four crore ninety-three lacs eight thousand eight hundred seventy-three only)
- 4.5 Thereafter an Original Application 35 of 2009 was filed before the Hon'ble DRT, Jabalpur for the purpose of recovery of the loan from Corporate Debtor by Financial Creditor. A decree was passed by DRT, Jabalpur vide Order/Judgement dated 05.08.2011 in OA 35 of 2009, Whereby Recovery Certificate of an amount of Rs.24,93,08,873.73 with Interest of 14.25% from the date of 28.07.2009 till realization has been mentioned. A copy of order attached to the petition.
- 4.6 To execute an Execution Application was filed by Financial Creditor being Execution Application no. 156 of 2011 in the Original Application No. 35 of 2009 which was allowed and Recovery Certificate dated 06.05.2015 was passed in favour of Financial Creditor by DRT. A copy of Certificate is attached to the petition.
- 4.7 Further Financial Creditor also filed proceeding for Possession of the immovable properties of the Corporate Debtor vide Case

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No. 71/B-121/15-16 and the Hon'ble Additional District Magistrate passed a final Order dated 30.11.2016 revised by Order dated 23.03.2017 thereby allowing possession of Corporate Debtor's immovable properties possession. A copy of the order attached to the petition.

5. The copy of the Petition was served on the Corporate Debtor vide letter dated 11.03.2019. Necessary Proof in this regard have been placed on record.

6. **Submissions made by the Corporate Debtor: -**

No one was present from the side of the Corporate Debtor on the date of final hearing of this petition. Despite direction on 10.07.2019, no reply to this petition has been received on record till date. The Corporate Debtor, therefore, has nothing to say in its defence.

Findings: -

7. The Bench heard the arguments of the Financial Creditor and perused the records.

8. On the last date of hearing i.e. on 21.08.2019, when matter was called none appeared for Corporate Debtor. Therefore, this Petition was heard ex parte qua the Respondent.

9. The Financial Creditor as per the Decree dated 05.08.2011 by the Debt Recovery Tribunal, Jabalpur and Recovery Certificate dated 06.05.2015 a total sum of Rs. 24,93,08,874/- was due. This along with interest and other expenses as on the date of filing the application, as per the petitioner, amounts to Rs.83,40,90,183/-.

10. The Financial Creditor has proposed the name of **Mr Amresh Shukla**, Registration No. IBBI/IPA-001/IP-P00120/2017-2018/10255, as the Interim Resolution Professional of the Corporate Debtor. He has filed his written communication in Form 2 as

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required under rule 9(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 along with a copy of his Certificate of Registration.

11. The application made by the Financial Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount of one lakh rupees stipulated under section 4(1) of the IBC. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.
12. The petition bearing CP(IB)- 1598/MB/C-II/2019 filed by **Bank of Maharashtra**, the Financial Creditor, under section 7 of the IBC read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Nava Bharat Press (Bhopal) Private Limited [CIN: U22120MH1982PTC028978]**, the Corporate Debtor, is **admitted**.
13. There shall be a moratorium under section 14 of the IBC, in regard to the following:
 - i. 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;
 - ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - iii. Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property

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including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;

- iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

14. Notwithstanding the above, during the period of moratorium: -

- i. 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;
- ii. That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;

15. 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.

16. Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

17. **Mr Amresh Shukla**, Registration No. IBBI/IPA-001/IP-P00120/2017-2018/10255, having address at F-05, Jaideep Complex, 112, Zone-II, M.P. Nagar, Bhopal - M.P. 462011, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC. The fee payable to IRP or, as the case may be, the RP shall be compliant with such

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Regulations, Circulars and Directions issued/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 IBC.

18. 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 a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
19. The Financial Creditor shall deposit a sum of Rs.1,00,000/- (Rupees one lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
20. The Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
21. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.
22. Ordered accordingly.

Sd/-

CHANDRA BHAN SINGH
Member (Technical)

16.12.2019
SAM

Sd/-

M.K. SHRAWAT
Member (Judicial)