

IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI

IBA/946/2019

*Under Section 7 r/w Rule 4 of the IBC, 2016*

**In the matter of M/s. Shapre Infotech India Limited**

**M/s. Mardia sons Holdings Private Limited**

**---Financial Creditor**

V/s

**M/s. Shapre Infotech India Limited**

**---Corporate Debtor**

**Order delivered on: 25.10.2019**

**Coram:**

**B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

For the Financial Creditor : *Shri. J. Lenin, Advocate*

For the Corporate Debtor : **None-Present** on the date of hearing

**ORDER**

**Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**Heard and dictated in Open Court on: 23.10.2019**

It is an Insolvency & Bankruptcy Application ("IBA") filed u/s 7 of the Insolvency & Bankruptcy Code, 2016 ("the Code") by the Applicant M/s. *Mardia sons Holdings Private Limited* (the Financial Creditor) seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against M/s. *Shapre Infotech India Limited* (the

Corporate Debtor) on the ground that the Corporate Debtor defaulted in repaying an amount of ₹22,06,128.12.

2. On perusal of this application, it appears that the Applicant and Corporate Debtor entered into Memo of Compromise on 07.06.2016 wherein the Corporate Debtor has agreed to pay ₹22,06,128 towards past liability and also ₹40,000 towards legal costs as full and final settlement. In pursuance thereof, the Corporate Debtor paid a sum of ₹40,000 towards legal costs on 16.06.2016, thereafter, since no payment has come from the Corporate Debtor which had already been agreed between the parties, this Applicant on 06.02.2019, requested the Corporate Debtor to repay a sum of ₹22,06,128. To which, the Corporate Debtor replied on 14.02.2019 admitting the liability by stating that they are not in a position to make payment towards the dues outstanding. When we have asked this Applicant counsel as to what is the material available on record to prove this money has been advanced to the Corporate Debtor against time value of money, the Applicant counsel has stated that he has already filed additional documents reflecting that the Applicant

has agreed to waive interest payable against the outstanding loan amount.

3. As to the submissions made by the Applicant counsel, for none having appeared on behalf of the Corporate Debtor and there being a clear admission from the Corporate Debtor side stating that the Corporate Debtor owed to pay the claim amount to the Applicant, we, being satisfied that this Applicant has proved existence of debt and default, admit this company application by appointing Mr. L.V. Shyamsundar as Interim Resolution Professional looking at the consent letter given by him, with following directions:

I. That Moratorium is hereby declared prohibiting all of the following actions, namely,

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 the possession of the corporate debtor.
- II. That 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 of IBC 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 **23.10.2019** till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, 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 IBC.
- VI. That this Bench hereby appoints **Mr. L.V Shyamsundar, as Interim Resolution Professional, having Registration Number [IBBI/IPA-002/IP-N00262/2017-18/10775], No. 17, 3<sup>rd</sup> Floor, Gandhi Road, Alwarthirunagar, Chennai-600087, E-Mail: [shyam.ascend@gmail.com](mailto:shyam.ascend@gmail.com), Mobile No: 9380284913** to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.
4. Accordingly, this Petition is **admitted**.

5. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by way of email.

**-Sd-**  
**(S. VIJAYARAGHAVAN)**  
**Member (Technical)**

**-Sd-**  
**(B. S.V. PRAKASH KUMAR)**  
**Member (Judicial)**

VS/TJS