

NATIONAL COMPANY LAW TRIBUNAL
SINGLE BENCH
CHENNAI

23

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD AT 10.30 AM ON 23.07.2019

PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL

APPLICATION NUMBER : CP/1441/2019
PETITION NUMBER : CP/1441/IB/2018
NAME OF THE PETITIONER(S) : SR MARINE & OFFSHORE ENGINEERING PVT LTD
NAME OF THE RESPONDENTS : M N HOROLOGICAL INDUSTRIES PVT LTD
UNDER SECTION : 7 RULE 4

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
23.	B. PITLAK NARAYANAN	REPRESENTATION BY WHOM	<i>[Signature]</i> Respondent

V. KUBERAN
for RANK ASSOCIATES
9840043486

for Ret. Assn

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI**

CP/1441/IB/2018 filed under Section 7
of the Insolvency and Bankruptcy Code,
2016 r/w Rule 4 of the Insolvency and
Bankruptcy (Application to Adjudicating
Authority) Rules, 2016

In the matter of *M.N. Horological Industries Pvt. Ltd.*,

M/s. S.R. Marine and Off Shore Engineering Pvt. Ltd.

... Financial Creditor

-Vs-

M/s. M.N. Horological Industries Pvt. Ltd.

... Corporate Debtor

Order delivered on 23rd July, 2019

CORAM :

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For Financial Creditor : *Mr. V. Kuberan, Counsel*
For Corporate Debtor : *Mr. B. Thilak Narayanan, Counsel*

ORDER

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under Adjudication is CP/1441/IB/2018 that has
been filed by ***M/s. S.R. Marine and Off Shore Engineering***

Pvt. Ltd. (hereinafter referred to as '**Financial Creditor**') under Section 7 of the Insolvency & Bankruptcy Code 2016 (in short, 'I&B Code, 2016') r/w Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 against **M/s. M.N. Horological Industries Pvt. Ltd.** (hereinafter referred to as '**Corporate Debtor**'). The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP).

2. Heard the Counsels for the Financial Creditor and Corporate Debtor and perused the pleadings including the documents placed on file.

3. The Financial Creditor has claimed that a sum of Rs.25,00,000/- and Rs.5,00,000/ was borrowed by the Corporate debtor on 29.07.2015 and 08.09.2015

respectively, totalling a sum of Rs.30,00,000/-, out of which part payment has been made to an extent of Rs.1,50,000/-. In the present Application, the Financial Creditor has claimed an amount of Rs.41,64,822/- as outstanding as on 31.10.2018 towards principal along with interest against the Corporate Debtor, which the Corporate Debtor has failed to pay.

4. The claim of the Financial Creditor has been supported with the statement of accounts placed at pages 15 and 16 of the typed set filed with the application, which reflects two transactions that took place on 29.07.2015 i.e. one for an amount of Rs.10,00,000/- and another for an amount of Rs.15,00,000/-. Another transaction took place on 08.09.2015 for an amount of Rs.5,00,000/-.

5. In order to secure the said loans, the Corporate Debtor executed promissory notes dated 27.04.2015 and

05.09.2015, copies of which are placed at pages 45 and 46 of the typed set filed with the application.

6. The Financial Creditor has sent a notice to the Corporate Debtor on 23.07.2018, along with the details of payments and total amount which was to be paid to the Financial Creditor including interest and the same was delivered to the Corporate Debtor. The copy of the Legal notice and proof of delivery are placed at pages 47 – 49 of the typed set filed with the Application.

7. The Counsel for the Financial Creditor has referred to the Financial Statement for the year ended 31st March 2017, wherein under the heading “Other Loans and Advances”, a sum of Rs.28,50,000/- is shown as borrowing from the Financial Creditor. The copy of which is placed at page 62 of the typed set filed with the Application.



8. The Counsel for the Corporate Debtor made reference to the Promissory notes dated 27.04.2015 and 05.09.2015, wherein the amount of Rs.25,00,000/- and Rs.5,00,000/- are mentioned, which were executed by the Corporate Debtor in favour of the Financial Creditor and signed by one Mr. Manish Gandhi. The Counsel for the Corporate Debtor stated that the said person was not been authorized by the Corporate Debtor to sign the promissory notes. Further, it is contended by the Counsel for the Corporate Debtor that the amount of Rs.30,00,000/- claimed to have been paid by the Financial Creditor to the Corporate Debtor on 29.07.2015 and 08.09.2015 clearly manifest the fact that the promissory notes were obtained prior to the payment of the loans and are not admissible.

9. It was further contended by the Counsel for the Corporate Debtor that the Company has two Directors viz. (1) Ashish Manik and (2) Miridulla Gandhi and no

Resolution of the Board is placed on file, to show that the Corporate Debtor needed any loan from the Financial Creditor.

10. The Counsel for the Financial Creditor, in rebuttal referred to payment of Rs.1,50,000/- made by the Corporate Debtor to the Financial Creditor and reiterated the fact pertaining to the entries made under the notes to the Financial statement of the Corporate Debtor for the year ended 31st March 2017. The copy of the said document is placed at page 22 of the typed set filed with the Application.

11. In case the submissions of the Counsel for the Corporate Debtor is considered, that there is no Board Resolution and the person signed the promissory notes was not authorized on behalf of the Corporate Debtor, but the notes on financial statement dated 31.03.2017 is a documentary evidence, which clearly refers to the name of



the Financial Creditor mentioned therein and the outstanding of Rs.28,50,000/- under the heading "Other Loans and Advances". Therefore, the Corporate Debtor had acknowledged its liability. In view of it, the Corporate Debtor is estopped from denying its liability. The submissions made by the Counsel for the Corporate Debtor are not supported with any documentary evidence and therefore are rejected.

12. The documentary evidence which is placed on the case file is sufficient to ascertain the existence of a default on the part of the Corporate Debtor. The Financial Creditor has fulfilled all the requirements of law including the name of the Resolution Professional for appointment as the IRP. Hence, the Application stands admitted. The commencement of the Corporate Insolvency Resolution Process is ordered which ordinarily shall get completed



within 180 days, reckoning from the day this order is passed.

13. Mr. L.V. Shyam Sundar, is hereby appointed as IRP as has been proposed by the Financial Creditor. There is no disciplinary proceeding pending against the IRP as reflects from Form-2. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016, within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

14. The moratorium is hereby declared which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes

referred to in Section 14 of the I&B Code, 2016. It is hereby 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 Securitisation 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.

15. The supply of essential goods or services of the Corporate Debtor/Guarantor shall not be terminated or 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.

16. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the I&B 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 cooperation to the IRP as stipulated under Section 19, so that he could discharge his functions under Section 20 of the I&B Code, 2016.

17. The Financial Creditor and the Registry are also directed to send the copy of this Order with immediate effect to IRP, so that he could take charge of the Corporate Debtor's assets etc., and make compliance with this Order

as per the provisions of I&B Code, 2016. The address details of the IRP are as follows: -

Mr. L.V. SHYAM SUNDAR

3rd Floor, No.17, Gandhi Road,
Alwarthirunagar,

(Opp to Vinayagar Temple & Above Samyukth Scans)
Chennai – 600 087

REG No. IBBI/IPA-002/IP-N00262/2017-18/10775

Email:- shyam.ascend@gmail.com

18. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor with immediate effect.

19. The Order is dictated and pronounced in the open court in the presence of the Counsel for the parties.

-Sd-

(CH. MOHD SHARIEF TARIQ)
MEMBER (JUDICIAL)

PAM/RAYMOND