

IN THE NATIONAL COMPANY LAW TRIBUNAL : NEW DELHI

COURT-III

IB-979 /ND/2019

In the matter of :

PUNJAB NATIONAL BANK,
HAVING ITS HEAD OFFICE AT :
PLOT NO.4, SECTOR-10,
NEW DELHI – 110075.

..APPLICANT/FINANCIAL CREDITOR

ALSO AT :

ITS BRANCH OFFICE AT :
ASSETS RECOVERY MANAGEMENT BRANCH,
MAYUR VIHAR, PHASE-II, POCKET 'E' CSC,
DELHI – 110091.

VS.

GUPTA MARRIAGE HALLS PVT. LIMITED,
THROUGH ITS DIRECTOR (S),
HAVING ITS REGISTERED OFFICE AT
C-7, PUSHPANJALI ENCLAVE,
PITAMPURA,
NEW DELHI – 110034.

..RESPONDENT/CORPORATE DEBTOR

SECTION

Under Section 7 of IBC, 2016

Order delivered on 03.9.2019

Coram :

Sh. R. Varadharajan,
Hon'ble Member (Judicial)
Shri Kapal Kumar Vohra,
Hon'ble member (Technical)

For the Petitioner /Op. Creditor : Mr. Sibananda Bhanja, AR
For the Respondent/Corporate Debtor :
For the Intervener :

ORDER DICTATED IN THE OPEN COURT

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IB-979/ND/2019 : Punjab National Bank vs. Gupta Marriage Halls (P) Ltd

Surjit (Court-III)

This Petition has been filed by Punjab National Bank in the capacity of Financial Creditor (FC) against the Corporate Debtor seeking for the initiation of Corporate Insolvency Resolution Process (CIRP) under the provisions of Insolvency and Bankruptcy Code, 2016 (IBC, 2016).

Part-I of the prescribed Application being Form No.1 discloses the Financial Creditor as represented by the Authorized Representative Mr. Sibananda Bhanja, the said Financial Creditor granted the Power of Attorney on 06.8.2019 at page-23 of the Paper Book.

Part-II discloses the details of the Corporate Debtor and it is evident that the Corporate Debtor was incorporated on 23.2.1996 and the Authorized capital is disclosed as Rs. 45,00,00,000/- and the Paid-up capital is Rs.4,11,11,100/- (available at Pg- 5 & 6).

The Registered office address of the Financial Creditor (FC) is disclosed as Plot No.4, Sector-10, New Delhi-110075 (Branch office: Assets Recovery Management Branch, Mayur Vihar, Phase-II, Pocket-E, CSC, Delhi-110091) and which co-relates with the address as disclosed and filed in the Master Data (Part-III) of the Application discloses the name of Mr. Mahesh Bansal, being one proposed by the Financial Creditor as the Interim Resolution Professional (IRP), having Registration No. IBBI-PA-001/IP-P00785/2017-2018/11341(email: emmbee.consulting@gmail.com).

Part-III & IV give details of the financial debt as well as the circumstances which led to the default of the financial debt by the Corporate Debtor. Perusal of the same discloses that in the year 2012, the Term Loan to a sum of Rs.6.62

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IB-979/ND/2019 : Punjab National Bank vs. Gupta Marriage Halls (P) Ltd

Surjit (Court-III)

Crores and an overdraft of Rs.1.50 crores was sanctioned by the Corporate Debtor and subsequently, from time to time, it has been enhanced in the year 2014 to the tune of Rs.4.60 crores, out of which, Rs. 4.50 crores was released in relation to the Term loan which was enhanced to Rs.10 crore. It is further averred in the petition that on 29.7.2016 the account of the Corporate Debtor was declared NPA and pursuant to the said classification on 20.10.2016, a Notice under Section 13 (2) of Securitization & Reconstruction of Financial Assets & Enforcement of Security Interest (SARFAESI) Act, 2002 was sent which was also followed by issue of Section 13 (4), notice under the said Act.

