

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

CP(IB) 2305(MB)/2018

Under section 7 of I & B Code, 2016

In the matter of

Macro Leafin Private Limited

.... Petitioner/Operational Creditor

Vs.

Showlin Network Marketing Pvt Ltd

...Respondent/Corporate Debtor

Order delivered on 15<sup>th</sup> July 2019

Coram:

Hon'ble Member (Judicial) Mr V. P. Singh  
Hon'ble Member (Technical) Mr Ravikumar Duraisamy

For the Petitioner: Adv. Abhishek Adke, Adv. Pulkit Sharma, Adv. Rohan Bangar

For the Respondent: None

Per: V P Singh, Member (Judicial)

**ORDER**

1. This Company petition has been filed by Macro Leafin Pvt Ltd, Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (I&B Code) for initiation of Corporate Insolvency Resolution Process (CIRP) against Showlin Network Marketing Pvt Ltd., the Corporate Debtor on the ground, that the Corporate Debtor defaulted in payment of ₹5,00,000/-. The date of default is stated as 1.7.2015.
2. The Financial Creditor states that they had lent an amount of Rs.7,00,000 (Loan facility) to the Corporate Debtor for which a Loan Agreement dated 15.3.2013 was executed between the Financial Creditor and the Corporate Debtor. Copy of the Loan Agreement executed between the financial Creditor and the Corporate Debtor is attached with the Company petition as Annexure E. It was agreed between the parties that the Corporate Debtor shall repay the loan facility in full by 30.6.2015.

The Financial Creditor, vide its letter dated 10.7.2015 has recalled the loan amount of Rs.7,00,000/-. In the said letter the Financial Creditor called upon the Corporate Debtor to pay the loan amount together with the agreed interest within ten days from the receipt of the letter, failing which appropriate legal action will be initiated. It is stated in the Petition that out of the amount of



Rs.7,00,000, the Corporate Debtor through Cheque No.000031 dated 27.3.2017 has paid an amount of Rs.2,00,000 to the Financial Creditor. Therefore, an amount of Rs.5,00,000/- along with interest, remains unpaid.

4. Since the Corporate Debtor failed to make the payment, the Financial Creditor filed this Company Petition under Section 7 of IBC, 2016 to initiate the corporate Insolvency resolution process against the Corporate Debtor.
5. The Financial Creditor has also attached the Bank statement as Annexure D.
6. We have heard the argument of the Ld. Counsel for the Petitioner and perused the record. On perusal of the record, it appears that this matter came up for hearing on several occasions, i.e. on 8.10.2018, 29.11.2018, 11.1.2019, 8.3.2019, 11.4.2019, 27.5.2019 and 9.7.2019, i.e. today. On the dates mentioned above of hearing, the Corporate Debtor failed to appear before this tribunal. No reply has been filed by the Corporate Debtor till date even after serving of notice.
7. It is pertinent to note following paragraphs of the decision of Hon'ble Supreme Court in *Innoventive Industries Ltd. Vs. ICICI Bank and Ors.*, AIR2017SC4084, where the Hon'ble Court has discussed the ingredients of a petition filed by Financial Creditor under section 7 of the IBC:

*"When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor - it need not be a debt owed to the applicant financial creditor. Under Section 7(2), an application is to be made Under Sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), where the adjudicating*



*authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under Sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be."*

8. The Petitioner has lent an amount of Rs.7,00,000/- to the Corporate Debtor for which a Loan Agreement dated 15.3.2013 was executed between the Financial Creditor and the Corporate Debtor. It was vide this agreement that both the parties agreed that the Corporate Debtor shall repay the loan facility in full by 30.6.2015.
9. The Financial Creditor recalled the loan amount of Rs.7,00,000/-, vide its letter dated 10.7.2015. In the said letter, the Financial Creditor called upon the Corporate Debtor to pay the loan amount together with the agreed interest within ten days from the receipt of the letter. The Corporate Debtor has repaid an amount of Rs.2,00,000/- out of the total loan amount of Rs.7,00,000/- through Cheque No.000031 dated 27.3.2017. The Bank Statement annexed with the Petition and other documents reflect that the remaining amount of ₹5,00,000/- has not been repaid. Therefore, an amount of Rs.5,00,000/- along with interest remains unpaid and corporate debtor defaulted in repaying the debt amount. It is evident from the record that a default has occurred towards payment of the financial debt by the Corporate Debtor.
10. The Financial Creditor has filed the Form 2, i.e. the written communication by the proposed Interim Resolution professional, Mr Paresh Chandulal Mehta (Registration No.IBBI/IPA-003/IP-N00099/2017-2018/11008) to carry out the functions as mentioned under I&B Code, and given his declaration; no disciplinary proceedings are pending against him.
11. The Application under sub-section (2) of Section 7 of I&B Code, 2016 is complete. There is the financial debt of more than rupees one lakh against the corporate debtor, and its default is also proved, and application is complete. Accordingly, in light of the facts, circumstances and the Decision of the Hon'ble Supreme Court, the petition filed under section 7 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

12. The company Petition filed by the Petitioner, Macro Leafin Pvt Ltd under Section 7 of IBC, 2016 for initiation of CIRP against the Corporate Debtor, Showlin Network Marketing Pvt Ltd, is admitted with the consequential effect of moratorium U/S 14 of the I&B Code 2016 and prohibits following acts;

- I (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 (SARFAESI Act);
  - (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 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
  - (IV) That the order of moratorium shall have effect from 9.7.2019 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 the corporate debtor under section 33, 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 the Code.
  - (VI) That this Bench at this moment appoints Mr. Paresh Chandulal Mehta, 13B, Nirmal Society, PandurangWadi, Dombivali East, Registration No. IBBI/IPA-003/IP-N00099/2017-18/11008 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code. The fee payable to IRP/RP

THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH  
CP (IB)2305(MB)/2018

shall be in compliance with the IBBI  
Regulations/Circulars/Directions issued in this regard.

13. Accordingly, this Petition is admitted.
14. The Registry is directed to communicate this order to the Financial Creditor, Corporate Debtor and the IRP.

Sd/-

**RAVIKUMAR DURAISAMY**  
Member (Technical)

Sd/-

**V. P. SINGH**  
Member (Judicial)



Certified True Copy  
Copy Issued "free of cost"  
On 02/01/20

  
Assistant Registrar  
National Company Law Tribunal Mumbai Bench