IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, NEW DELHI
COURT-III

Item 113
CP (IB-455(ND)/2019

IN THE MATTER OF:

Punjab National Bank

.... *Financial creditor*

Versus

M/s. Shivansh Diamond Private Limited

.... *Corporate debtor*

SECTION
U/s 7 IBC Code, 2016

Order delivered on 10.03.2021

CORAM:
CH. MOHD. SHARIEF TARIQ, MEMBER (JUDICIAL)
SHRI NARENDER KUMAR BHOLA, MEMBER (TECHNICAL)

PRESENT:
For the Applicant/FC : Mr. R.P Vats, Mr. Manas Shukla, Advocates.
For the Respondent/CD : ***Ex-parte***

ORDER
(Through Video Conference)

1. The Ld. Counsel for the Financial Creditor is present. No representation on behalf of the Corporate Debtor. The Corporate Debtor has been proceeded ***ex parte*** on 01.03.2021. At this stage, Mr. Vinod Kumar caused appearance stating that he is

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Naresh Kumar Munjal Insolvency Professional Regn. No. IBBI/IPA-001/IP-P00762/2017-18/10620 representing his friend, but he did not disclose who is his friend and has not filed any power of attorney or Authority letter. Therefore, we proceed to record the submissions of the counsel for the Financial Creditor, as the Corporate Debtor has already been proceeded ***ex parte.***

2. Under Consideration is CP (IB)-455(ND)/2019 filed under Section 7 of the IBC, 2016 with the prayer to initiate CIR Process against the Corporate Debtor viz, *M/s. Shivansh Diamond Private Limited,* declare the Moratorium and appoint the Interim Resolution Professional on the ground that the Corporate Debtor *failed* to repay the term loan. The total amount in default is Rs. 12,50,97,354.88/- It is noted that the petition has been filed on 18.02.2019, which is within period of limitation.

3. It is submitted by the counsel for the Financial Creditor that there is hypothecation of goods and book debts to secure cash credit facilities dated 06.04.2016, that goes to show that an amount of Rs. 12 crores were advanced by way of 'Cash Credit Facility' to the Corporate Debtor. The Financial Creditor has initiated SARFAESI proceedings by sending notice under Section 13(2) on 06.04.2017 wherein, the amount mentioned is Rs. 12 crores, which was to be repaid with interest. The Certificate of Registration of Charge is also enclosed as Annexure-4, with the petition. The statement of account placed on record w.e.f., 01.09.2015 to 14.11.2018. The Certificate of bank statement is also placed on record as per the Bankers' Books Evidence Act. These documents are sufficient to ascertain the default on the part of the Corporate Debtor.

4. The Financial Creditor has also proposed the name of Resolution Professional viz, ***Mr. Naresh Kumar Munjal, registered with IBBI having Registration No: IBBI/IPA-001/IP-P00362/2017-2018/10620 Address: 3 Scindia House, Second Floor, Janpath, New Delhi 110001 Email: nkmunjalcacs@yahoo.co.in and Mobile No: 9958063399.*** As per the consent letter, no investigation is pending against the Resolution Professional and he agreed to accept the assignment as Interim Resolution Professional in the matter. Therefore, all the legal requirements are fulfilled, the application is **admitted**. The CIRP is initiated against the Corporate Debtor viz., *M/s. Shivansh Diamond Private Limited. Mr. Naresh Kumar Munjal is hereby appointed as* IRP in the matter.

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5. The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is ordered to prohibit all of the following, 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 (54 of 2002);

(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.

6. The supply of essential goods or services of the Corporate Debtor shall not be terminated, suspended, or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

7. We hereby direct the Financial Creditor to pay a sum of Rs. 2, 00,000/- to the IRP, as required under the provisions of the Code to meet out the initial expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

8. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and

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Insolvency Professional

cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the IBC, 2016.

9. The Learned Counsel for the Financial Creditor and the Registry are directed to send the copy of this Order to the IRP with immediate effect, so that he could take charge of the CD's assets etc., and make compliance with this Order as per the provisions of IBC, 2016. On receiving the order, the IRP is directed to communicate this Order to the Financial Creditor, the Corporate Debtor, and the concerned RoC.

10. The Order is dictated and pronounced in open court through video conferencing in the presence of Learned Counsel for the Financial Creditor.

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(NARENDER KUMAR BHOLA)
Member (Technical)

-sd-

(CH. MOHD. SHARIEF TARIQ)
Member (Judicial)

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Court-III