

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

CP No. 2313/IBC/NCLT/MB/MAH/2018  
Under Section 7 of the Insolvency and  
Bankruptcy Code, 2016 r.w. Rule 4 of the  
Insolvency and Bankruptcy (Application to  
Adjudicating Authority) Rules, 2016

In the matter of

Bee Tee Credit & Marketing Private  
Limited

..... Financial Creditor  
(Petitioner/Applicant)

V.

Syntel Infosystem (Nagpur) Private Limited

..... Corporate Debtor  
(Respondent)

Date of hearing :- 09.09.2019  
Pronounced on: 19.11.2019

**Coram :**

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

Hon'ble Chandra Bhan Singh, Member (Technical)

**For the Petitioner :** Advocate Pulkit Sharma i/b Advocate Abhishek Adke

**For the Respondent :** None Present

**Per: Chandra Bhan Singh, Member (Technical)**



**ORDER**

1. The Petitioner/Applicant viz. 'Bee Tee Credit & Marketing Private 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 14.06.2018 by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code (hereinafter as **Code**) against 'Syntel Infosystem (Nagpur) Private Limited' (hereinafter as 'Corporate Debtor'). The registered address of the Corporate Debtor is stated to be Shri Krishna Bhawan, 3<sup>rd</sup> Floor, Gudganj Road, Itwari, Nagpur - 440002, Maharashtra.

2. In the requisite Form, under the head "Particulars of Financial Debt" the total amount of Debt granted is stated to be ₹2,98,00,000/-, and the amount claimed to be in default is ₹2,98,00,000/- plus interest @ 18% per annum, to the tune of ₹ 46,87,989 as on 15.05.2018. The date of default is stated to be 01.07.2017.

#### **BRIEF HISTORY OF THE CASE**

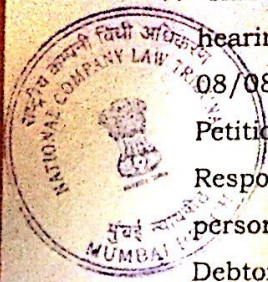
3. The Financial Creditor has given financial assistance by granting Loan Facility to the Corporate Debtor vide Loan Agreement dated 18.06.2015 whereby it was agreed to grant a loan of ₹ 3,00,000,00 to the Corporate Debtor. The Loan Agreement states that the Financial Creditor on request of the Corporate Debtor had already advanced ₹ 1,70,00,000/- to the Corporate Debtor on 16.06.2015. The Financial Creditor further agreed to advance a sum of ₹ 1,30,00,000/- before the end of June 2015. As per the Agreement the Corporate Debtor had to repay the Loan facility in full by 30.06.2017 @ of 18% p.a. interest. The Loan Agreement is duly annexed to the Petition.

#### **SUBMISSIONS BY THE FINANCIAL CREDITOR**

4. The Financial Creditor submits that the loan was duly granted and disbursed to the tune of ₹ 2,98,00,000/- to the Corporate Debtor. The relevant loan documents are produced on record.
5. The Financial Creditor submits that the amount disbursed to the Corporate Debtor is corroborated in the Axis Bank statement of account of the Financial Creditor from 01.04.2015 to 31.03.2018, in accordance with the Bankers Books Evidence Act, 1891.
6. Hence, the Petitioner submits that the petition is complete in all respects, the default has been corroborated by enough substantial evidences, therefore, the petition ought to be admitted and the Corporate Debtor's Corporate Insolvency Resolution process be initiated.

#### **NO SUBMISSIONS BY THE CORPORATE DEBTOR**

7. This is a petition under Section 7 of I & B Code. The matter was called for hearing on five occasions i.e. on 18/12/2018, 11/03/2019, 07/05/2019, 08/08/2019 and lastly on 09/09/2019. On all these occasions the Petitioner through his Learned Counsel has been present but the Respondent has neither filed any Reply nor has been represented either in person or through any Counsel. This clearly points out that the Corporate Debtor has nothing to say in its defence. It is in this background that the matter was last heard on 09/09/2019 on its merits.



