IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP No. (IB) 4094/ MB/ 2018

Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of

Dena Bank

Having its Registered Office at: Dena Corporate Centre, C-10, "G" Block, Bandra- Kurla Complex, Bandra (East), Mumbai- 400 051

….. **Financial Creditor**

Vs.

Printek Graphix (India) Private Limited

Having its Registered Office at: 81/82, Gandhi Nagar, Dainik Shivner Marg, Worli, Mumbai- 400 018

….. **Corporate Debtor**

Order delivered on :- 03.06.2022

Coram:

Hon'ble Member (Judicial)	**:**	**Justice P. N. Deshmukh (Retd.)**
Hon'ble Member (Technical)	**:**	**Shri Shyam Babu Gautam**

Appearances:

For the Financial Creditor	:	Mr. Pranav Khatkul, Advocate
For the Corporate Debtor	:	None Present

ORDER

Per: Justice P. N. Deshmukh, Member Judicial

1. This Company Petition is filed by *Dena Bank* (hereinafter called "Financial Creditor") seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Printek Graphix (India) Private Limited* (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default in making payment to the Financial Creditor. This Petition has been filed by invoking the provisions of Section 7 Insolvency and Bankruptcy Code, 2016 (hereinafter called "IBC") read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The present Petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of an **aggregate amount** of **Rs. 22,77,29,148.51/-** (Rupees Twenty-Two Crores Seventy-Seven Lakhs Twenty-Nine Thousand One Hundred Forty-Eight and Fifty-One Paise Only) including the Principal amount, interest and default interest till **25th October 2018** under various heads forming part of the Financial Debt.

3. The Corporate Debtor approached the Financial Creditor to avail credit facilities in the form of Cash Hypothecation Loan and Letter of Credit Facility. Pursuant thereto, the Financial Creditor disbursed the same starting from 1st March 2013. The following details are relevant:

Type of Debt	**Amount granted**	**Date of Disbursement**
Cash Credit Hypothecation	Rs. 4,00,00,000/- with a sub-limit of Packing Credit/ FBP of Rs. 2,00,00,000/-	1st March 2013
Letter of Credit facility (Inland) DP/DA- 120 days	Rs. 5,00,00,000/- with a sub-limit of Bank Guarantee of Rs. 3,00,00,000/-	Rs. 4 Crore on 7th March 2013 and Rs. 1 Crore on 18th March 2013.
Forward Cover Limit	Rs. 2,00,00,000/- with exposure of Rs. 4,00,00,000/-	-

Copies of the **Statement of outstanding Cash Credit Hypothecation Loan** and **outstanding Devolved Letter of Credit** along with **details of computation of aggregate outstanding interest** have been annexed to this Petition. The debt advanced by the Financial Creditor was secured by Mortgage of an immovable property situated at Mumbai and Hypothecation of various goods and other fixed assets, details of which have been duly annexed to this Petition.

4. Subsequently, the Corporate Debtor defaulted in making repayments and was declared as a Non- Performing Asset

(NPA) on **15th September 2013** by the Financial Creditor vide a notice dated 8th January 2014 under Section 13(2) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter called "SARFAESI"), copy of which has been annexed to the Petition. This Petition was filed by the Financial Creditor pending the disposal of the above proceedings on **25th October 2018**. Copies of **Balance Sheets** for the Financial Years ending on **31st March 2015, 31st March 2016** and **31st March 2017** have been adduced to evidence the Corporate Debtor's liability. In addition, the Financial Creditor has annexed a Letter dated **3rd June 2017** which the Corporate Debtor addressed to the Financial Creditor wherein they admitted their liability towards the repayment of loans due to the Financial Creditor and expressed their willingness to pay off the debts.

5. The Corporate Debtor filed a Reply to the Petition imputing *inter alia* collusion between officials of the Financial Creditor and other third persons to cheat the Corporate Debtor and conceal their criminal misdeeds. It is also alleged that the Financial Creditor has filed the proceedings under IBC with malicious intent and also raised doubts over the charge created on the abovementioned immovable property by the Financial Creditor. Meanwhile, several proceedings were initiated before the Hon'ble Bombay High Court and Debt Recovery Tribunal at Mumbai between 2013 and 2014 against the Financial Creditor by the Corporate Debtor and other third parties that are pending adjudication. In addition, the Corporate Debtor

filed **Application for perjury** proceedings being **MA 2812/ 2021** against the Financial Creditor and its officials but was **dismissed for non- prosecution** by this Tribunal vide Order dated **28th July 2021**. Despite several notices thereafter, the Corporate Debtor failed to appear or file any reply.

FINDINGS

6. We have heard the submissions of the Counsel appearing for the Financial Creditor. The Financial Creditor has satisfactorily established the existence of debt of Principal Loan Amount of **Rs. 4,00,00,000/-** and **Rs. 5,00,00,000/-** and default of the outstanding dues aggregating to Rs. **22,77,29,148.51/-** as evidenced by the records of the Balance Sheets attached to this Petition. It is also noted that the Petition is not barred by Limitation. We have perused the relevant documents, particularly the Letter dated 3rd June 2017 addressed by the Corporate Debtor to the Financial Creditor in respect of which the admission of the outstanding dues is noted and the liability of the Corporate Debtor is established beyond doubt.

7. We have perused various records and Order sheets and note that the Corporate Debtor failed to appear before this Tribunal on multiple occasions despite notice. Further, the allegations of financial fraud and collusion levelled by the Corporate Debtor in their Reply are unclear and unsubstantiated at this stage. Since the Corporate Debtor has not pursued these claims any further, we note that the Corporate Debtor is no longer keen on establishing his case. The Corporate Debtor was set ex-parte

and the right to file reply was closed vide Order dated **15th September 2021**. This Bench further granted a final opportunity to the Corporate Debtor to appear by directing the Financial Creditor to carry out service by Newspaper publication vide Order dated **15th February 2022** but the Corporate Debtor still failed to remain present. This demonstrates negligence and unwillingness of the Corporate Debtor to perform their obligations.

8. The Financial Creditor has thus successfully demonstrated and proved the debt and default in this case. It is noted that the Corporate Debtor admits the said outstanding debt. Therefore, this Bench is of the view that that this Petition satisfies all the necessary requirements for **admission** under Section 7 of the Code and has decided to proceed ex- parte against the Corporate Debtor.

9. For the foregoing reasons, the instant Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

   a. **The above Company Petition No. (IB) - 4094(MB)/2018 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Printek Graphix (India) Private Limited.
   b. This Bench hereby appoints **Mr. Rohit Vora**, Insolvency Professional, Registration No: IBBI/IPA-003/IP-N00071/2017-18/10556 as the

Interim Resolution Professional having address at A- 1103, Raj Sunflower Royal Complex Eksar Road, Borivali, Mumbai- 400 092 and email address contact@rohitvora.com to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Financial Creditor shall deposit an amount of Rs.2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.

d. That this 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 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; 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 the date of pronouncement 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.
h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
i. During the CIRP period, the management of the Corporate Debtor will vest in the IRP/RP. The suspended directors and employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
j. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-	**Sd/-**
SHYAM BABU GAUTAM	**JUSTICE P. N. DESHMUKH**
(MEMBER TECHNICAL)	**(MEMBER JUDICIAL)**