

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

IBA/760/2019

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

In the matter of M/s. Sri Vishnu Annamalaiyar Paper Mills Limited

Mr. P. Jeevanantham

(Proprietor of M/s. Sree Meenakshi Paper Agencies)

---Financial Creditor

V/s

M/s. Sri Vishnu Annamalaiyar Paper Mills Limited

---Corporate Debtor

Order delivered on: 11.10.2019

Coram:

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

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor : *Shri. Rohan Rajasekaran, Advocate*

For the Corporate Debtor : *Shri. Chirag Gupta, Advocate*

ORDER

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

Heard and dictated in Open Court on: 10.10.2019

It is an Insolvency and Bankruptcy Application (IBA) filed u/s 7 of the Insolvency and Bankruptcy Code, 2016 by Financial Creditor namely, *Mr. P. Jeevanantham* (Proprietor of M/s. Sree Meenakshi Paper Agencies) for initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor namely, M/s. *Sri*

Vishnu Annamalaiyar Paper Mills Limited on the ground that the Corporate Debtor defaulted in repaying an amount of ₹40,99,838 as on 31.03.2019.

2. On perusal of this case, it appears that this Applicant disbursed ₹4,46,81,375 to the Corporate Debtor towards Working Capital of the Company. The counsel has further stated that it is a practice that this Applicant keeps funding the Corporate Debtor as and when the Corporate Debtor makes oral request sometimes written request, this Applicant provides loan to the Corporate Debtor. In this process, the Applicant disbursed the aforesaid monies to the corporate debtor against time value of the money.

3. To substantiate that this amount was disbursed to the Corporate Debtor, the Applicant herein filed Bank Statement from 01.01.2016 to 31.10.2017 remitting monies to the Corporate Debtor through 95 transactions as reflected in the Bank Statement filed along with the affidavit dated 09.09.2019, which is as follows:

S.No	Date	Amount	S.No	Date	Amount
1	03.02.2016	375000	42	19.09.2016	250000
2	08.02.2016	375000	43	20.09.2016	850000
3	15.02.2016	410000	44	21.10.2016	2000000

4	18.02.2016	400000		45	27.10.2016	400000
5	22.02.2016	400000		46	08.11.2016	200000
6	25.02.2016	400000		47	23.11.2016	800000
7	02.03.2016	300000		48	23.11.2016	500000
8	28.03.2016	350000		49	24.11.2016	200000
9	06.04.2016	190000		50	08.12.2016	500000
10	12.04.2016	250000		51	21.12.2016	1500000
11	16.04.2016	150000		52	23.12.2016	200000
12	18.04.2016	500000		53	28.12.2016	500000
13	25.04.2016	650000		54	18.01.2017	500000
14	26.04.2016	150000		55	18.01.2017	100000
15	28.04.2016	500000		56	20.01.2017	450000
16	29.04.2016	350000		57	23.01.2017	150000
17	27.05.2016	50000		58	25.01.2017	600000
18	02.06.2016	100000		59	30.01.2017	600000
19	08.06.2016	50000		60	31.01.2017	500000
20	15.06.2016	200000		61	04.02.2017	800000
21	16.06.2016	100000		62	07.02.2017	800000
22	21.06.2016	100000		63	09.02.2017	250000
23	23.06.2016	600000		64	14.02.2017	200000
24	28.06.2016	200000		65	17.02.2017	800000
25	01.07.2016	200000		66	21.02.2017	800000
26	02.07.2016	200000		67	27.02.2017	150000
27	12.07.2016	150000		68	01.03.2017	700000
28	14.07.2016	150000		69	02.03.2017	500000
29	22.07.2016	100000		70	13.03.2017	200000
30	25.07.2016	600000		71	17.03.2017	200000
31	30.07.2016	100000		72	12.04.2017	200000
32	05.08.2016	300000		73	15.04.2017	100000
33	09.08.2016	200000		74	20.04.2017	150000
34	18.08.2016	200000		75	06.05.2017	50000
35	19.08.2016	600000		76	18.05.2017	600000
36	22.08.2016	300000		77	24.05.2017	500000
37	24.08.2016	200000		78	30.05.2017	200000
38	29.08.2016	100000		79	02.06.2017	200000
39	01.09.2016	100000		80	06.06.2017	125000
40	03.09.2016	500000		81	17.06.2017	300000
41	06.09.2016	200000		82	20.06.2017	200000

83	04.07.2017	300000		91	23.08.2017	400000
84	05.07.2017	200000		92	15.09.2017	1225439
85	12.07.2017	450000		93	27.09.2017	1200000

86	20.07.2017	61000		94	27.09.2017	500000
87	21.07.2017	39000		95	27.09.2017	150000
88	26.07.2017	100000				
89	27.07.2017	100000				
90	03.08.2017	500000				

4. It is not the case of the Applicant that this Corporate Debtor totally defaulted in repaying this loan amount but as to the balance of the due outstanding i.e. ₹40,99,838, though this Applicant made several promises in the past and provided Promissory Note dated 05.07.2019, the debtor company has failed to repay dues outstanding.

5. Till date, this Corporate Debtor has not repaid the balance outstanding. In view of the same, the Applicant issued Demand Notice dated 27.05.2019 demanding the Corporate Debtor to repay the claim amount, but whereas the Corporate Debtor has not complied with the demand made by the applicant herein.

6. To prove that the debt is against time value of money, the Applicant has filed letters sent by the Corporate Debtor dated 21.10.2016 and 13.09.2017 to the applicant seeking short term loan facility owing to shortage of cash to cater the needs of the company.

7. In the said letters, since it has been stated that the Corporate Debtor would repay with interest at 10% and 12%, the Applicant counsel says that these loan disbursements have been made for definite returns over the monies advanced to the Corporate Debtor.

8. As against the case of the Applicant herein, the Corporate Debtor counsel has neither raised dispute that this money has not been advanced against time value of money nor raised any dispute over the credit provided save and except saying that the Corporate Debtor would repay the same provided breathing time is given to the Corporate Debtor.

9. On this proposal placed by the Corporate Debtor counsel, the Applicant counsel having stated that this Corporate Debtor has been reiterating the same request several times but not repaying the claim amount, therefore having insisted upon for admission of the case based on the material provided, we have no option except to passing orders based on the material available on record.

10. For this Applicant has proved existence of debt and default and there being no denial from the Corporate Debtor with respect to

the due outstanding against the Corporate Debtor, we hereby **admit** this Insolvency and Bankruptcy Application by appointing Mr. Nagalingam Muthiah as Interim Resolution Professional (IRP) looking at the consent given by him with directions as follows:

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 **10.10.2019** 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. Nagalingam Muthiah**, **having Registration Number [IBBI/IPA-001/IP-P00774/2017-**

2018/11347], Room No. 708, 7th Floor, Shivalaya Buildings,
"A" Block, Ethiraj Road, Egmore, Chennai-600008, Email:
mnaga2050@gmail.com, Mobile No: 9789055123 as Interim
Resolution Professional 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.

11. Accordingly, this Petition is **admitted**.
12. 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)

SR/TJS