

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH**

C.P. (I.B) No. 295/7/NCLT/AHM/2018

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF
THE NATIONAL COMPANY LAW TRIBUNAL ON 06.02.2019**

Name of the Company: Siemens Financial Services Pvt Ltd.

V/s.

Usha Multipack Pvt Ltd.

Section of the Companies Act: Section 7 of the Insolvency and Bankruptcy Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.				
2.				

ORDER

None appeared for the Petitioner.

The case is fixed today for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.



**MANORAMA KUMARI
MEMBER (JUDICIAL)**



**HARIHAR PRAKASH CHATURVEDI
MEMBER (JUDICIAL)**

Dated this the 6th February, 2019.

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AHMEDABAD BENCH**

C.P. No.(IB) 295/7/NCLT/AHM/2018

In the matter of:

M/s. SIEMENS FINANCIAL SERVICES PRIVATE LIMITED

Plot No. 2
Sector No. 2,
Kharghar
Navi Mumbai 410 210
Maharashtra State ...

Petitioner
[Financial Creditor]

Versus

M/s. Usha Multipack Private Limited,

Survey No. 164
Plot No. 1-2
S.I.D.C. Road
Veraval (Shapar)
Tal. Kotda Sangani
Kotda Sangani - 360 027
Dist. Rajkot
Gujarat State ...

Respondent
[Corporate Debtor]

Order delivered on 06th February, 2019.

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)
Hon'ble Ms. Manorama Kumari, Member (J).**

Appearance:

Advocate Mr. Jaimin R. Dave i/b. India Law LLP and Mr. Aditya S. Raval are present for the financial creditor/petitioner.

ORDER

[Per: Ms. Manorama Kumari, Member (Judicial)]

1. M/s. Siemens Financial Services Private Limited, through authorised signatory, filed this petition under section 7 of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the Rules") seeking reliefs under Section 7(5)(a) and Section 13(1)(a)(b)(c) of the Code.

2. That the applicant M/s. Siemens Financial Services Private Limited is a private limited company incorporated on 23.09.2010, having its registered office at Plot No. 2, Sector No. 2, Kharghar, Navi Mumbai, Maharashtra State having identification number U65990MH2010FTC208099, had granted total loan of Rs. 3,34,37,055/- (Rupees three crores thirty-four lacs thirty-seven thousand fifty-five only) vide loan agreements dated 03.01.2013 and 30.06.2014, as per the details given at **Annexure C & D** respectively, placed at page No. 11 to 36 to the application.

3. M/s. Usha Multipack Private Limited is a company incorporated under the Companies Act, 1956 on 16th July, 2001, having identification No. U74950GJ2001PTC039785 having its registered office at Survey No. 164, Plot No. 1-2, S.I.D.C. Road, Veraval (Shapar), Tal. Kotda Sangani, Dist. Rajkot (Gujarat), inter alia, engaged in the business of Multilayer co-extruded speciality packaging films. That, the authorised share capital of the respondent is Rs. 2,00,00,000/- and paid up capital is Rs. 1,60,50,000/-.

4. It is submitted by the applicant that, an amount of Rs. 3,34,37,055/- (Rupees three crores thirty-four lacs thirty-seven thousand and fifty-five only) arising out of two loan cum hypothecation agreements dated 3rd January, 2013 and 30th June, 2014 was sanctioned to the respondent towards hypothecation of the assets funded by the applicant, for a tenure of sixty months with interest @ 14.25% per annum. Facility wise details are given below: -

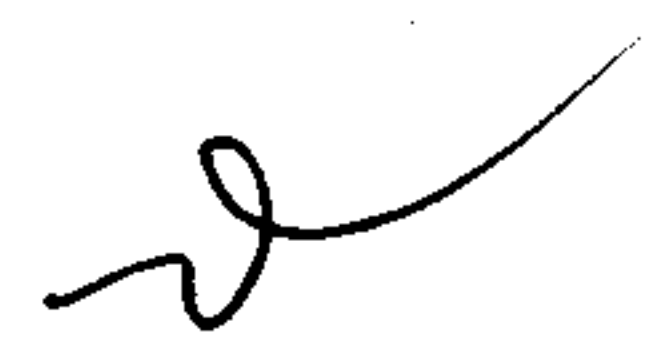
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Facility	Sanctioned	Total principal outstanding
Loan agreement dated 03.01.2013	20,37,055	8,53,158
Loan agreement dated 30.06.2014	3,14,00,000	1,55,44,730
Total	3,34,37,055	1,63,97,888

It is also submitted by the applicant that Rs. 3,28,64,727/- (Rupees three crores twenty-eight lacs sixty-four thousand seven hundred seventy-seven only) is outstanding which include interest @ 14.25% per annum.

