IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P. (IB)No.3714/NCLT/MB/2019
Under Section 7 of the I&B Code, 2016

In the matter of:
JM Financial ARC Limited
...Financial Creditor/ Applicant
V/s
Turning Point Estate Private Limited
...Corporate Debtor / Respondent

Order Dated: 10.01.2020

Coram:	Mr Rajesh Sharma Hon'ble Member (Technical)	Mr Bhaskara Pantula Mohan Hon'ble Member (Judicial)

For the Applicant: Adv. Vinod Komari a/w Adv. Priyanka Shah, Adv. Reshmi Nair i/b Apex Law Partners
For the Respondent: Adv**.** Prathamesh Namat a/w Bijal Vora i/b Clove Legal

Per:Rajesh Sharma, Member (Technical)

ORDER

1. This is anapplication being C.P. (IB) No. 3714/NCLT/MB/2019filed by **JM Financial ARC Limited,**the Financial Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Turning Point Estate Private Limited**(Formerly known as Chandigarh Treasure Island Private Limited),Corporate Debtor, for initiating Corporate Insolvency Resolution Process(**CIRP**).

2. The Application is filed by Mr. Manthan Sanghavi, authorised signatory of Financial Creditor, claiming a total default of Rs.44,57,95,852.82 (Rupees Forty-Four Crore Fifty-Seven Lakh Ninety-Five Thousand Eight Hundred and Fifty-Two and

PaiseEighty-Two Only) including interest @12% p.a. as on 07.10.2019. The date of Default is 22.10.2016.The statement for particulars of claim amount is annexed to the Application.

3. The Applicant submitted that Term Loan of Rs.100,00,00,000/- was sanctioned by the UCO Bank, Indian Overseas Bank and Punjab National Bank in which UCO Bank was the lead Bank and Rs.25,00,00,000/- was sanctioned by the UCO Bank on 16.06.2009. Further the Applicant submitted that the Corporate Debtor entered in Joint Agreement dated 12.09.2009 with UCO Bank, Indian Overseas Bank and Punjab National Bank. The Copy of said agreement is annexed to the Application.

4. The Applicant submitted that an Assignment Agreement was entered between UCO Bank and Applicant, acting in its capacity as the trustee of JMFARC-UCO March 2014-Trust on 26.03.2014 for the Term Loan of Rs.25,00,00,000/-. The Copy of said agreement is annexed to the Application.

5. The Applicant submitted that the Application filed before this Bench was on the basis of DRT Recovery Judgement for Rs.65,33,48,041.98 along with interest and other reliefs. The Judgement passed on 22.10.2016 by the Debt Recovery Tribunal, Jabalpur was in favour of the Applicant and Indian Overseas Bank. The Applicant further submitted that out of total dues, the decreed amount of UCO Bank is Rs.25,87,87,909.98 and interest thereon @12% p.a. The date of default is calculated from the date of Decree i.e. 22.10.2016.

6. The Applicant submitted that the Corporate Debtor failed to repay the outstanding dues, thus UCO Bank issued notice recall notice dated 18.05.2013 under section 13(2) of the SARFAESI Act demanding the repayment of the outstanding.

7. The Applicant submitted that the corporate debtor failing to pay the amounts to Applicant and the account of the corporate debtor was classified as Non-Performing Assets on 31.03.2013.

8. The Applicant filed present application on 17.10.2019. The Corporate Debtor filed its Affidavit in Reply dated14.12.2019 and

contended that the loan account of the Corporate Debtor was classified as NPA on 31.03.2013 by UCO Bank and UCO Bank has assigned its debt to the Applicant in the month of March 2014. The Corporate Debtor further stated that the Applicant has filed the present Application 6 years after the purported default has taken place and therefore, present Application is barred by limitation.

9. We have heard the parties at length and perused the records.

10. The Applicant has stated that Rs.25,87,87,909.98was due and payable by the Corporate Debtor to the Applicant as on 22.10.2016. The account of the Corporate Debtor was declared as Non-Performing Asset by the Financial Creditor w.e.f. 31.03.2013.The Applicant filed original Application on 30.09.2013 under section 19 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 for Recovery of Debts. The Decree passed by Debt Recovery Tribunal, Jabalpur is in favour of Applicant stating that,

"the Original Application is partly allowed and ordered as:

i. The Defendant No.1 and 7 are liable to pay jointly and severally Rs.65,33,48,041.98 with pendentelite and future interest @12%p.a. from the date of filing of the original Application i.e. 30.09.2013, with costs till its realization."

11. It is pertinent to note that out of the above dues, decreed amount of UCO Bank is Rs.25,87,87,909.98 as on the date filing of the original Application with DRT and the amount of Rs.44,57,95,852.82 as on 07.10.2019 together with interest and other charges till date of realization of all the outstanding dues. It is further noted that the Applicant filed current Application within period of 3 years from the date of Decree passed by Debt Recovery Tribunal, Jabalpur i.e. 22.10.2016 which is the date of default. Thus, the current Application filed by Applicant is not barred by the law of Limitation.

12. On perusal of the documents submitted by the Applicant, it is clear that financial debt amounting to more than□1,00,000 /- (Rupees One Lakh Only) is due and payable by the Corporate Debtor to the

Applicant. The Applicant filed current Application within period of 3 years from the date of Decree passed by Debt Recovery Tribunal, Jabalpur i.e. 22.10.2016 and there is default by the Corporate Debtor in repayment of the loan amount. Therefore, we do not have any objection on record against the application filed for initiation of CIRP against the corporate debtor.

13. The application is complete and has been filed under the proper form. The debt amount of more than Rupees One Lakh and default of the Corporate Debtor has been established and the application deserves to be admitted.

14. The Applicant has proposed the name of Ms Namrata A. Randeri, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P01585/2019-2020/12495] as **Interim Resolution Professional**, to carry out the functions as mentioned under I&B Code and has also given her declaration that no disciplinary proceedings are pending against her.

ORDER

This Application filed under Section 7 of I&B Code, 2016, presented by **JM Financial ARC Limited,** Financial Creditor/ Applicant against **Turning Point Estate Private Limited**, Corporate Debtor for initiating corporate insolvency resolution process is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

d) the recovery of any property by an owner or lessor where such property is occupied by or in 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 the moratorium period.

III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to

a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
b. a surety in a contract of guarantee to a Corporate Debtor.

IV. That the order of moratorium shall have effect from the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.

VI. That this Bench appoints **Ms Namrata A. Randeri,** a registered insolvency resolution professional having Registration Number **IBBI/IPA-001/IP-P01585/2019-2020/12495**as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

15. The Registry is directed to immediately communicate this order to the Operational Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-	**Sd/-**
RAJESH SHARMA	**BHASKARA PANTULA MOHAN**
Member (Technical)	Member (Judicial)
10.01.2020	