

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

CP (IB) 2607/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Oriental Bank of Commerce,
Mid Corporate Branch at Dalamal
Towers, 211, Nariman Point, Mumbai-
400021.

... Petitioner

V/s.

Panache Exports Private Limited,
Regd. Office: - 108-A, Parvathi
Industrial Estate New Sunmill
Compound, Lower Parel, Mumbai -
440013

... Corporate Debtor

Order delivered on: 25.11.2019

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (J)
Hon'ble Shri V. Nallasenapathy, Member (T)

For the Petitioner: Adv. Anup Khaitan Adv. Rohit Kanmurde Adv.
Vijay Hinje i/b Anup Khaitan & Co.

For the Corporate Debtor: None Present

Per: Suchitra Kanuparthi, Member (Judicial)

ORDER

1. Oriental Bank of Commerce (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process against Panache Exports Private Limited (hereinafter called the 'Corporate Debtor') on the ground that the Corporate Debtor committed default to the extent of Rs.30,62,22,770/-, as provided under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereafter called the 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The Petition reveals that the Petitioner had granted five credit facilities vide sanction letter dated 13.06.2015 to the Corporate Debtor. Thereafter the Petitioner enhanced the credit facilities vide sanction letter dated 28.06.2017. The details of the facilities are as below:

S. No.	Facilities	Loan Amount in Rs.
1.	Cash Credit	7,00,00,000/-
2.	Packing Credit	6,00,00,000/-
3.	FDBP/FUDBP	15,00,00,000/-
4.	Letter of Credit	5,00,00,000/-
5.	Bank Guarantee	1,00,00,000/-

3. The Petitioner enclosed the following documents in support of the facilities granted by the Petitioner to the Corporate Debtor:
- Sanction Letter dated 13.06.2015;
 - Supplemental Agreement to secure credit/loan facilities dated 29.06.2015;
 - Agreement of Guarantee dated 29.06.2015;
 - Common Agreement dated 16.01.2016;
 - Supplemental Agreement to secure credit/loan facilities dated 16.01.2016;
 - Counter Guarantee Agreement dated 16.01.2016;
 - Agreement of Guarantee by Puneet Kapur, Prem Kapur dated 16.01.2016 and Agreement of Guarantee by Parikshat Kapur dated 02.02.2016;
 - Extension of Mortgage deed dated 25.01.2016;
 - Memorandum of deposit of title deeds dated 27.01.2016;
 - Extract of Resolution passed at the Board of Directors of Corporate Debtor meeting 11.01.2016;
4. The Petitioner enclosed the Statement of Accounts of the Corporate Debtor for the period of 01.04.2018 to 31.05.2019 and summary statement of outstanding amount with interest calculations wherein it was found that the total outstanding amount for all the accounts is Rs. 30,62,22,770/-. The Corporate Debtor confirmed the debit balance outstanding as on 25.03.2018 for all the five facilities and the same is enclosed with the petition in the annexure 24.
5. The Petitioner submits that the Corporate Debtor failed to maintain financial discipline and defaulted in making in periodical payment towards the credit facilities, and hence, as per the RBI guidelines the Corporate Debtor's account was classified as non-performing assets on 23.04.2018.

6. It is submitted that recall notice under section 13(2) of the SARFAESI Act, 2002 was issued by the Petitioner on 03.05.2018 demanding a sum of Rs.28,68,75,575/- and the said notice is annexed to the petition in annexure 25.
7. The Petitioner enclosed the copy of report of Central Repository of Information on Large Credit (CRILC) dated 01.06.2019 to show that the Corporate Debtor's status was marked as default.
8. On 28.08.2019, when the matter came up for the hearing, the counsel for the Petitioner submitted that the petition sent to the Corporate Debtor was not served and the tracking report shows the status as "undelivered addressee moved". In view of this the Counsel of the Petitioner was directed to take substituted service of notice by way of publication in English and Marathi newspaper and accordingly the petitioner filed proof of service. However, there is no representation on the side of the Corporate Debtor, despite publication of notice in newspapers.
9. On hearing the counsel of the petitioner and ongoing through the Form 1 and other related documents attached to the Form 1, there is an overwhelming evidence of debt due and default committed by the Corporate Debtor. Hence, the petition deserves admission.
10. 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 and also placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional and there being no disciplinary proceedings pending against the proposed resolution professional, 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 25.11.2019 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, Mr. Mayank Rameshchandra Jain, having his address at A-1001, Samarpan, near Spectra Motors, Western Express Highway, Borivaili (East) Mumbai-400066 having Registration No. IBBI/IPA-001/IP-P001055/2017-2018/11748 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.
11. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional immediately.

Sd/-
V. Nallasenapathy
Member (T)

Sd/-
Suchitra Kanuparthi
Member (J)