

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1**
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
31-03-2023 AT 10:30 AM

CP(IB) No.1/7/HDB/2023
u/s. 7 of IBC, 2016

IN THE MATTER OF:

M/s. Enact Technologies Pvt Ltd

...Financial Creditor

VS

Sreeven Infocom Ltd

...Corporate Debtor

C O R A M:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA, HON'BLE MEMBER (JUDICIAL)
SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

ORDER

C.P.1/7/HDB/2023

Orders in company petition pronounced, recorded vide separate sheets. In the result, this petition is allowed, the Corporate Debtor admitted into CIRP as per terms mentioned in the order.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH – 1

CP (IB) No. 01/7/HDB/2023

Under Section 7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of NCLT

Rules, 2016.

In the matter of

M/s.Enact Technologies (P) Ltd.
Second Floor, Plot no.21,
Semushi Towers, Above Union Bank of India,
Rao & Raju Colony, Road No.2, Banjara Hills,
Hyderabad, Telangana-500 034.
Represented by D.R.K.Raju.

... Financial Creditor

Versus

M/s. Sreeven Infocom Ltd.
Flat No.201, H.No.7-1-396/2/10/1/201,
Sri Venkat Residency, B.K.Guda,
Hyderabad, Telangana- 500 018.

... Corporate Debtor

Date of Order: 31.03.2023

CORAM:-

DR. VENKATA RAMAKRISHNA BADARINATH NANDULA,

HON'BLE MEMBER (JUDICIAL)

SH. CHARAN SINGH, HON'BLE MEMBER (TECHNICAL)

PARTIES/COUNSELS APPEARANCE:-

For the Financial Creditor: Shri.Amir Bavani, Counsel.

For the Corporate Debtor: Shri Shabber Ahmed, Counsel

PER: BENCH

1. This Petition is filed by M/s. Enact Technologies (P) Ltd. (hereinafter referred to as “Financial Creditor”) under Section 7 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) against M/s. Sreeven Infocom Ltd (hereinafter referred to as “Corporate Debtor”), alleging non-payment of Rs. 2,34,67,250/- , including interest is said to be due and payable by Corporate Debtor to Financial Creditor as on 31.03.2022.

2. The contentions put forth by the Financial Creditor are :

2.1 It is averred that corporate debtor had approached the financial creditor in the month of September, 2021 for need of funds to repay

certain credit facilities availed from the banks. Thus financial creditor has extended a loan for a sum of Rs.1,85,00,000/- vide Inter-Corporate Loan Agreement dated 30th September, 2021.

- 2.2 It is averred that the loan was remitted to the corporate debtor in five tranches through various modes from 24.09.2021 to 30.09.2021. The corporate debtor assured to pay the entire principal loan amount with 15% interest within 180 days from the date of disbursement of the loan. However, the debt fell due on 31.03.2022, but corporate debtor had not paid any amount.
- 2.3 It is averred that financial creditor had sent several reminder letters to the corporate debtor for repayment of loan. As there was no response from the corporate debtor, financial creditor issued legal notice dated 23.11.2022 to the corporate debtor for total outstanding amount of Rs.1,85,00,000/- along with interest @15% per annum as well as 2% per month as penal interest from 30.09.2021 till realization of loan.
- 2.4 It is averred that corporate debtor vide reply notice dated 05.12.2022 indirectly admitted the debt and also assured that it shall pay all pending dues in 6 months, however, it appears that

corporate debtor is not having sufficient funds to pay the debt. Hence financial creditor herein is constrained to initiate proceedings under the Code.

3. It is submitted that the Financial Creditor has proposed the name of **Shri Krishna Mohan Gollamudi** as Interim Resolution Professional having IBBI Registration No. as IBBI/IPA-003/IP-N000161/2018-2019/11952 and his AFA is valid till 23.01.2023 and Form -2 and Written Consent is enclosed as Annexure 3.

4. Contentions put forth by the corporate debtor are:

4.1 Corporate debtor denied the averments made by the financial creditor.

4.2 It is averred that financial creditor extended the loan for sum of Rs.1,85,00,000/- , but the amount claimed as Rs.2,34,67,250/- is incorrect. The Applicant has not calculated the interest amount correctly. Thus on this ground the Company Petition can be dismissed.

