

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP (IB) 3045/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Ahmednagar Merchant's Co-Operative Bank
Limited,

Regd. Office: - Plot No. 33, Market Yard,
Station Road, Ahmednagar- 414001.

... Petitioner

V/s.

Ujwal Electrical Stampings Private Limited,
Plot No. L-31, MIDC Industrial Area,
Ahmednagar-414111.

... Corporate Debtor

Order delivered on: 04.11.2019

Coram:

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

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

For the Petitioner: Adv. Sureshkumar R. Firodiya

For the Corporate Debtor: None Present

Per: - V. Nallasenapathy, Member (Technical)

ORDER

1. Ahmednagar Merchant's Co-operative Bank Limited (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process against Ujwal Electrical Stampings Private Limited (hereinafter called the 'Corporate Debtor') on the ground that the Corporate Debtor committed default to the extent of Rs. 13,11,09,649/- (Rupees Thirteen Crore Eleven Lakh Nine Thousand Six Hundred Forty-Nine only) 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 on 06.06.2016 the Corporate Debtor approached the Petitioner and requested the Petitioner to take over the loan facilities granted by Small Industrial Development Bank of India (SIDBI) to the Corporate Debtor and also requested for grant of certain additional facilities and thereby requested the Petitioner to sanction facilities to the extent of Rs. 10,50,00,000/-. The following is the details of the loan sanctioned by the Petitioner on 18.07.2016 to the extent of Rs. 10,25,00,000/-:

Sr. No.	Particulars	Sanction Amount Rs.						
1.	Hypothecation Loan	1,25,00,000.00						
2.	Hypothecation Term Loan	25,00,000.00						
3.	Letter of Credit (Inter changeable)	25,00,000.00						
4.	Machinery SSI Loan (Rupees in Lakhs)	8,50,00,000.00						
	<table border="1"> <tr> <td>SIDBI</td> <td>SIDBI</td> <td>Merchant Bank</td> </tr> <tr> <td>435.00</td> <td>250.00</td> <td>165.00</td> </tr> </table>	SIDBI	SIDBI	Merchant Bank	435.00	250.00	165.00	
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435.00	250.00	165.00						
	Total	10,25,00,000/-						

3. The Petitioner directly remitted the loan due, payable by the Corporate Debtor to SIDBI and IDBI, to the account of SIDBI and IDBI. The Corporate Debtor, on 21.07.2016, executed a deed of agreement to mortgage, in favour of the Petitioner bank, wherein the Petitioner has undertaken to mortgage certain properties after making payment to SIDBI and after getting the redemption deed from SIDBI and IDBI in respect of certain properties which were mortgaged with SIDBI and IDBI. The said agreement was registered on the file of Ahmednagar No. 1 sub-registrar.

4. The Corporate Debtor executed the following documents as security for the facilities sanctioned:

- A. Pronote dated 21.07.2016 for Rs. 1,50,00,000/-
- B. Agreement of hypothecation dated 21.07.2016 for Rs. 1,50,00,000/-
- C. Letter of continuity in respect of promissory note
- D. Letter of guarantee executed by the Directors in their personal capacity.
- E. Promissory note dated 22.07.2016 for Rs. 8,50,00,000/-.
- F. Deed of hypothecation dated 02.07.2016 for Rs. 8,50,00,000/-
- G. Promissory note dated 22.07.2016 for Rs. 2,50,00,000/-
- H. Term loan agreement dated 22.07.2016.
- I. Deed of guarantee dated 22.07.2016 for Rs. 2,50,00,000/-

5. The Petitioner enclosed the details of loan due, statement of account and the default committed by the Corporate Debtor. It is submitted that the account was classified as Non-performing Asset as on 22.05.2017 as per the norms of the Reserve bank of India. The above facts clearly proves that the Corporate Debtor availed the facilities granted by the Petitioner and defaulted in repayment of the facilities availed.

6. The Petitioner, on 12.01.2018, issued a legal notice through an Advocate to SIDBI with a copy to the Corporate Debtor, its Directors and IDBI seeking certain details, failing which necessary legal action will be against SIDBI and its officers. The letter reveals that SIDBI has issued possession notice in respect of the

Properties mortgaged to SIDBI by the Corporate Debtor claiming a sum of Rs. 8,52,99,188/- from the Corporate Debtor. Hence, the Petitioner issued the legal notice cited above.

7. The Petitioner further submitted that the concerned officers of the SIDBI in collusion with the Corporate Debtor and its Directors committed fraud against the Petitioner and caused financial loss to the Petitioner. It is further submitted that the Petitioner is initiating separate criminal action against the Corporate Debtor, its Directors and officers of SIDBI.

8. The Counsel for the Petitioner submits that the copy of the petition sent to the branch 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. However, there is no appearance on the side of the Corporate Debtor.

9. This Adjudicating Authority, on hearing the submissions of the Counsel for the Petitioner and on-going through the Form-1 filed by the Petitioner and the relevant enclosures, it is clearly established that the Corporate Debtor committed default 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 04.11.2019 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, C.A. Fanendra Harakchand Munot, having his address at Office 6th Floor, Mafatlal House Building, H. T. Parekh Marg, Backbay Reclamation, Mumbai-400020 having Registration No. IBBI/IPA-001/IP-P00515/2017-18/10916 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)