

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

CP (IB) - 1701/I&B/MB/2019
Under Section 7 of the I&B Code, 2016

In the matter of

Indiabulls Consumer Finance Limited
M-62 & 63, First Floor, Connaught Place,
New Delhi- 110 001

.... Petitioner/Financial Creditor

Vs.

Mansi International Private Limited
F-03, APMC Market I, Phase II, Vashi, Navi
Mumbai 400 703

..../Corporate Debtor

Order delivered on: 11.10.2019

Coram:

Hon'ble Shri Bhaskara Pantula Mohan, Member (J)
Hon'ble Shri Shyam Babu Gautam, Member (T)

For the Petitioner: Ms. Priyanka Shah, Apex Law Partners, Advocate

For the Corporate Debtor: Ms. Rajkanya Bhokare, Advocate

Per: Shri Shyam Babu Gautam, Member (T)

ORDER

1. This is an application filed under Section 7 of the Insolvency and Bankruptcy (I&B) Code, 2016 by Indiabulls Consumer Finance Limited (hereinafter called the 'Petitioner') seeking the Corporate Insolvency Resolution Process of Mansi International Private Limited (hereinafter called the 'Corporate Debtor') on the ground that the Corporate Debtor committed breach by making default in payment of monthly instalments of the loan agreement entered into both the parties.

2. The Petitioner is a finance company incorporated on 27th October 1994 bearing Identification Number U74899DL1994PLC062407 and has filed this petition through its authorised person named Mr. Vipin Saroha, Legal Head.

3. The Corporate Debtor is a company incorporated on 16th March, 2012 under the Companies Act, 2013 bearing CIN

U51101MH2012PTC228298, having Paid-Up Share Capital of Rs. 70,00,00,000/- (Seven Crores Only).

4. The counsel for the petitioner submits that an amount of Rs. 35,35,000/- (Rupees Thirty Lakhs and Thirty Five Thousand Only) was disbursed to the Corporate Debtor by the Petitioner vide the loan agreement dated 28/11/2017 which is annexed at Annexure IV. As per the loan agreement, facility under the loan agreement was payable in 36 Equated Monthly Instalments.

5. The counsel for the petitioner further submits that the corporate debtor committed breach of loan agreement inter alia by making defaults in payments of the monthly instalments in both agreements due and payable by the corporate debtor to the financial creditor on various dates starting from 5/11/2018. The other dates of default are 5/12/2018, 5/01/2019, 05/03/2019 and the total amount of default on the part of the corporate debtor is amounting to Rs. 28,03,788/- as on 08/04/2019.

6. The petitioner has annexed the copies of accounts statements showing the disbursement of the said loan amount on 01/12/2017 at Annexure V.

7. The details of foreclosure statement dated 08/04/2019 have also been attached by the petitioner at Annexure VI and the copy of repayment schedule dated 08/04/2019 is annexed at Annexure VII of the copy of petition. Also, the petitioners have attached the CIBIL report at Annexure VIII.

8. The petitioners mentioned that there are three notices sent to the corporate debtor which are reflected at Annexure IX of the petition copy demanding the payment of the outstanding amount.

9. The corporate debtor mentioned that the petition filed by the petitioners is absolutely frivolous, misconceived, vexatious and experimental in nature, which is devoid of any merit. They mention that the financial creditor has failed to specify cogent, concise and convincing grounds to the aforesaid application filed by the application in respect of the claim and therefore request this bench to reject and dismiss this petition.

10. The counsel for the corporate debtor alleges that there was loss in the business of the respondent company due to the delay on part of the petitioner in disbursement of the sanctioned loan amount and also that the amount disbursed was only 60% of the sanction amount. The corporate debtor also mentions that they have dispute in respect of the amount claimed by the petitioner.

11. The counsel for the corporate debtor also alleged that the petitioner company had obtained the signature of the corporate debtor on the blank format and they have put part of interest and other terms and conditions later on for which the corporate debtor never consented.

