

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP No. 3967/I&BC/NCLT/MB/MAH/2018
&
MA No. 1013/2018

In the matter of Application filed by the
'Financial Creditor' to initiate Corporate
Insolvency Resolution Process **Under Section 7**
of the Insolvency and Bankruptcy Code, 2016
read with Rule 4 of the Insolvency and
Bankruptcy (Application to Adjudicating
Authority) Rules, 2016

In the matter of

Reliance Commercial Finance Limited Petitioner/Financial Creditor

V/s

Bharat Bright Bars Private Limited Respondent/Corporate Debtor

Heard on: 23.09.2019

Pronounced on: 26.09.2019

Coram :

Hon'ble M.K. Shrawat, Member (J)

Hon'ble Chandra Bhan Singh, Member (T)

For the Petitioner :

Advocate Mr. S. Jalan.

For the Respondent :

Mr. Bharat Kumar Chartered Accountant.

Per: M.K. Shrawat, Member (J)

ORDER

1. The Petitioner/Applicant viz. "**Reliance Commercial Finance Limited**" (hereinafter as **Financial Creditor**) has furnished Form No. 1 under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter as **Rules**) in the capacity of "**Financial Creditor**" on 11.10.2018 by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code (hereinafter as **Code**) against '**Bharat Bright Bars Private Limited**' (hereinafter as '**Corporate Debtor**'). The registered office address of the Corporate Debtor is stated to be at Block No. 4, 1st Floor, Saraswati Bhavan, Lamington Road, Mumbai-400007.
2. In the requisite Form, under the head "Particulars of Financial Debt" the total amount claimed to be in default is stated to be ₹ **42,73,790/-** (Rupees Forty-Two Lacs Seventy-Three Thousand Two Hundred and Ninety) only. **The date of first default is mentioned to be 15.04.2017 and date of NPA is 20.04.2018.**

A) Brief History of the case:

3. This is the Petition under section 7 for the 'Financial debt' of Rs. 42,73,290/- (Rupees Forty-two Lakhs Seventy-three Thousand Two hundred Ninety only). The Petitioner has stated in the Petition that "**Working Capital Loan**" was granted to the Respondent debtor as per the **Loan Agreement dated 29.07.2015** against the Working Capital Loan Facility for hypothecation of equipment vide Loan Account No :- RLSRMUM000305720 amounting to Rs. 42,73,290/- (Rupees Forty-two Lakhs Seventy-three Thousand Two hundred Ninety only).
4. Although the Petition was filed on 16.10.2018, stated to be duly served upon the Corporate Debtor, but throughout the proceedings debtor remained absent. Only on 29.08.2019 an Advocate on behalf of the debtor appeared and informed that there was a scope of Settlement and sought 15 days time. On that date it was duly recorded that in case of non-appearance on behalf of the Respondents on the next date of hearing, the matter shall be proceeded ex-parte qua the Respondents/Corporate debtor. The matter was listed for Final Hearing on 23.09.2019. However, on the date of hearing the Authorized Representative is present but failed to defend the Corporate debtor. Annexed along with the Petition are the evidences to demonstrate that the Work Capital Loan Facilities was granted and duly disbursed against Hypothecation of Machinery. A copy of the Loan Agreement dated 29.07.2015 is also on record duly executed between the Financial Creditor and the Corporate Debtor. Also annexed a 'Demand Promissory Note' duly executed in favour of the Petitioner dated 29.07.2015 wherein declared that on demand the payment of Rs. 42,73,290/- (Rupees Forty-two Lakhs Seventy-three Thousand Two hundred Ninety only) shall be disbursed and the evidence in on record, through which, it is established that on 29.07.2015 the Loan Amount was duly disbursed in favour of the Respondent debtor.
5. This is a Petition under section 7 of the I&B Code. On going through the facts placed on record it is established by the Financial Creditor that the loan was duly sanctioned and duly disbursed to the Corporate Debtor but there has been default in payment of Debt on the part of the Corporate Debtor. Considering the above facts, this Bench has come to conclusion the nature of Debt is a "Financial Debt" as defined under section 5 (8) of the Code. It has also been established that admittedly there is a "Default" as defined under section 3 (12) of the Code on the part of the Debtor.
6. As a consequence, keeping the admitted facts in mind, it is found that the Petitioner has not received the outstanding Debt from the Respondent hence Petitioner has established existence of debt and default of non-payment and that the formalities as

prescribed under the Code have been completed by the Petitioner, thus this Bench is of the view that this Petition deserves '**Admission**'.

7. Further this Bench has also perused the Form-2 i.e. written consent of the proposed Interim Resolution Professional submitted along with this application/petition by the Financial Creditor and there is nothing on record which proves that no disciplinary action is pending against the said proposed Interim Resolution Professional. Hence, after perusal of the provisions of the Code and facts & circumstances of this case along with the evidences placed on record by the petitioner, it is hereby held that this Petition/Application is hereby **Admitted**.
8. The Financial Creditor has proposed the name of Insolvency Professional. The IRP proposed by the Financial Creditor, **Mr. Pankaj Sham Joshi**, Address : C/O Omega Business Solutions Pvt. Ltd. Unit 12, Kakad Industrial Estate, Lady Jamshedji Cross Road No. 3, Mahim (West), Mumbai-400016, having registration No. IBBI/IPA-002/IP-N00507/2017-18/11556 is hereby appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process.
9. Having admitted the Petition/Application, the provisions of **Moratorium** as prescribed under **Section 14 of the Code** shall be operative henceforth with effect from the date of order by prohibiting institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the "Corporate Debtor" shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under Section 31 of the Code.
10. That as prescribed under **Section 13 of the Code** on declaration of Moratorium the next step of **Public Announcement** of the Initiation of Corporate Insolvency Resolution Process shall be carried out by the IRP immediately on appointment, as per the provisions of the Code.
11. That the Interim Resolution Professional shall perform the duties as assigned under **Section 18 and Section 15** of the Code and inform the progress of the Resolution Plan and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.
12. The Petition is hereby "**Admitted**". The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of the Order.
13. Ordered Accordingly.

Sd/-

CHANDRA BHAN SINGH
Member (Technical)

26.09.2019
Aah

Sd/-

M.K. SHRAWAT
Member (Judicial)