4.3 It is averred by corporate debtor that he is currently not in a position to repay the dues which are owed to the Applicant. It is further averred that corporate debtor has to receive money from various

government departments against execution of projects and once the amount received then the dues shall be paid to the Applicant.

- 4.4 It is averred that despite of several requests made by the respondent, Applicant has initiated the insolvency resolution process against the corporate debtor.
- 4.5 It is averred that respondent is a solvent company and it is clearing its dues regularly to the creditors from time to time. Since the respondent is facing liquidity crunch due to several factors requested the Applicant not to initiate the CIRP because of temporary inability to pay the debt owed to the Applicant.
- 4.6 It is averred that Hon'ble Supreme Court in the case of Vidarbha Industries Power Ltd Vs Axis Bank Ltd (2022) 8 SCC 352 has held that Adjudicating Authority has the discretion to reject an application under Section 7 and it was further held that the provisions of IBC should not be used to penalise solvent Companies which are temporarily defaulting in repayment of its financial debt.

4.7 Thus stated that in view of the above judgment the Respondent inability to pay the debt should not be pushed into CIRP and thus prayed to reject the Company Application.

5. In the light of the above contentions the point emerges for consideration is:

Whether a financial debt as claimed by the Financial Creditor is due and payable by the Corporate Debtor, if so, whether the Corporate Debtor defaulted in repayment of the same?

6. We have heard Mr.Amir Bavani, Learned Counsel for Financial Creditor and Mr.Shabbeer Ahmed, Counsel for Corporate Debtor. Perused the record.

7. At the outset it may be stated that the present application being one under section 7 of the I&B Code, 2016, it is imperative for the applicant to establish that a financial debt of a sum of over Rs.1 crore is due and payable by the respondent to the applicant and the respondent had defaulted in repayment of the said financial debt.

8. A perusal of the Application as well as the reply filed by the respondent, besides the Loan documents, the execution of which is not in dispute clearly establishes that the corporate debtor had availed

credit facilities from the financial creditor for sum of Rs.1,85,00,000/- vide Inter-Corporate Loan Agreement dated 30.09.2021.

9. The reply filed by the corporate debtor discloses that the corporate debtor is disputing the interest that has been claimed. Further the corporate debtor pleaded that he is in a precarious financial situation and is currently not in a position to repay the debt owed to the Applicant, and that ruling of Hon'ble Supreme Court of India in the case of Vidarbha Industries Power Ltd Vs Axis Bank Ltd squarely applies to the facts of the present case.
10. Needless to say that precarious financial situation is not a ground for non-payment of debt. Having carefully perused the record and the counter filed by the corporate debtor we are fully convinced that financial debt of Rs.2,34,67,250/- is due and payable by the corporate debtor to the Applicant.
11. Thus unlike in Vidarbha Industries Power Ltd Vs Axis Bank Ltd, in the case on hand there is no Award or Decree in favour of the corporate debtor. Merely by contending that corporate debtor needs

to get some amount from the government will not be enough to defer CIRP order against the corporate debtor.

12. Therefore, this Adjudicating Authority **admits the Petition** under Section 7 of IBC declaring moratorium for the purposes referred to in Section 14 of IBC, with following directions:

A. The Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor;

- B. 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.
- C. 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.
- D. That the order of moratorium shall have effect from the date of this order till the completion of 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, whichever is earlier.
- E. This Bench hereby appoints of **Shri Krishna Mohan Gollamudi** as Interim Resolution Professional, having Reg. No. IBBI/IPA-003/IP-N00161/2018-2019/11952, whose address is : F 26, Raghavaratna Towers, Chirag Ali Lane, Abids, Hyderabad-500 001 and Email: krishnamohangollamudi@gmail.com. He has given his AFA which is valid till 23.01.2023 and Form -2.
- F. That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as

prescribed under Section 13 of Insolvency and Bankruptcy Code, 2016.

- G. The Financial Creditor is directed to send a Copy of this Order to the appointed Interim Resolution Professional and Registrar of Companies, Hyderabad for making appropriate remarks against Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.
- H. The Registry is directed to send a copy of this order to the Financial Creditor and Interim Resolution Professional appointed in this case.
- I. The Registry is directed to furnish free copy to the parties as per Rule 50 of the NCLT Rules, 2016.

Accordingly, this Petition is admitted.

SD

Charan Singh

Member Technical

Pavani

SD

Dr. Venkata Ramakrishna Badarinath Nandula

Member Judicial