

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

CP (IB) No.4479/MB-IV/2019

Under Section 7 of the I&B Code, 2016

In the matter of:

Inventure Finance Private Limited

[CIN: U65990MH1990PTC056454]

...Financial Creditor/Applicant

V/s

**Mahabali Innovative Technologies
Private Limited**

[CIN: U33005MH1996PTC099218]

...Corporate Debtor/Respondent

Order Dated: 12.04.2022

Coram:

Mr. Rajesh Sharma
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner(s) : Mr. Nishant Rana, Advocate.

For the Respondent(s) : Mr. Prashant Bare i/b Bare Legal
Chamber, Advocate.

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. This is an application being C.P. (IB) No. 4479/MB/C-IV/2019 filed by Inventure Finance Private Limited, the Financial

Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) against Mahabali Innovative Technologies Private Limited, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (CIRP).

2. The Application is filed by Mr. Deepak Navinchandra Shah, Associate Vice President of Financial Creditor vide its Board Resolution dated 04.12.2019, claiming total default of Rs.55,60,031/- (Rupees fifty-five lakh sixty thousand thirty-one only) which includes:

Principal Amount of Rs.35,00,000/-

Interest of Rs.20,60,031/-

3. The Date of Default as mentioned in the Petition is 31.03.2018. The Petition is filed on 10.12.2019.
4. The case of the Financial Creditor is as under:
 - a) The Financial Creditor granted Loan to the Corporate Debtor of Rs.1,00,00,000/- (Rupees one crore only). The Loan Agreement (Inter Corporate Deposit) dated 27.07.2011 for one year was executed between Financial Creditor and the Corporate Debtor. The amount was disbursed on 28.07.2011.
 - b) The Corporate Debtor has executed Promissory Note dated 28.07.2011. The Corporate Debtor sent letter dated 06.08.2012 and dated 25.01.2013 requesting the renewal of Loan Agreement for further 6 months.
 - c) The Corporate Debtor has paid interest amount till September, 2016. The last Cheque was received by the Financial Creditor

against interest is on 06.10.2016. Thereafter, the Financial Creditor has not received any payment towards the interest.

- d) The Account of the Corporate Debtor turned NPA on 31.03.2018. The Financial Creditor addressed letter dated 03.07.2018 for demanding pending dues amount. The Corporate Debtor addressed letter dated 16.07.2018 to the letter dated 03.07.2018 stating that the Corporate Debtor will start to make payment after 3-4 months.
- e) Thereafter, the Financial Creditor addressed letter dated 14.12.2018 with the reference to letter dated 16.07.2018 addressed by the Corporate Debtor for demanding pending dues amount. The Financial Creditor has addressed various letters dated 27.04.2018, 03.07.2018, 14.12.2018, 10.04.2019, 21.05.2019, 03.10.2019 and 09.07.2019 for demanding dues amount.
- f) The Corporate Debtor addressed letter dated 27.06.2019 with reference to letter dated 21.05.2019 addressed by the Financial Creditor and directed to adjust security deposit provided by the Corporate Debtor against the interest due on loan of Rs.3,31,427/-.
5. The Financial Creditor has submitted his Bank Statement held of HDFC Bank for the period from 01.07.2021 to 30.07.2021 which is at p.67 of the Petition. The Financial Creditor has also submitted the Ledger Accounts which is at pp. 53-66 of the Petition.
6. The Corporate Debtor has filed its reply dated 04.02.2020 and submitted as under:
- a) The Corporate Debtor was incorporated on 1st May, 1996 under the Companies Act, 1956 with the object of trading of Video based product for photographer for editing/ mixing and subsequently

entered into software development and manufacturing by importing proprietary hardware also later entered into Broadcast related Products, the business of Corporate Debtor was highly successful.

