

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

CP (IB) 2683/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Vidarbha Infotech Private Limited,

207 & 208, The Avenue, 2nd Floor, CTS-
1425, Sahara Airport Road, Near Leela
Hotel, Andheri (E), Mumbai- 400059

... Petitioner

Vs.

M/S Shridhar Castings Private Limited,

23, Pushpa Kunj Commercial Complex,
Central Bazar Road, Ramdaspath, Nagpur,
Maharashtra - 440012

... Corporate Debtor

Order delivered on: 17.10.2019

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (J)

Hon'ble Shri V. Nallasenapathy, Member (T)

For the Petitioner: Adv. Sandeep Bajaj, Adv. Disha Ponda

For the Corporate Debtor: Adv. Krishma Shah, Adv. Ravish A. Mishra

Per: V. Nallasenapathy, Member (T)

ORDER

1. Vidarbha Infotech Private Limited (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process against M/S Shridhar castings Private Limited (hereinafter called the 'Corporate Debtor') on the ground that the Corporate Debtor committed default to the extent of ₹12,06,179.84/-, as provided under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereafter called the 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The Petition reveals that there was frequent exchange of monies between the Petitioner and the Corporate Debtor. The total outstanding amount due and payable by the Corporate Debtor to the Petitioner stood at ₹10,00,000/- in the year 2018.
3. The Petitioner submits that the Corporate Debtor approached the Petitioner and requested for conversion of the aforementioned amount of ₹10,00,000/-

into an interest-bearing loan/financial assistance on or before 30.04.2018. Thus, the parties executed a Loan Agreement on 15.04.2018 incorporating the terms through which the Petitioner had granted a term loan of ₹10,00,000/- repayable with an interest at the rate of 15% per annum. The same has been annexed to the Petition in Annexure A-4.

4. The Petitioner enclosed the following documents in support of the debt and default;
 - (a) Loan agreement dated 15.04.2018;
 - (b) Copy of the Returned Cheque dated 31.03.2019 bearing number 569976 along with copy of the corresponding return memo dated 27.05.2019
 - (c) Copy of the Returned Cheque dated 31.03.2019 bearing number 569977 along with copy of the corresponding return memo dated 27.05.2019
5. The Petitioner enclosed the Ledger Account of the Corporate Debtor maintained in the Books of Accounts of the Petitioner for the year 2019-2020 and Statement of outstanding amount with interest calculations for the Term Loan wherein it was found that the total outstanding amount of ₹12,06,179.84/- is due as on 30.06.2019.
6. The Petitioner has also annexed the correspondence dated 03.04.2019, 13.04.2019 and 24.04.2019 between the Petitioner and Corporate Debtor in support of the debt and default.
7. The Petitioner further submits that the copy of the Petition sent to the registered office of the Corporate Debtor was served and affidavit of service to that effect was filed. Subsequently, the petitioner informed the date of hearing to the Corporate Debtor and filed proof of service. The Counsel for the Corporate Debtor admits the liability as well as default. Accordingly, when matter was listed on 23.08.2019, both the sides were present. The Corporate Debtor admitted the liability as well as default. Thus, the matter is reserved for order.
8. The above facts show that the Corporate Debtor defaulted in making the payment towards the liability to the Petitioner and the petition deserves to be admitted.
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 loan 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:

- I. (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.
 - II. 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.
 - III. 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.
 - IV. That the order of moratorium shall have effect from 17.10.2019 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of Corporate Debtor under section 33, 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 the Code.
 - VI. That this Bench hereby appoints, Mr. Ajay Murarilal Agrawal, having his address at 1330, Shriram Kutli, Deshpande Layout, Nagpur, Maharashtra – 440008, having Registration No. IBBI/IPA-001/IP-P01674/2019-2020/12584 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 and the Interim Resolution Professional immediately.

SD/-

V. Nallasenapathy

Member (T)

SD/-

Suchitra Kanuparthi

Member (J)