

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

C.P. No.1852/I&BP/2019

Under section 7 of the IBC, 2016

**In the matter of:**

American Express Banking Corp.  
One Indiabulls Centre,  
Tower -2, B-Wing, 8<sup>th</sup> Floor,  
Jupitar Mills Compound, S.B.  
Marg, Elphinstone Road,  
Mumbai – 400 013

... Petitioner

v/s.

Pratibha Krushi Prakriya Limited,  
Office No. 110, West Wing, Aurora  
Towers, Camp, Pune – 411 001

.... Respondent

**Petition allowed on: 02.08.2019**

**Order Released on: 04.09.2019**

Coram: Hon'ble Bhaskara Pantula Mohan, Member (Judicial)  
Hon'ble Shyam Babu Gautam, Member (Technical)

For the Petitioner : Mr. Amir Arsiwala, Advocate

For the Respondent: Mr. Mehul Thakkar, Advocate

***Per: Bhaskara Pantula Mohan, Member (Judicial)***

**ORDER**

1. This Company Petition is filed by American Express Banking Corp. (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Pratibha Krushi Prakriya Limited. (hereinafter called

“Corporate Debtor”) alleging that Corporate Debtor committed default in making payment to the extent of Rs. 2,82,88,322.34/- by invoking the provisions of Sections 7 of I & B Code (hereinafter called “Code”) read with Rule 4 of Insolvency & Bankruptcy (AAA) Rules, 2016.

2. The Petitioner submits that the Petitioner Company is engaged in the business of rendering credit facilities by way of issuance of Corporate/Credit/Charge Cards.
3. It is further submitted by the Petitioner that the Corporate Debtor availed the credit facilities provided by the Petitioner by using a corporate Card. The use and utilization of the said corporate card by the Corporate Debtor itself amounts to disbursement of Credit Facilities availed and utilized by the Corporate Debtor. Following is a list of documents annexed by the Corporate Debtor supporting their claim:
  - a) Computation of amount due and payable by the Corporate Debtor.
  - b) Application form for credit facility executed by the Corporate Debtor.
  - c) Terms and Conditions of Credit facility.
  - d) Statement of accounts in relations to the credit facility with the Corporate Debtor.
4. Based on aforementioned the documents annexed by the Petitioner, it is the Petitioners case that following are details of debt and defaults committed by the Corporate Debtor with regards to them:

<b>AEBC Card No.</b>	<b>Debt Amount</b>	<b>Default date</b>
3769-400262-61001	Rs. 62,49,601.78	05.08.2018

3769-400284-81003	Rs. 94,41,012.50	14.11.2018
3769-400259-91004	Rs. 77,56,939.50	27.01.2019
3769-400274-81004	Rs. 48,40,768.56	09.01.2018
<b>TOTAL</b>	<b>Rs. 2,82,88,322.34</b>	

5. The petitioner therefore submits that since the Corporate Debtor had defaulted in making payments with regards to the credit facilities availed by them, the Petitioner was left with no other choice but to file this Petition.
6. The Corporate Debtor has filed his reply, wherein, he has denied all the allegations, contentions, raised by the Petitioner, only admitting that the Corporate Debtor had taken Finance from the Financial Creditor for the purpose of the Business and the said amounts were directly to the Corporate Debtors accounts.
7. Further in his reply, the Corporate Debtor has given reasons due to which he could pay off the debt of the Petitioner. According to him, it was due to unfavorable market conditions due to which the Corporate Debtor incurred heavy losses and therefore was not in any condition to pay off the dues of the Petitioner.
8. This Bench has gone into the details provided in the Form 1 and connected materials, furthermore based on the clear admission on the Corporate Debtor with about existence of debt and default, we are of the considered view that there is debt and default.
9. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the Credit services 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:

- 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.
- e) 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.
- f) 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.
- g) That the order of moratorium shall have effect from 20.08.2019 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.

- h) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i) That this Bench hereby appoints, Jovita Reema Mathias, having office at 506 Inzio Building, Cardinal Gracious Road, Chakala, Andheri (East) Mumbai – 400 099; having Registration No. IBBI/IPA-002/IP-N00337/2017-18/10941 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

10. Accordingly, this Petition is admitted.

11. The Registry is hereby directed to communicate this order to both the parties as well as IRP immediately.

Sd/-  
BHASKARA PANTULA MOHAN  
Member (Judicial)  
/Prakhar Tandon/

Sd/-  
SHYAM BABU GAUTAM  
Member (Technical)