- b) In the year April 2010 the Corporate Debtor approached IDBI Bank for Working Capital Facility which was sanctioned.
- c) During the period of September, 2010, the Corporate Debtor also attracted PE investment from NEA Indo US Venture Capital LLC. Hence, Board of Directors had decided to expand the business. Therefore, immediately thereafter Corporate Debtor approached SIDBI in the year 2011. The Corporate Debtor had received loan sanctioned from SIDBI.
- d) The Corporate Debtor was going well and making profit. However, due to sudden and rampant changes in technologies and faced with severe competition, the Corporate Debtor had started making huge loss. Thereafter, immediately in the year 2013, the Corporate Debtor appointed financial consultant to revive the Corporate Debtor. However, there was no scope for revival of the Corporate Debtor.
- e) In and around 2014 accounts of the Corporate Debtor with IDBI Bank and SIDBI were classified as NPA. Thereafter, litigations have been started with IDBI and SIDBI.
- f) The Corporate Debtor is not in a position to repay loan amount of Financial Creditors and the invoice amounts raised by the Operation Creditors.
- g) The Corporate Debtor passed resolution in the Board Meeting dated 6th March, 2019 to initiate Corporate Insolvency Process and

accordingly Corporate Debtor has approached Insolvency Professional Mr. Hemanshu Kapadia, he has provided his consent for the same through Form 2 and thereafter held Extra-ordinary General Meeting on 1st April, 2019 accordingly passed the Resolution of Corporate Insolvency Resolution Process.

- h) The Corporate Debtor is unable to repay the amount of Operation Creditors as well as Financial Creditors and hence defaults have been committed by the Corporate Debtor.
- i) Therefore, Corporate Debtor has filed Petition under Section 10 of Insolvency Bankruptcy Code, 2016 before this Tribunal on 11th April, 2019 and served filed Petition under section 10 of IBC, 2016 to Registrar of Companies, Mumbai on 23rd April, 2019 and the said Petition is pending before this Tribunal.

Findings:

- 7. We have heard the arguments of the Learned Counsel for both the parties and perused the records.
- 8. It is observed by the Bench that the Corporate Debtor has admitted its liability in its reply stating that the Corporate Debtor is not able to pay the dues of the Financial Creditor. Further, the Corporate Debtor has filed section 10 Petition with this Tribunal because of inability to pay debt of the Creditors.
- 9. After perusal of the material on record, this Bench is of considered view that there is no reason to deny the Petition under section 7 filed by the Financial Creditor to initiate the CIRP against the Corporate Debtor as the Corporate Debtor himself has admitted its liability.

10. On perusal of the documents submitted by the Applicant, it is clear that financial debt amounting to more than Rs.1,00,000/- (Rupees One Lakh Only) is due and payable by the Corporate Debtor to the Applicant. There is default by the Corporate Debtor in payment of debt amount. Therefore, we do not have any objection on record against the application filed for initiation of CIRP against the corporate debtor. Hence, the Application filed by the Financial Creditor is liable to be admitted.
11. The application is complete and has been filed under the proper form. The debt amount is more than Rupees One Lakh and default of the Corporate Debtor has been established.
12. The Applicant has proposed the name of Mr. Kairav Anil Trivedi, a registered insolvency resolution professional having Registration Number [IBBI/IPA-002/IP-N00728/2018-19/12332] as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code and has also given his declaration that no disciplinary proceedings are pending against him.

ORDER

This Application being C.P. (IB) No. 4479/NCLT/MB/C-IV/2019 filed under Section 7 of I&B Code, 2016, filed by Inventure Finance Private Limited, Financial Creditor/ Applicant against Mahabali Innovative Technologies 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 subsection (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. Kairav Anil Trivedi, a registered insolvency resolution professional having Registration Number [IBBI/IPA-002/IP-N00728/2018-19/12332], E-mail: kairavtrivedi2002@yahoo.co.in 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.
- e) The Financial Creditor shall deposit a sum of Rs.5,00,000/- (Rupees five lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- f) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor.
- g) 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 Whats App. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

Kishore Vemulapalli
Member (Judicial)

12.04.2022

Sd/-

Rajesh Sharma
Member (Technical)