

20/6/19

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**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH, HYDERABAD**

CP (IB) No. 143/7/HDB/2019  
U/s 7 of IBC, 2016  
R/w Rule 4 of I & B (AAA) Rules, 2016

In the matter of  
Phoenix Tech Tower Private Limited  
Registered office at Plot No.14/46,  
IDA Uppal, Habsiguda,  
Hyderabad- 500 039,  
Telangana.

.....Financial Creditor

**VERSUS**

M/s. A.P.Gems & Jewellery Park Private Limited  
Registered office at T.S.No.6/1,  
Road No.10, Banjara Hills,  
Hyderabad- 500 034,  
Telangana.

..... Corporate Debtor

**Date of order: 04.06.2019**

**Coram:**

Hon'ble Shri Ratakonda Murali, Member (Judicial)

**Parties / counsels present:**

For the Petitioner: Ms. Varalakshmi. T, Advocate.

For the Respondent: None appeared

**Per: Hon'ble Shri Ratakonda Murali, Member (Judicial)**

Heard on 12.03.2019, 19.03.2019, 16.04.2019, 09.05.2019,  
16.05.2019.



**ORDER**

1. This petition is filed by M/s.Phoenix Tech Tower Private Limited which is the Financial Creditor stating that, M/s. A.P.Gems & Jewellery Park Private Limited, Corporate Debtor herein had defaulted in repaying an amount of Rs. 18,06,10,770/- ( Rupees Eighteen Crores Six Lakhs Ten Thousand Seven Hundred and Seventy Only) as on 31.12.2018. Hence this petition is filed under Section 7 of Insolvency and Bankruptcy Code, 2016, R/w Rule 4 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the Petition, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

2. The averments of the petition filed by the Petitioner/Financial Creditor in brief :

A. M/s. Phoenix Tech Tower Private Limited had given loan of Rs.9,00,00,000/- (Rupees Nine Crores Only) loan to M/s. A.P.Gems& Jewellery Park Private Limited based on the loan agreement executed between them on January 29,2011. The loan agreement is annexed herewith as Document No.1. The total default claimed is Rs.18,06,10,770/- (Rupees Eighteen Crores Six Lakhs Ten Thousand Seven Hundred and Seventy Only) comprising of principal and interest at the rate of 15% per anum compounded every quarterly as accrued till 31.12.2018.

B. It is averred that the statement sharing the computation of the debt, including the Principal Amount and interest accrued thereon from 29.07.2012 to 31.12.2018 is annexed herewith as Document No.2.



C. List of documents attached to this petition to prove the existence of financial debt and the amount in default are:

- i. The certificate of incorporation and the charter documents of the financial creditor as well the corporate debtor. These documents are annexed as Document No.3 to 8.
- ii. Form 26 AS dated 30.03.2013 issued by corporate debtor showing the TDS deducted on the interest payable to the financial creditor on the outstanding loan amounts and submitted to the income tax department. These documents are annexed as Document No.9.
- iii. The standalone financial statements of the corporate debtor for the year 2013-14 has been annexed as Document No.10.
- iv. Letters of intimation and legal notices issued to the corporate debtor for repaying the loan amount is annexed as Document No.11-19.
- v. The financial statements for the financial years 2016-17 to 2017-18 has been annexed as Document 20& 22.
- vi. A company petition in CP No.344 of 2016 file was before the High Court of Telangana seeking winding up of the corporate debtor is annexed here with as document No.22 and the counter filed by the corporate debtor company in the Company petition in CP No.344 of 2016 filed before the High Court of Telangana is annexed as Document No.23.
- vii. The share transfer agreement dated January 11, 2011 executed by the financial creditors, Suresh



Chukkapalli and Madhumathi Chukkapalli in favour of projects IOI Mauritius conveying their shareholding in the corporate debtor. The share transfer agreement is annexed as Document No.23.

D. It is averred that in view of the submissions the Financial Creditor therefore prays the Tribunal to admit the application filed U/s 7 of the Insolvency and Bankruptcy Code, 2017.

3. I have seen the record. The financial creditor had served the notice issued by the Tribunal on 16.04.2019 to the Corporate Debtor. The financial creditor has also filed memo dated 09.05.2019 stating that notice was sent to the corporate debtor by R.P.A.D. The postal receipts along with postal tracking reports showing the delivery status are also filed. Consignment No. RN110180083IN, was delivered on 18.04.2019. There was no representation for Corporate Debtor. Therefore, this Tribunal treated Corporate Debtor as absent and matter was listed for consideration. I have also seen the Demand Notice issued to the Corporate Debtor. There was no reply to the Demand Notice. Corporate Debtor did not raise any dispute.
4. The Financial Creditor filed Form-2. Financial creditor also filed the Assignment Agreements between the Assignor and Assignee which is annexed shown at page no. 23-40. It is clear from the record that Financial Creditor issued Demand Notice which is annexed at page:342. Thus, Financial Creditor filed documentary proof in support of the claim and also placed evidence that Corporate Debtor committed default. Therefore, petition is liable to be admitted.
5. The Financial Creditor proposes the name of Mr. Dr. Srinivas K.V, as Interim Resolution Professional. The proposed IRP has



given written consent in Form-2 vide memo. He has also certified there are no disciplinary proceedings pending against him either with the Board or ICSI. He has enclosed certificate of Registration.

6. The Adjudicating Authority is satisfied that the Corporate Debtor failed to discharge its liability mentioned in the Petition filed by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), resulting occurrence of default for an amount of Rs. 18,06,10,770/- ( Rupees Eighteen Crores Six Lakhs Ten Thousand Seven Hundred and Seventy Only) as on 31.12.2018.
7. Hence, the Adjudicating Authority admits this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-
  - (a) The Bench hereby prohibits 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; 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 financial assistance 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 04.06.2019 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, whichever is earlier.
- (e) That the Public announcement of Corporate Insolvency Resolution Process shall be made immediately as specified under section 13 of the code.

That this Bench hereby appoints Dr.K.V.Srinivas, having registration number IBBI/IPA-001/IP-P00520/2017-18/10945 residing at 4<sup>th</sup> Floor, 1-8-3-4 to 307, Kamala Towers , Pattigadda Road, Begumpet, Hyderabad- 500 004 as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code. Accordingly, this Petition is admitted.

(RATAKONDA MURALI)  
MEMBER (JUDICIAL)

4.6.19



Dy. Regr./Asst. Regr./Court Officer/  
National Company Law Tribunal, Hyderabad Bench

Pavani

प्रमाणित प्रति

CERTIFIED TRUE COPY

केस संख्या

CASE NUMBER.....

निर्णय का तारीख

DATE OF JUDGEMENT.....

प्रति तैयार किया गया तारीख

COPY MADE READY ON.....

CP(IB) NO. 143/7/HOB/2019.

04.06.2019.

7.06.2019.