In the meanwhile, on 31.3.2017, at the request of the Corporate Debtor, the following was re-structured which has been provided by way of tabulation which is produced hereunder :

Facility	Restructured amount
OD	4,50,00,000.00
Term Loan-1	1,79,66,986.22
Term Loan-2	6,78,89,143.00
WCTL	65,97,200.00
FITL	1,75,06,940.00
Total :	15,49,60,269.22

Despite the Corporate Debtor, vide acknowledgement of debt by sending reply to the notice issued under Section 13 (2) of SARFAESI Act, 2002 by the Financial Creditor on 05.11.2016 and sought time for restructuring of the loan and the outstanding dues and the payment made therein. It is also pertinent to notice during the course of submissions made by Ld. Counsel for the petitioner that an Original Application (OA) No.70 of 2019 has been filed before the Debt Recovery Tribunal-III, New Delhi. Ld. Counsel for the petitioner during the course of submissions also pointed out the documents in relation to support of the claim including the Agreement for hypothecation and a copy of the Term

Loan agreement entered between the parties from time to time, as well as the documents evidenced about the property of the Corporate Debtor. it is represented by Ld. Counsel for the petitioner that it has also been registered with the Registrar of Companies ^{and it} has been enclosed as Annexure A-2 to A-58 at the typed set. Ld. Counsel for the petitioner also represents that a certificate as per the Indian Evidence Act in relation to the claim has also been filed as annexed at A-60. L

In relation to the Corporate Debtor, it is brought to the notice of this Tribunal from the record of the proceedings that service of notice sent to the Corporate Debtor in relation to the proceedings pending before this Tribunal, there is no appearance on the part of Corporate Debtor, Ld. Counsel for the petitioner in this regard points out to the affidavit which has been filed from time to time in compliance to the directions of this Tribunal as ordered and upon service of notice upon the Corporate Debtor dated 14.5.2019, 18.7.2019 & 07.8.2019, perusal of the affidavit collectively discloses that the Corporate Debtor has been duly served as is evident from the correspondence exchanged as between the petitioner as well as the Post Master, Saraswati Vihar post Officer, Delhi-110034, wherein it is evident that the Corporate Debtor has been served with the notice of the proceedings and acknowledged by the Corporate Debtor and inspite of these facts, there is no appearance on part of Corporate Debtor deliberately and we are constrained to proceed with the matter in the absence of Corporate Debtor.

This Tribunal, at paragraph Supra has already dealt with the facts of the petition as well as the submissions made by Ld. Counsel for the petitioner, in relation to the claim filed before this Tribunal and in view of the fact that the Office of the Corporate Debtor is situated within the territorial jurisdiction of

this Tribunal and the sum as claimed by the Financial Creditor as against the Corporate Debtor exceeds Rs.1 lakh being the prescribed limit fixed under the provisions of IBC, 2016, we are not in a position to entertain this petition and the default is also in existence as evident from the reply of the Corporate Debtor and upon notice issued under SARFAESI by the petitioner and the Corporate Debtor sent a reply and in these circumstances, we are having no hesitation in admitting this petition and unfolding the CIR process. The Insolvency Resolution Professional (IRP) proposed by the Financial Creditor in Part-III of the petition has also been filed and as contained in Form –II of I&B (Application to Adjudicating Authority) Rules, 2016 (Page 21 & 22 of the typed set). However, it is seen from the said Form that no disclosure has been made in Clause No.6 of the said Form. However, the IRP proposed by the Financial Creditor is appointed as the IRP to take care of the affairs of the Corporate Debtor.

Let the proposed IRP make all the disclosures as are required to be made before this Tribunal within 3 days. For this purpose, Ld. Counsel for the petitioner is directed to obtain the necessary disclosures and file before this Tribunal.

Based on the above terms, the Application/Petition stands admitted in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the order shall be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Further the IRP above named who is figuring in the list of Resolution Professionals forwarded by IBBI be also furnished with copy of this order forthwith by the Registry.

Since the order has been dictated in the open Court, Ld. Counsel for the petitioner is directed to serve a copy of the order upon the IRP so that he can assume his office at the earliest for the benefit of stakeholders.

Let IBBI be also communicated with a copy of this Order for records.

With the above directions, this Application is disposed off.

-Sd-

(K.K. Vohra)
MEMBER (TECHNICAL)

-Sd-

(R. VARADHARAJAN)
MEMBER (JUDICIAL)