

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD**

SPECIAL BENCH - COURT 1 (HEARINGS THROUGH VIDEO CONFERENCE)

PRESENT: HON'BLE SHRIMADAN BHALCHANDRA GOSAVI- MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 01.10.2021 AT 13.00 HRS

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No. 353/7HDB/2020
NAME OF THE COMPANY	GVS Infra Industries Pvt Ltd.
NAME OF THE PETITIONER(S)	UCO Bank
NAME OF THE RESPONDENT(S)	GVS Infra Industries Pvt Ltd.
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

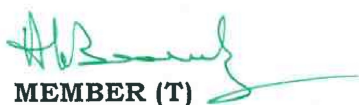
Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Order pronounced in **CP(IB) No.353/7/HDB/2020**, vide separate order.


MEMBER (T)

Syamala


MEMBER(J)

**NATIONAL COMPANY LAW TRIBUNAL
BENCH-1, HYDERABAD**

CP (IB) No. 353/7/HDB/2020

Petition under Section 7 of IBC, 2016

In the matter of **M/s GVS Infra & Industries Private Limited**

Filed by

M/s UCO Bank Limited

Asset Management Branch
Ground Floor, Navabharat Chambers
Rajbhavan Road, Somajiguda
Hyderabad

.... Petitioner/
Financial Creditor

VERSUS

M/s GVS Infra & Industries Private Limited

(Formerly M/s SSVG Engineering Projects Pvt. Ltd)
89, Shanthi Nagar, Masab Tank
Hyderabad – 500028
Telangana

...Respondent/
Corporate Debtor

Date of order: 01.10.2021

Coram: Shri Madan B Gosavi, Hon'ble Member (Judicial)
Shri Veera Brahma Rao Arekapudi, Hon'ble Member
(Technical)

Appearance:

For Petitioner: Shri P.V. Markandeyulu, Senior Advocate assisted
by Shri Anil Mukherjee, Advocate

Heard on: 15.03.2021

PER: BENCH

ORDER

1. The Petitioner/Financial Creditor is filing the present petition against the Respondent/Corporate Debtor under Section 7 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as the "Code") read with

Rule 6 of IBC, 2016 to initiate Corporate Insolvency Resolution Process in respect of Corporate Debtor /**M/s GVS Infra & Industries Private Limited.**

2. UCO Bank (herein after referred to as "Financial Creditor") is a Bank represented by Shri P. Abraham George, Assistant General Manager, authorised vide Board Resolutions and Power of Attorney, which are annexed and marked as Exhibit-"B"
3. M/s GVS Infra & Industries Private Limited (Formerly known as M/s SSVS Engineering projects) (hereinafter referred to as Corporate debtor) having CIN No. U45200TG2000PTC034812 is a Company incorporated under the Companies Act.
4. As per the averments, the Corporate Debtor had approached the Financial Creditor for creditor facilities. The Financial Creditor sanctioned term loan under UCO Rent Scheme of Rs. 1,77,50,000/- vide sanction letter dated 29.06.2006 and the Corporate Debtor executed loan documents on 29.06.2006. Further a guarantee agreement was executed on 29.06.2006 in respect of the loan. Subsequently, the Financial Creditor sanctioned further term loan of Rs. 1,50,00,000/- on 04.08.2006 against execution of fresh loan documents. It is further averred that a third loan of Rs. 22,00,00,000/- was sanctioned which was later converted into new loan of Rs. 3,75,00,000/- to the Corporate Debtor against security of immovable properties mentioned at Schedules A, B & C Schedules of the Application.
5. After availing various credit facilities, the Corporate Debtor committed default in repayment of loans and thereupon the Petitioner Bank has classified the loan account as Non-Performing Asset (NPA) on 29.06.2011 and has taken action by filing OA before Debts Recovery Tribunal, Hyderabad vide OA