12. The counsel for the corporate debtor also mentioned that the petitioner had falsely stated that there was no reply by the corporate debtor to the notice sent by the petitioner and that they had replied to the said notice on 25/02/2019 which is annexed and marked as Exhibit B along with the postal receipt annexed and marked as Exhibit C in the reply of the corporate debtor. In the said notice, the corporate debtor has clearly denied any liability upon them. Instead they have asked the petitioner to make the compensation of the losses incurred to them by breaching promises and acting against them.

13. The counsel for the corporate debtor contended that there is no admitted debt which establish the inability to pay by the corporate debtor and hence prayed for dismissal of this ongoing petition.

14. The petitioner has also filed a rejoinder against the reply of the corporate debtor in which all the contentions of the corporate debtor are denied parawise by the petitioner. The petitioner state that the grounds raised by the corporate debtor raise sham defence with sole motive to delay the present insolvency proceedings, evade their legal liability and therefore are not tenable. The petitioner also mentioned that the corporate debtor was well aware of all the terms and conditions. The petitioner also mentioned that the corporate debtor is making vague and bald statements and has not substantiated the

same with any evidence and should be put to strict proof for the same.

15. There were also chances of amicable settlement between the parties and therefore the counsel for the corporate debtor was seeking for time on 25/09/2019.

16. Herein it is noted that, the petitioner has placed on record sufficient documents to show that there has been debt and default on the part of the corporate debtor. There are no documents other than the reply to the notice to establish that the corporate debtor is not liable to pay any amount.

17. Later, on 27/09/2019, the counsel appearing on behalf of the corporate debtor has accepted her liability as well as default and expressed her no objection for admission of this Petition. Therefore, this court is pleased to pass the following order:

ORDER

18. We have heard the petitioner at length and after having perused the documents and evidences placed on record, this Bench finds that there was an express Loan Agreement entered between both the parties which is admitted by both the parties. A total amount of Rs. 35,35,000/- was disbursed by the petitioner in favour of the corporate debtor. Therefore, both the parties shared a relation of creditor-debtor relationship.

19. Further, the statements of accounts produced on record prove that there was a disbursement of amount by the financial creditor in favour of corporate debtor. The amount payable to the financial creditor amounts to Rs. 28,03,788/- including the interest agreed by both the parties and payable by the corporate debtor. The contention of the corporate debtor that the signatures on the loan agreement were forged does not stand to the touchstone of law.

20. Also, the contention made by the corporate debtor that there is no admitted debt which establish the inability to pay by the corporate debtor does not stand as they have not placed on record to prove this contention.

21. After perusing all the documents on record, we have come to the conclusion that there is a default on the part of the corporate debtor in making the payment towards the liability to the Petitioner. Despite repeated requests and reminders in form of notices, the Corporate Debtor failed to repay the dues.
22. Also, on the final date of hearing i.e. on 27/09/2019, the counsel appearing on behalf of the corporate debtor has herself admitted the liability as well as default and expressed her no objection for admission of this petition.
Therefore, the petition deserves to be admitted.
23. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the loan availed. In the light of above facts and circumstances, the existence of debt and default is reasonably established by the Financial Creditor as a major constituent for admission of a petition under section 7 of the I&B Code. Therefore, the Application under sub-section (2) of Section 7 is taken as complete, accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:
- (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 the 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 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 11.10.2019 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 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 hereby appoints, Ms. Rajshree Padia, having office at 10th Floor, Office No: 17, Pinnacle Corporate Park, G Block, Bandra Kurla Complex, Bandra East, Mumbai-400 051 and having Registration No. IBBI/IPA-002/IP-N00119/2017-18/10288 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

24. Accordingly, this Petition is admitted.

25. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional immediately.

Sd/-
Shyam Babu Gautam
Member (Technical)

Sd/-
Bhaskara Pantula Mohan
Member (Judicial)