NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

CP/715/(IB)/CB/2017

Under Section 7 Rule 4 of the IB Code, 2016

In the matter of M/s. Dreams System Private Limited

M/s. RKTC Logistics Private Limited
(CIN: U63090TN2010PTC075039)
.....Financial Creditor

V/s

M/s. Dreams System Private Limited
(CIN: U30007TN2008PTC068326)
.....Corporate Debtor

Order delivered on: 02.04.2018

Coram:
K. ANANTHA PADMANABHA SWAMY, MEMBER (J)
S. VIJAYARAGHAVAN, MEMBER (T)

For the Petitioner/FC: Shri. Rohan Rajasekharan, Advocate
For the Respondent/CD: Ex-Parte

ORDER

Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)

1. Under Consideration is a Company Petition filed by M/s. RKTC Logistics Private Limited (in short, **"Petitioner/Financial Creditor"**) against M/s. Dreams System Private Limited (in short, **"Respondent/Corporate Debtor"**) under section 7 of the Insolvency and Bankruptcy Code 2016 (In short, **'IB Code 2016'**) r/w Rule 4 of the Insolvency &

Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, **'IB Rules 2016'**).

2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.

3. The petitioner/FC is a Private Limited Company incorporated under the Companies Act, 1956, having its registered office at Old No.20, New No.20 Buddha Street, Ashoka Avenue, Kodambakkam Chennai Chennai-600024. Whereas the respondent company, is a Private Limited Company incorporated under the Companies Act, 1956, having its registered office at Old No.56, New No.61, Kamarajar Salai Ashok Nagar Chennai Chennai-600083. The Respondent Company is engaged in the business of manufactures, buyers, sellers and dealers in computer hardware, computer peripherals, accessories and all other computers related products, dealers in computer software and other information technology products etc.

4. The learned counsel appearing on behalf of the Petitioner/FC submitted that as per given representation/assurance/guarantees of the Corporate Debtor, the petitioner had on several occasions advanced interest free loans repayable on demand. The account

of the Financial Creditor with Corporate Debtor was running and continuous. It is also been submitted that the corporate Debtor had borrowed money for business and director of the financial Creditor being an erstwhile Director of the Corporate Debtor provided the said loan facility. A total sum of Rs.1,69,24,100/- was advanced to the Corporate Debtor, of which an amount of Rs.1,14,70,100/- was repaid by the Corporate Debtor on various dates to the Applicant/Financial Creditor. The outstanding balance payable to Financial Creditor is arrived at to be Rs.54,54,100/- for the period from 2010 till 31.03.2017.

5. It is further submitted that the petitioner, after making several notices to Corporate Debtor for settling the loan amount and having waited for a long period of time for legitimate loan amount, has filed the application under section 7 of the IBC, 2016 r/w rule 4 before this Tribunal and sent notice to Corporate Debtor and also served a copy of this application with documents as bound books, which has been duly acknowledged. An affidavit of service has been filed to this effect. The Financial Creditor has prayed for initiating Corporate Insolvency Resolution Process against the Respondent/CD.

6. Before proceeding with the matter, it is necessary to mention herein that the Applicant/FC has sent notice to Respondent/CD at Registered office address which was not delivered. The proof of the same is also placed on file. Thereafter, as per the direction of this Bench, the Financial Creditor has also sent private notices to the Registered Office of the Corporate Debtor which were returned with an endorsement "Left" and also made Paper publication. The copy of the notice and track delivery report are placed on record along with an affidavit. It appears that the Corporate Debtor is deliberately avoiding to cause appearance in the matter before this Adjudicating Authority. The Service of notice on the Corporate Debtor is held sufficient and the Respondent was set ex-parte vide order dated 12.02.2018 due to non-appearance on several occasions. It was further submitted by the petitioner that the Respondent has not made any payment towards the subject financial debt with a view to maintain a good relationship with the respondent, various gentle reminders were given by the petitioner, but to their dismay, and nothing was fruitful. Therefore there are no submissions nor any pleadings on behalf the Respondent/CD by appearing before this Adjudicating Authority in spite of several occasions. The petitioner has also placed on record, proof of

sending notices. It is seen that one of the Directors of the petitioner company is also a Director in the respondents company. Earlier, this Tribunal had asked that the applicant company should file an affidavit enclosing therewith any information given by the concerned Director to the Board of Directors of the applicant company as it is a related party transaction. The Petitioner company has filed the minutes of the Board Meeting wherein the transaction was noted.

7. The Petitioner/FC has complied with all the requirements as stipulated under the provisions of the I&B Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process.

8. After hearing submissions of the counsel for the petitioner and having perused the record, this Adjudicating authority is satisfied that the petitioner has clearly made out a case by establishing that the Corporate Debtor has defaulted on payment of dues on various occasions to the petitioner. Also, the petitioner has proved by placing overwhelming evidence viz. Invoices, Demand Notice, financial transactions and Bank statements which reveal that default have occurred for which the Corporate Debtor was responsible. In the circumstances, we are satisfied with the submissions put forth by the learned

counsel for the petitioner, and hence we hereby inclined to admit the instant petition.

9. The instant petition is admitted and we order the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

10. We appoint Shri C. Ramasubramaniam as Interim Resolution Professional (IRP) proposed by the Operational Creditor. There is no disciplinary proceedings pending against the IRP and his name is reflected in IBBI website. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I &B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

11. We declare the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process for the purposes referred to in Section 14 of the I&B Code, 2016. We order to prohibit all of the following, 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 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.*

12. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

13. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016. Accordingly, the application is admitted.

14. The Petitioner/FC as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

15. The Registry is also directed to communicate this Order to the Financial Creditor and the Corporate Debtor.

16. The address details of the IRP are as follows: -

Mr. C.Ramamsubramaiam,
Regn No: (IBBI/IPA-002/IP-N00052/2016-17/10096)
G-4, RMC Flats, No.1,
Venkatesapuram Colony,
Vadapalani, Chennai-600026.
E-Mail: fcs.rms@gmail.com
Mobile No: 9884068292

S. Vijayaraghavan

(S.VIJAYARAGHAVAN)
MEMBER (TECHNICAL)

(K.ANANTHA PADMANABHA SWAMY)
MEMBER (JUDICIAL)

tjs / pb

NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH

Certified to be True Copy

G. Loganathan 3/4/18
DEPUTY REGISTRAR
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI BENCH
CORPORATE BHAVAN, 3rd FLOOR
29, RAJAJI SALAI, CHENNAI-600001.