

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

CP (IB) No.445/MB-IV/2022

Under Section 7 of the I&B Code, 2016

In the matter of:

P N Amarsey Foundation

[IN: E4365]

...Financial Creditor/Applicant

V/s

Supernova Technologies Private Limited

[CIN: U72200MH2001PTC131470]

...Corporate Debtor/Respondent

Order Dated: 20.01.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner(s) : Mr. Jignesh Ganatra, PCA.

For the Respondent(s) : Mr. Bhavik Salia, Advocate.

ORDER

Per: Prabhat Kumar, Member (Technical)

1. This is an application bearing C.P. (IB) No. 445/MB/C-IV/2022 filed by P N Amarsey Foundation, the Financial Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) seeking

initiation of Corporate Insolvency Resolution Process (CIRP) against Supernova Technologies Private Limited, Corporate Debtor.

2. The Application is filed by Mr. Harsh P. Amersey, Trustee of the Financial Creditor duly authorised vide its Board Resolution dated 18.02.2022 passed by the Board of Trustees, claiming total default of Rs.1,51,87,424/- (Rupees one crore fifty-one lakh eighty-seven thousand four hundred twenty-four only).
3. The Date of Default is stated to be 20.06.2019 in the Petition. The Petition is filed on 29.03.2022 which is within the period of three years from the Date of Default.
4. The case of the Financial Creditor is as under:
 - a. The Financial Creditor has provided loan to the Corporate Debtor for an amount of Rs.1,25,00,000/- (Rupees one crore twenty-five lakh only) vide Loan Agreement dated 15.04.2011 executed between Financial Creditor and Corporate Debtor.
 - b. Actual disbursement of loan began only on 12.05.2016 with a disbursement of Rs.3,00,000/- (Rupees three lakh only) and the remaining amount was disbursed on different dates as more appropriately indicated in the summary of Loan and interest due.
5. The Corporate Debtor has filed its Affidavit-in-reply dated 20.04.2022 and has submitted that it is social enterprise; is facing severe adversities due to lockdown; the employees including accountants and floor workers have left the job; still efforts are made to revive the Company;

and the default is not deliberate but due to circumstances beyond the control of management.

Findings/Observations:

6. We have heard the arguments of the Learned Counsel for both the parties and perused the records.
7. It is observed by the Bench that the Financial Creditor has provided Loan of Rs.1,25,00,000/- (Rupees one crore twenty-five lakh only) and the Corporate Debtor has not disputed grant of Loan; existence of debt as on date of the Petition and default in its repayment. The Corporate Debtor has pleaded helplessness in repayment of debt in default due to the Financial Creditor.
8. After perusal of the material on record, this Bench is of considered view that there is no reason to deny the Petition under section 7 filed by the Financial Creditor to initiate the CIRP against the Corporate Debtor as the Corporate Debtor himself has admitted its liability.
9. On perusal of the documents submitted by the Applicant, it is clear that financial debt amounting to more than Rs.1,00,00,000/- (Rupees One Crore Only) is due and payable by the Corporate Debtor to the Applicant. There is default by the Corporate Debtor in payment of debt amount. Therefore, we do not have any objection on record against the application filed for initiation of CIRP against the corporate debtor. Hence, the Application filed by the Financial Creditor is liable to be admitted.
10. The Applicant has proposed the name of Mr. Jignesh Ajit Ganatra, a registered insolvency resolution professional having Registration

Number [IBBI/IPA-001/IP-P-01506/2018-2019/12393] as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code and has also given his declaration that no disciplinary proceedings are pending against him.

ORDER

This Application being C.P. (IB) No. 445/NCLT/MB/C-IV/2022 filed under Section 7 of I&B Code, 2016, filed by P N Amersey Foundation, the Financial Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Supernova Technologies Private Limited, Corporate Debtor is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
 - 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;

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

III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to

a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator;

b. a surety in a contract of guarantee to a Corporate Debtor.

IV. 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.

VI. That this Bench appoints Mr. Jignesh Ajit Ganatra, a registered insolvency resolution professional having Registration Number

[IBBI/IPA-001/IP-P-01506/2018-2019/12393], E-mail: ganatraj@gmail.com, as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

- e) The Financial Creditor shall deposit a sum of Rs.5,00,000/- (Rupees five 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).
- f) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor.
- g) The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or Whats App. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
Prabhat Kumar
Member (Technical)

20.01.2023

Sd/-
Kishore Vemulapalli
Member (Judicial)