

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 106
(IB)-2607(PB)/2019

IN THE MATTER OF:

Ambrane India Pvt. Ltd.
v.
MP Promoters Pvt. Ltd.

.... Financial Creditor
.... Respondent

ORDER UNDER SECTION 7 OF INSOLVENCY & BANKRUPTCY CODE
(Application to Adjudicating Authority) Rules, 2016

Order delivered on 06.04.2022

CORAM:

JUSTICE RAMALINGAM SUDHAKAR
HON'BLE PRESIDENT

SH. AVINASH K. SRIVASTAVA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner
For the Respondent

Mr. Ashok Juneja, Adv.
None

ORDER

PER SH. AVINASH K. SRIVASTAVA, HON'BLE MEMBER (TECHNICAL)

This application has been filed on 26.09.2019, under Section 7 of Insolvency & Bankruptcy Code, 2016 by M/s. Ambrane India Pvt. Ltd. as financial creditor seeking to initiate Corporate Insolvency Resolution Process in the matter of M/s. MP Promoters Pvt. Ltd., the Corporate Debtor (CD).

2. The Financial Creditor (FC) has submitted that it had granted a loan of Rs. 1,01,00,000/- (Rupees One Crore One Lakhs Only) @ 9% per annum to be compounded on 31.03.2018 and an amount of Rs. 51,00,000/- (Rupees Fifty One Lakh Only) was disbursed to the Corporate Debtor (CD) on 26.05.2017 vide cheque and subsequently on 03.06.2017 additional amount

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of Rs. 50,00,000/- (Rupees Fifty Lakh Only) was disbursed through RTGS.

3. The applicant has submitted an authenticated copy of bank account statement at Annexure-6 of which pages 62 & 67 are relevant for showing the amount and the dates of disbursement to the CD. It is submitted that the CD is liable to pay to FC a total sum of Rs. 1,21,95,953/- (Rupees One Crore Twenty One Lakhs Ninety Five Thousand Nine Hundred Fifty Three Only) which includes interest calculated till 31.07.2019. In addition, the interest @ 9 per annum calculated from 01.08.2019 till the actual date of realization of the outstanding amount is to be charged from the CD. The FC has enclosed a copy of the Board Resolution passed on 20.05.2017 vide which the Board of Directors of the FC have accorded consent to grant a loan not exceeding Rs. 1,01,00,000/- (Rupees One Crore One Lakhs Only) to MP Promoters Pvt. Ltd. along with interest @ 9% per annum to be compounded on 31.03.2018 which shall be disbursed in one or more tranches. The loan is to be repaid on or before 31.03.2018 along with interest thereon (Annexure-5; Page No. 54). Further, there is no specific agreement between the parties specifying the date of payment of the debt.

4. The CD has placed on record the balance sheet ending 31.03.2018 of M/s. MP Promoters Pvt. Ltd. in which an amount of Rs. 1,01,00,000/- (Rupees One Crore One Lakhs Only) has been shown as other current liability payable to M/s. Ambrane India Pvt. Ltd. (pages 273, 278 of the application).

5. Further the applicant has filed certificate dated 04.02.2022 issued by the information utility NeSL with respect to the debt of

the CD amounting to Rs. 1,21,95,953/- (Rupees One Crore Twenty One Lakhs Ninety Five Thousand Nine Hundred Fifty Three Only) "**Deemed to be Authenticated**". Earlier, vide order dated 07.04.2021 a cost of Rs. 50,000/- was imposed on the CD to file reply within seven days as a last chance. Today, the CD was not present, however his reply dated 20.07.2021 has been perused. The main ground taken by the CD in his reply is that there is no agreement annexed by the applicant to prove that there was any interest payable @ 9% per annum as claimed by the applicant.

6. We have heard the Ld. Counsel for the applicant and perused the documents placed on file. The amount of Rs. 1,01,00,000/- (Rupees One Crore One Lakhs Only) has been disbursed for which bank statements have been annexed. Further, as per the certificate issued by NeSL the debt of the corporate debtor is deemed to be authenticated. The CD has not presented himself to assist the Court. We are inclined to accept the petition to initiate CIRP against the M/s. MP Promoters Pvt. Ltd.

7. The petition is admitted.

8. The applicant has proposed the name of interim resolution professional (IRP) **Mr. Durga Das Agrawal** having address: **KBL Agrawal & C., 413, Vikasdeep Building, Laxmi, District Centre, New Delhi-110092**, Registration No: **IBBI/IPA-001/IP-P00557/2017-2018/10987**, contact no. **9811075092** and email: **cadda.ip@gmail.com**. The consent of the IRP as well as self-declaration that no disciplinary proceedings are pending against him in the Insolvency and Bankruptcy Board of India or

ICAI have been submitted. In addition, further necessary disclosures have been made by **Mr. Durga Das Agrawal** as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of Section 7 (3)(b) of the Code. Hence, we appoint Mr. Durga Das Agrawal, as the IRP of the Corporate Debtor.

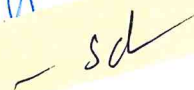
9. In pursuance of Section 13(2) of the Code, we direct the IRP to make public announcement immediately with regard to admission of this application under Section 7 of IBC. The expression 'immediately' means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

10. As a consequence of the application being admitted in terms of Section 7 of IBC, 2016, moratorium as envisaged under the provisions of Section 14(1) of IBC shall follow in relation to the Corporate Guarantor as per proviso (a) to (d) of section 14(1) of the IBC. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the IBC shall come in force.

11. We direct the Applicant to deposit a sum of Rs. 2,00,000, with the Interim Resolution Professional **Mr. Durga Das Agrawal**, to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Applicant. The amount however, will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Applicant.

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12. The registry is directed to communicate a copy of the Order to the Applicant, the Corporate Debtor, Interim Resolution Professional and the Registrar of Companies, NCR, New Delhi, at the earliest, but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified.



**(RAMALINGAM SUDHAKAR)
PRESIDENT**



**(AVINASH K. SRIVASTAVA)
MEMBER (TECHNICAL)**