- No.75/2012 and invoked SARFAESI proceedings. The DRT has renumbered as OA No. 2308/2017 and allowed the claim of the Bank vide order dated 29.07.2019. The Recovery Certificate is said to have been issued and it is in the process of execution by the Recovery Officer. However till now no amount has been paid/recovered.
6. The outstanding amount due and payable to the Petitioner Bank by the Corporate Debtor is Rs. 7,42,27,221/- as on 21.11.2011 plus interest at 18% w.e.f. March 2011. The Corporate Debtor failed to make the said outstanding payment. Hence, this Petition is filed to initiate CIRP of the Corporate Debtor.
7. The notice of the Petition was duly served on the Corporate Debtor, but no one appeared on its behalf. Hence, this Adjudicating Authority, by order dated 08.02.2021 directed the hearing of this Application to be proceeded as Ex-parte against the Corporate Debtor.
8. We heard the Learned Senior Counsel for Petitioner Bank and perused the documents filed on record. The Petitioner Bank has filed written submissions reiterating the contentions raised in the main petition and submits that the payment and filing OA before DRT is well within the Limitation Act. He further submits as directed by the Tribunal, publication of notice was done in "The Hindu" and "Eenadu" newspapers on 16.01.2021. He relied on the judgement dated 04.08.2021 of **Hon'ble Supreme Court in Civil Appeal No. 1650 of 2020 in the matter of Dena Bank vs C. Shivakumar Reddy**, wherein the Hon'ble Court held that **"a judgement and/or decree for money in favour of the Financial Creditor, passed by the DRT, or any other Tribunal or Court, or the issuance of a certificate of recovery in favour of the Financial Creditor, would give rise to a fresh cause of action for the Financial Creditor, to initiate**

proceedings under Section 7 of IBC for initiation of the CIRP, within three years from the date of judgement and/or decree or within three years from the date of issuance of the Certificate of Recovery, if the dues of the Corporate Debtor to the Financial Debtor, under the judgement and/or decree and/or in terms of the Certificate of Recovery, or any part thereof remained unpaid". The Petitioner Bank has established that the Corporate Debtor has committed default in paying the debt to the Petitioner. The Petitioner has suggested the name of Mr. S. Kasthuri Rengan as Interim Resolution Professional against whom no departmental enquiry appears to be pending. The Petition is defect free.

9. Hence, this Adjudicating Authority admits this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-

9.1 **The Corporate Debtor / M/s GVS Infra & Industries Private Limited** is admitted in Corporate Insolvency Resolution Process under Section 7 of the Insolvency & Bankruptcy Code, 2016.

9.2 Moratorium is declared for the purposes referred to in Section 14 of the Code, with the following directions:-

- (a) The Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Guarantor 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 Guarantor 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;


- (b) The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. 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.
- (c) Notwithstanding anything contained in any other law for the time being in force, license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the licence, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.

- 9.3 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 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.



- 9.4 This Bench hereby appoints Mr. S. Kasthuri Rengan # 909A, Raghava Ratna Towers, Chirag Ali Lane, Hyderabad – 500001 having IBBI Registration No. IBBI/IPA-001/IP-P00064/2017-18/10150 mob. No. 9246344297, e-mail: askrco@gmail.com as Interim Resolution Professional, who has filed Form No.2 and who's Authorization for Assignment is valid till 25.11.2021 as per IBBI Website.
- 9.5 The IRP shall comply with the relevant provisions of IBC. The Directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor is expected to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging the function under Section 20 of IBC, 2016. A Public announcement of Corporate Insolvency Resolution Process shall be made by the IRP immediately as specified under section 13 of the code.
- 9.6 The Financial Creditor and the Registry are directed to send the copy of this order to IRP so that he could take charge of the Corporate Debtor's assets etc, and make compliance of this order as per the provisions of the Code.
- 9.7 The Registry is directed to communicate this order to the Financial Creditor and Corporate Debtor.
- 9.8 The Registry of this Tribunal is directed to send a copy of this order to RoC, Hyderabad for marking appropriate remarks against the Corporate Debtor on MCA site as being under CIRP.


(Veera Brahma Rao Arekapudi)
Member (Technical)


(Madan B Gosavi)
Member (Judicial)