IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP(IB)No.2794/NCLT/MB/2019
Under Section 7 of the I&B Code, 2016
In the matter of

Punjab National Bank

...Financial Creditor/ Applicant
v/s
Matrix Bizcom Private Limited
...Corporate Debtor

Order Dated 13.12.2019

Coram:
RAJESH SHARMA — Member (Technical)
BHASKARA PANTULA MOHAN — Member (Judicial)

For the Applicant: Adv. Falguni Shete
For the Respondent: Adv. Parul Sharma

Per: Bhaskara Pantula Mohan, Member (Judicial)

ORDER

1. This is an Application being CP 2794(IB)/MB/2019 filed by **Punjab National Bank**, the Financial Creditor / Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Matrix Bizcom Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**) claiming ₹33,68,65,276.08 (Rupees Thirty Three Crore Sixty Eight Lakh Sixty Five Thousand Two Hundred Seventy Six and Paise Eight only) as on the 17.07.2019, including interest on the principal sum of ₹25,00,00,000/- (Rupees Twenty Five Crore Only).

2. This Application is filed by Mr. Dinesh Solankhi, Chief Manager of the Applicant Bank duly authorised vide Letter of Authorisation dated 15.07.2019, which is annexed to the Application.

3. The Applicant vide sanction letter dated 29.09.2015 sanctioned the cash credit facility for a sum of ₹25 Crore only at an interest rate of 12.25% p.a

4. The Applicant has annexed statement of accounts of the Corporate Debtor for the period 29.09.2015 to 12.07.2019 maintained by the Applicant showing the disbursement of the loan amounts. The statement of accounts are accompanied by

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Certificate dated 17.07.2019 under the Banker's Book Evidence Act, 1891.

5. The Applicant has annexed the Hypothecation of Goods and Book Debts to Secure Cash Credit Facility dated 29.09.2015, the Mortgage Deed dated 29.09.2015 executed in favour of the Applicant Bank in support of its claim that there is a financial debt.

6. The Applicant declared the Corporate Debtor's Account as NPA on 30.09.2017 and further, issued Notice dated 09.10.2017 under section 13(2) of the SARFAESI Act, 2002 demanding payment of ₹26,16,38,060/-. The Applicant issued Notice dated 14.12.2018 to the Corporate Debtor under section 13(4) of the SARFAESI Act, 2002. Copies of the Notice under section 13(2) and 13(4) of the SARFAESI Act, 2002 are annexed to the Application.

7. The Applicant has annexed the Commercial Credit Information Report of the Corporate Debtor issued by TransUnion.CIBIL which classifies the asset of the Corporate Debtor as 'doubtful'.

8. The Applicant submits that the Corporate Debtor has acknowledged the debt and its liability to repay the debt amount vide Balance Confirmation Letter dated 13.06.2017 admitting liability to repay ₹24,97,64,522/- as on 31.03.2017.

9. The Corporate Debtor has filed its Affidavit in Reply on 24.09.2019 wherein the Corporate Debtor in para no.11 of the Reply admits that there was delay in payments of the debt amounts due to unavoidable business and economic circumstances.

10. The Corporate Debtor submits that it provided restructuring proposals for repayment of the Loan amounts however the same was not accepted by the Financial Creditor. The Corporate Debtor has annexed copies of the restructuring proposals dated 29.12.2017, 21.03.2108 and 15.03.2019 to the Reply.

11. The Counsel for the Corporate Debtor further stated that as per the RBI Circular dated 01.01.2019 bearing DBR.No.BP.BC.18/21.04.048/2018-19 which provides for One-

Time Restructuring of existing loans to MSMEs classified as 'standard' without a downgrade in asset classification. Copy of the same has been annexed to the Reply.

12. It is seen that the Applicant has intimated to the Corporate Debtor vide Letter dated 31.05.2019 that The Corporate Debtor can visit the Bank with a One Time Settlement plan under the Stressed MSME Assets for scheme of resolution. Copy of the letter dated 31.05.2019 is annexed to the Reply.

13. The Corporate Debtor has failed to provide one time settlement offer under the abovementioned scheme.

14. We have heard the Applicant and perused the records.

15. On perusal of records filed by the Applicant Bank, the financial Debt is established by the Sanction Letter dated 29.09.2015 and the other loan related documents such as the Hypothecation Agreement and mortgage Deed dated 29.09.2015.

16. On perusal of the Notice dated 09.10.2017 issued by the Applicant under section 13(2) of the SARFAESI Act, 2002 demanding the due amount of ₹26,16,38,060/- and Notice dated 14.12.2018 issued under section 13(4) of the SARFAESI Act, 2002, it is established that the Corporate Debtor has defaulted to repay the loan amount. The date of default being the date of classification of the Corporate Debtor's account as NPA, being 30.09.2017.

17. On perusal of the Balance Confirmation Letter dated 13.06.2017 of the Corporate Debtor acknowledging the Debt and admitting liability to repay ₹24,97,64,522/- as on 31.03.2017, it is established that the Corporate Debtor has defaulted in making payments.

18. The Applicant has proposed the name of **Mr Arun K. Bagaria**, a registered insolvency resolution professional having Registration Number **[IBBI/IP-N00278/2017-18/10836]** as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code 2016, along with his declaration in Form 2, that no disciplinary proceedings are pending against him.

19. The Application filed under Section 7 of I&B Code, 2016 is complete. The existence of financial debt of more than Rupees One Lakh against the Corporate Debtor and its default is also proved. Accordingly, the application filed under section 7 of the Insolvency and Bankruptcy Code for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor deserves to be admitted.

ORDER

This Application filed under Section 7 of I&B Code, 2016, filed by **Punjab National Bank,** Financial Creditor /Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Matrix Bizcom Private Limited** Corporate Debtor for initiating corporate insolvency resolution process is admitted. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

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 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 the moratorium period.

III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to-

a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

b. a surety in a contract of guarantee to a corporate debtor.

IV. That the order of moratorium shall have effect from the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.

VI. That this Bench appoints **Mr Arun K. Bagaria**, a registered insolvency resolution professional having Registration Number **[IBBI/IP-N002788/2017-18/10836]** as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.

20. The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today**

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
BHASKARA PANTULA MOHAN
Member (Judicial)

13.12.2019

Certified True Copy
Copy Issued "free of cost"
On 17/12/2019

Assistant Registrar
National Company Law Tribunal Mumbai Bench