IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT III

C.P. No. 4686/IBC/MB/2019

Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of
Punjab National Bank.
Punjab National Bank, Plot No. 4, Sector 10, Dwarka, New Delhi 110075
……FINANCIAL CREDITOR

Vs
M/s Ammanarul Spinners Pvt. Ltd.
(CIN: U17111MH1995PTC205912)
302, Blue Rose Industrial Premises CHSL, Off. W.E.H. Nr. Petrol Pump, Borivali (East), Mumbai
…….Corporate Debtor

Order delivered on: 12.08.2021

Coram:
Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Shri Chandra Bhan Singh, Member (Technical)

For the Applicant: Ms. Asha Bhuta & Associates

For the Respondent: Mr. Prem Jhas, Advocate

Per: Shri H.V. Subba Rao, Member (Judicial)

ORDER

1. This Company petition is filed by *Punjab National Bank* (hereinafter called "Financial Creditor") seeking to initiate Corporate Insolvency Resolution Process (CIRP) against M/s *Ammanarul Spinners Pvt. Ltd.* (hereinafter called "Corporate Debtor") alleging that the Corporate debtor committed default in making payment to the Financial Creditor. This petition has been filed by invoking the provisions of Section 7 Insolvency and Bankruptcy Code, 2016 (hereinafter called "Code") read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The present petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of a sum of 33,33,55,849.97/- (Rupees Thirty-Three Crores Thirty-Three Lakhs Fifty-Five Thousand Eight Hundred Forty-Nine Rupees Ninety-Seven Paisa only) and the Financial Creditor sought resolution for the above stated amount under certain loan facilities granted to the Corporate Debtor.

Submissions of the Financial Creditor

3. The Financial Creditor submitted that the sanction letter dated 08.10.2015 for Term Loan of Rs. 28,72,00,000/- & Working Capital of Rs. 13,44,00,000/-. The said Term Loan & Working Capital was disbursed on 08.11.2015 and 20.01.2016.
4. The Corporate Debtor (CD) executed Hypothecation of goods and Book Debts dated 05.11.2015 in favour of Financial Creditor in respect of the raw material, excisable raw materials, stocks in process, semi-finished goods (including bought out finished goods) and book debts, outstanding decrees, money receivables, government subsidies, claims, bill contracts and investments, etc. to secure cash Credit Facility of Rs. 13,44,00,000/-.

5. The Corporate Debtor (CD) executed Hypothecation of Assets 5.11.2015 in favour of Financial Creditor in respect of the Lan & Building at S.F. No. 118/1,2,119/1,2, 120/1A and 120/2A, Thaneerthotti, Valapadi-Thuraiyur Rd. Nagiampathy- Post, Gangavalli Taluka, Salem District 636113 along with Entire Plant & Machinery and Entire Plant & Machinery at S.F. No. 83/2, Jalaram Ind. Estate, Athal Silvasa and Block Assets-Present & Future (Excluding L&B and P&M) to secure Term Loan dated of 28,72,00,000/-.
6. The Corporate Debtor executed Agreement for Term Loan dated 05.11.2015 in favour of the Financial Creditor / Applicant in respect of the Term Loan of Rs. 28,72,00,000/-.
7. Agreement of Guarantee dated 10.11.2015 executed by Corporate Debtors No. 2&3&4 along with the letter dated 29.10.2015 executed by the Corporate Debtor No.3 in favour of the Financial Creditor.
8. The Corporate Debtor executed undertaking cum Indemnity dated 22.12.2015 in favour of the Financial Creditor. The Corporate Debtor executed Memorandum of Entry in favour of Financial Creditor creating Equitable Mortgage by was of Deposit of Title Deeds dated 22.12.2015 in respect of the Land&Building at S.F.No. 118/1,2, 119/1, 120/1A & 120/2A, Thaneerthotti, Valpadi, Thuraiyar Rd., Nagiampathy-Post Gangavalli Taluk, Salem District- 636113.
9. The Corporate Debtor executed registered mortgage deed dated 30.01.2017 under receipt No. 1630 dated 08.02.2017 bearing registration No. BRL-5/1504/2017 in favour of Financial Creditor, inter-alia created registered Mortgage of all that piece and parcel of Flt bearing No. 1207, 12th floor, B Wing, Green Park, Admg. 69.31 Sq. Mitr. And super Built Up 1082 Sq. Ft.

CTS No. 559, C/2, at Raheja Estates, Village Konheri, Tal. Borivali, Mumbai 66.

10. The demand letters dated 14.03.2017 & 28.12.2016 issued by the Financial Creditor/Applicant herein to the Corporate Debtors. Hence this petition.

FINDINGS

1. Even though the Corporate Debtor has put up appearance through their advocate, they did not choose to file any reply since 02.01.2020 opposing the above Company Petition. Therefore, the Corporate Debtor's right to file reply was forfeited on 27.07.2021.
2. Heard the counsel appearing for the Financial Creditor and perused the record. The counsel appearing for the Financial Creditor invited the attention of this Tribunal to various loan documents executed by the Corporate Debtor while sanctioning the loan to the Corporate Debtor. The counsel appearing for the Financial Creditor also invited the attention of this Tribunal to the statement of accounts of the Corporate Debtor relating to all the loan facilities. The counsel appearing for the Financial Creditor also demonstrated from statement of respective loan accounts that the last payment was received from the Corporate Debtor in July 2017. The Corporate Debtor made cash payments through NEFT into almost all the accounts in July 2017. The above Company Petition being filed on 18.12.2019 is less than the 3 years from the date last payment and is within limitation. Thus, the counsel appearing for the Financial Debtor submitted that the debt and default are clearly established, and debt is also within limitation in the above Company Petition. She further submitted that the Financial Creditor has also suggested the name of IRP and also filed the consent letter of IRP in Form-2.

3. Even though Mr. Prem Jha, learned counsel appearing for the Corporate Debtor was present at the time of final arguments on 06.08.2021, he did not raise any legal issues opposing the above company petition except making statement that the Corporate Debtor has submitted One Time Settlement to the Financial Creditor. Thus, the present Company Petition satisfies all the necessary requirement for admission and the claim of Financial Creditor remained unchallenged.
4. Under these circumstances, this tribunal is of the considered opinion that the above company petition is liable to be admitted and accordingly the same is admitted by passing the following:

ORDER

a. The above Company Petition No. (IB) -4686(MB)/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s Ammanarul Spinners Pvt. Ltd. & Ors.
b. This Bench hereby appoints **Areion Resolution & Turnaround Pvt. Ltd. through Shri Vinod Kumar Pukhraj Ambavat**, Registration No: IBBI/IPA-001/IP-P00420/2017-18/10743 as the Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
c. The Financial Creditor shall deposit an amount of Rs.5 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

e. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
f. 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.
g. That the order of moratorium shall have effect from the date of pronouncement 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 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

k. Accordingly, this Petition is admitted.

l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-	Sd/-
CHANDRA BHAN SINGH	**H.V. SUBBA RAO**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**