IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP(IB)No.1647/NCLT/MB/2019
Under Section 7 of the I&B Code, 2016
In the matter of

Corporation Bank

…Financial Creditor/ Petitioner
v/s
Tasgaonkar Blossom Private Limited
...Corporate Debtor

Order Dated 19th August 2019

Coram: Hon'ble Member (Judicial) : Mr. V.P. Singh
Hon'ble Member (Technical): Mr Rajesh Sharma

For the Petitioner : Adv.Prakash Shinde, Darshit Dave, Nishit Dhruva, M. Swati
For the Respondent: None Present

Per: V.P. Singh, Member (Judicial)

ORDER

1. This is a petition filed on 24.4.2019, being CP 1647(IB)/MB/2019 filed by **Corporation Bank,** body corporate constituted under the Banking Companies (Acquisitions and Transfer of Undertakings) Act, 1980, the Financial Creditor or Petitioner, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Tasgaonkar Blossom Private Limited,** Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).

2. The Petition is filed claiming a total default of ₹18,24,72,433/- (Rupees Eighteen Crore Twenty Four Lakh Seventy Two Thousand Four Hundred and Thirty-Three only) as on 31.03.2019. The Petition is filed by Mr Raj Kumar, the Assistant General Manager of the Financial Creditor, that provided financial assistance by providing loan to the Corporate Debtor, a company registered under the Companies Act, 1956.

3. The Petitioner submits that a sum of ₹57,61,422/- (Rupees Fifty Seven Lakh Sixty One Thousand Four Hundred and Twenty Two only) was granted as Funded Interest Term Loan (FTIL) and Agricultural Term Loan (ATL): ₹9,68,35,170/- (Rupees Nine Crore Sixty Eight Lakh Thirty Five Thousand One Hundred and

Seventy only) and disbursed as a loan to the Corporate Debtor by the Petitioner as per the Sanction Letter dated 24.12.2011 and DT. 28.06.2014. Copies of the sanction Letters are annexed to the Petition.

4. The Petitioner and the Corporate Debtor executed various deeds and documents about the Loans extended to the Corporate Debtor. The Petitioner has annexed the following documents to establish the existence of debt, Deed of Hypothecation of movable assets, goods, stocks etc, dated 07.11.2012;Deed of simple Mortgage of land situated at Dattanagar, Paltan, Maharashtra, dated 11.10.2012; Several Guarantee Agreements executed between the Petitioner, the Corporate Debtor and the Corporate Debtor's group companies on different dates viz. 07.11.2012 and 30.06.2014; Term Loan Agreement executed between the Petitioner and the Corporate Debtor dated 30.06.2014; The Corporate Debtor also issued an On-Demand Promissory Notes dated 07.11.2012 for a sum of ₹75,00,000/- and ₹9,75,000/- (Rupees Nine Lakh Seventy Five Thousand only) in favour of the Petitioner.

5. The Petitioner has issued Recall Notice recalling the loan facility extended to the Corporate Debtor on 29.12.2016. Copy of the recall notice is annexed to the Petition.

6. The Petitioner submits that the Corporate Debtor had offered a One Time Settlement proposal on 06.07.2017 to the Petitioner. Copy of the OTS proposal is annexed to the Petition.

7. The Petitioner as directed by order of this Bench dated 10.06.2019 has served a copy of the Petition to the Corporate Debtor on 22.04.2019 and the Notice intimating the next date of hearing was issued to the Corporate Debtor on 18.06.2019. The Petitioner has filed the affidavit of service dated 03.07.2019 along with the postal receipt and postal track report.

8. The Corporate Debtor has failed to appear and file its reply despite being served with the Notice. By order dated 03.07.2019, this Bench granted sufficient opportunity to present

its reply within seven days. However, Corporate Debtor has not filed any reply.

9. We have heard the parties and perused the records.

10. The Petition is filed by Mr Raj Kumar, the Assistant General Manager of the Financial Creditor authorised vide Authority Letter dated 11.04.2019.

11. The Petitioner claims a due of ₹18,24,72,433/- (Rupees Eighteen Crore Twenty Four Lakh Seventy Two Thousand Four Hundred and Thirty-Three only) including interest as on 31.03.2019.

12. The Petitioner has extended funded interest term loan and Agricultural Term Loan to the Corporate Debtor under Sanction Letter dated 24.12.2011 and Sanction letter dated 28.06.2014 respectively. Copies of the Sanction Letters are annexed to the Petition. Copy of Term Loan Agreement dated 30.06.2014 and the Guarantee Agreements dated 07.11.2012 are also annexed to the Petition.

13. The account of the Corporate Debtor was declared as NPA on 29.11.2016 and NPA Certificate dated 01.04.2019 is annexed to the petition. The sanction letters, the term loan agreements, the guarantee agreements establish the Debt.

14. The NPA Certificate, the Demand promissory notes dated 07.11.2012 issued in favour of the Petitioner by the Corporate Debtor, the OTS proposal issued by the Corporate Debtor to the Petitioner dated 06.07.2017, the Statement of accounts of the Corporate Debtor for the period 01.04.2012 to 31.03.2017 along with certificate under the Bankers Book Evidence Act 1891 are annexed to the petition and establish the fact that the Corporate Debtor has defaulted in making the repayment.

15. The debt amount of more than Rs One Lac and default by the Corporate Debtor has been established. The application is complete.

16. The Petitioner has proposed the name of Mr. Mahesh Sureka, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P00413/2017-18/10736] as Interim

Resolution Professional, to carry out the functions as mentioned under I&B Code, and given his declaration; no disciplinary proceedings are pending against him.

17. The Application under sub-section (2) of Section 7 of I&B Code, 2016 is complete. The existing financial debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the petition 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 petition filed under Section 7 of I&B Code, 2016, presented by **Corporation Bank**, Financial Creditor / Petitioner against **Tasgaonkar Blossom Private Limited**, Corporate Debtor for initiating corporate insolvency resolution process is at this moment **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 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 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 at this moment appoints **Mr.Mahesh Sureka**, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P00413/2017-18/10736] 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.

18. The Registry is at this moment 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/-
V.P. SINGH
Member (Judicial)

19th August 2019