5. That the petitioner being financial creditor has to recover an amount of 3,28,64,727/- (Rupees three crores twenty-eight lacs sixty-four thousand seven hundred seventy-seven only) which is still remaining unpaid by the respondent as on 15.05.2018 being the corporate debtor, more particularly as per the ledger accounts of the applicant placed at page No. 72-89 to the application and marked as **Exhibit G & H**.
6. Heard lawyers appearing on behalf of the applicant as also perused the documents annexed with application. In support of the contention, the applicant annexed copy of the bank statement, copy of ledger and form No. 2 – written communication by proposed Interim Resolution Professional.
7. That, the petitioner filed the instant application with proof of service on the respondent, however, when the matter was listed on Board, a formal notice was also issued upon the respondent through the Registry informing the date of hearing. That, inspite of service of notice, no representation

is received from the respondent. However, when the matter was listed on 06.12.2012, in the interest of justice, a final opportunity was granted to the respondent to file reply/objections, failing which its right for filing reply shall be forfeited but then even no response is received from the respondent. Consequent upon which the instant matter has been heard in absence of corporate debtor. Further on perusal of record the service upon the corporate debtor is found to be complete.

8. There is no dispute in the case that the petitioner is the financial creditor. The application is also filed in the prescribed form - 1 of the Rules and the prescribed fee has also been paid. Along with the application, the applicant proposed the name of the Resolution Professional namely Mr. Pinakin Surendra Shah, who has shown his address at A-201, Siddhivinayak Towers, Behind DCP Office, Next to Kataria House, Makarba, S.G. Highway, Ahmedabad having Registration Number IBBI/IPA-002/IP-N00106/2017-18/10248, as 'Interim Insolvency Resolution Professional under Section 13(1) of the Code. Form 2 along with the certificate of registration of the proposed Interim Resolution Professional has been annexed and placed at page No. 10A to the application where declaration is made that no disciplinary proceeding is pending against him with the Board or Indian Institute of Insolvency Professionals of ICAI.
9. On perusal of record and as also discussed above, it is held that there is existence of default and the said default ^{occurred} ~~accrued~~ on 28.11.2016. Hence it is not covered under the clause of limitation. The application under Section 7(2) of

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the Code is also complete in all respect. There is no dispute in the case that the petitioner is ^athe financial creditor. The application is also furnished in the prescribed form - 1 of the Rules and the prescribed fee has also been paid.

10. In view of the above, the petitioner/financial creditor having fulfilled all the requirements of Section 7 of the Code, the instant petition deserves to be admitted.

11. The petition is, therefore, admitted and the moratorium is declared for prohibiting all of the following in terms of sub-section (1) of Section 14 of the Code: -
 - (i) 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;

 - (ii) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

 - (iii) 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 (54 of 2002);

 - (iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

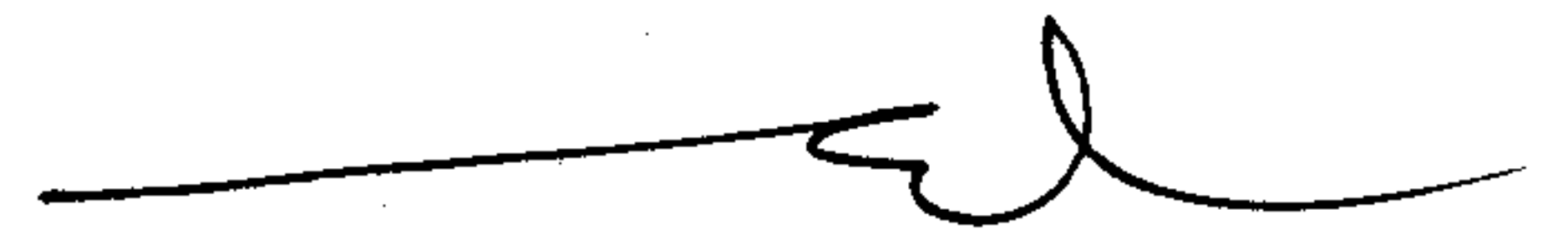
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12. It is further directed that the supply of goods and essential services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) shall, however, not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.
13. The order of moratorium shall have effect from the date of receipt of authenticated copy of this order 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.
14. This Petition stands disposed of accordingly with no order as to costs.
15. Communicate a copy of this order to the Applicant, Financial Creditor, Corporate Debtor and to the Interim Insolvency Resolution Professional.



Ms. Manorama Kumari
Member (Judicial)
Adjudicating Authority



Harihar Prakash Chaturvedi
Member (Judicial)
Adjudicating Authority