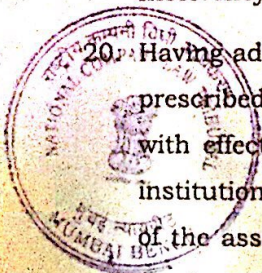
**FINDINGS**

8. On going through the submissions made by the Learned Counsel for the Financial Creditor the total amount of Debt given by the Financial Creditor to the Corporate Debtor is ₹2,98,00,000/-. The Corporate Debtor had advanced a loan of ₹ 1,70,00,000/- on 16.06.2015 vide Cheque No. 249789 drawn on Axis Bank, New Delhi and ₹ 1,28,00,000/- on 26.06.2015 vide Cheque No. 249790 drawn on Axis Bank, New Delhi. Therefore, the total amount claimed to be in default is ₹ 2,98,00,000/- plus interest @ 18% p.a. to the tune of ₹ 46,87,989 as on 15.05.2018. The date of default occurred on 01.07.2017.
9. The applicant has clearly demonstrated by placing a copy of the loan Agreement dated 18.06.2015 that there was an Agreement between the Financial Creditor and the Corporate Debtor for a total sum of ₹ 3,00,00,00/- as a loan facility. As per this Agreement it is also clear that the repayment would be made by the Corporate Debtor of the entire loan @ of Interest of 18% p.a. by 30.06.2017.
10. A perusal of the submission filed before this Bench clearly brings out that the loan was disbursed in two tranches of ₹ 1,70,00,000/- on 16.06.2015 and ₹ 1,28,00,000/- on 26.06.2015. Therefore, it is confirmed that the total amount of ₹ 2,98,00,000/- was disbursed to the Corporate Debtor as on 26.06.2015.
11. The total disbursement of ₹ 2,98,00,000/- is also reflected in the Ledger account maintained by the Financial Creditor in the Axis Bank.
12. Consequent to the default occurring on 01.07.2017, a loan recall notice dated 05.07.2017 was sent by the Financial Creditor to the Corporate Debtor. A letter to this effect has been placed on record by the Applicant in his Petition.
13. On going through the submissions made by the Learned Counsel for the Financial Creditor, the Corporate Debtor has acknowledged the disbursement of loan and its liability to repay on the body of the Loan Recall Notice given by the Financial Creditor to the Corporate Debtor on 05.07.2017. The Financial Creditor placed on record an email dated 08.03.2019 wherein the Corporate Debtor sought time to repay the amount and settle the matter amicably.
14. On perusing the documents produced on record, it is understood that the Corporate Debtor has defaulted in repayment of debt. The disbursement of loan amount is substantiated by the Statement of accounts of the Financial



Creditor. The Liability of the Corporate debtor is also reflected in ledger account of the Corporate debtor in the books of Financial Creditor. Hence, owing to the inability of the Corporate Debtor to pay its dues, this is a fit case to be moved u/s 7 of the I&B Code.

15. On going through the facts and submissions of the petitioner and upon considering the same, it is concluded that the Financial Creditor has established that the loan was duly disbursed to the Corporate Debtor and there has been default in payment of Debt on the part of the Corporate Debtor.
16. Considering the above facts, we come to conclusion that the nature of Debt is a "Financial Debt" as defined under section 5 (8) of the Code. It has also been established that there is a "Default" as defined under section 3 (12) of the Code on the part of the Debtor. The two essential qualifications, i.e. existence of 'debt' and 'default', for admission of a petition under section 7 of the I&B Code, have been met in this case.
17. As a consequence, keeping the afore said facts in mind, it is found that the Petitioner has not received the outstanding Debt from the Respondent and that the formalities as prescribed under the Code have been completed by the Petitioner. Therefore, we are of the conscientious view that this Petition deserves '**Admission**'.
18. Further that, we have 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 any disciplinary action is pending against the said proposed Interim Resolution Professional.
19. The Financial Creditor has proposed the name of Insolvency Professional. The IRP proposed by the Financial Creditor, Mr. Paresh Chandulal Mehta, having registration No. IBBI/IPA-003/IP-N00099/2017-18/11008, is hereby appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process.
20. 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, and shall be applicable 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.

21. 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.
22. 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.
23. The Petition is hereby **"Admitted"**. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of the Order.
24. Ordered Accordingly.

Sd/-

**CHANDRA BHAN SINGH**  
**MEMBER (TECHNICAL)**

Sd/-

**M.K. SHRAWAT**  
**MEMBER (JUDICIAL)**

**Dated : 19.11.2019**

A.M.



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On 03/01/20  
  
Assistant Registrar  
National Company Law Tribunal, Mumbai Bench