

Sr.no. 278/2019

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IN THE NATIONAL COMPANY LAW TRIBUNAL

JAIPUR BENCH (RAJASTHAN)

CP No. (IB)-113/7/JPR/2019

**CORAM: MS. INA MALHOTRA,
HON'BLE JUDICIAL MEMBER
SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER**

IN THE MATTER OF SECTION 7 OF IBC, 2016.

IN THE MATTER OF:

**M/s Bhala Finance Pvt. Ltd.
6-B 4th Floor, Man Upasana Plaza,
C-44, Sardar Patel Marg, C-Scheme,
Jaipur(302001) Rajasthan**

...FINANCIAL CREDITOR/APPLICANT

**M/s Sokhal Dream Builder LLP
105, Ganpati Enclave, Central Spine,
Vidhyadhar Nagar, Jaipur(302039) Rajasthan**

...CORPORATE DEBTOR/RESPONDENT

FOR PETITIONER (S) : Vikas Jain, Adv.

FOR RESPONDENT(S) : None-appeared



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Bhala Finance Pvt. Ltd.
Vs.

M/s Sokhal Dream Builder LLP

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(के. एल. कौशिक)
(K. L. Kaushik)

कोर्ट ऑफिसर
Court Officer

राष्ट्रीय कम्पनी विधि अधिकरण
National Company Law Tribunal

जायपुर, राजस्थान
Jaipur, Rajasthan

Order pronounced on: -11.10.2019

ORDER


Per: Ms. Ina Malhotra (Judicial Member)

1. The petitioner as the Financial Creditor has filed this present petition under Section 7 of the Insolvency and Bankruptcy Code, praying for initiation of Corporate Insolvency Resolution Process (CIRP) of the respondent company for its inability to liquidate its financial debt.
2. As per averments, the petitioner is a Non-Banking Financial Company and at request of the Corporate Debtor, had provided a business loan of Rs. 40,00,000/- (Rupees Forty Lakh Only) to them vide a loan agreement dated 23.08.2018. The Corporate Debtor had agreed to repay the aforesaid loan amount together with interest at the rate of 24 per cent per annum. It is submitted that as per the agreed terms, the loan was to be repaid by 30.09.2018. The Corporate Debtor has however failed to liquidate this outstanding liability. Despite the repeated requests and reminders followed up by notice dated 13.11.2018, no steps were taken to liquidate or reduce the liability. In view of the aforesaid, the petitioner is constrained to file the present petition seeking Corporate Insolvency Resolution Process (CIRP) of the respondent Company.



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Jaipur, Rajasthan

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3. Upon notice being issued by the Bench, none appeared on behalf of the Corporate Debtor despite service being effected. In view of the same the Corporate Debtor was proceeded ex-parte.
4. A perusal of the documents on record corroborates the submission made by the Financial Creditor. The disbursement of the loan amount is corroborated by the banking transaction dated 23.08.2019 whereby after deduction of necessary processing and other charges, a sum of Rs. 39,44,000/- (Thirty Nine Lakh Forty Four Thousand) was transferred to the account of the Corporate Debtor. The loan agreement executed between the parties granting the financial assistance has been placed on record. To avail the same and secure its repayment, the Corporate Debtor had also offered equitable mortgage of immovable property bearing Khasra No. 198, Rakba, 17 Bigha, 12 Biswa (Barani) situated at Khanpur, Tehsil Ladnu, District Nagpur, Rajasthan and their charge over the said property has also been recorded. In addition, the Corporate Debtor had also issued a cheque bearing No. 000007 of Rs. 41,06,301/- (Forty One lakh Six Thousand Three Hundred One) which returned dishonoured on grounds of Insufficient Funds.

5. The factum of availing financial assistance by the Corporate Debtor is evidenced by the documents on record. As the Corporate Debtor failed to appear in Court to repudiate any allegation, the prayer of the petitioner



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merits consideration. The petition is therefore admitted and the CIRP is initiated against the respondent Company. Accordingly, a moratorium in terms of Section 14 comes into effect forthwith:

Staying: (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 less or where such property is occupied by or in the possession of the Corporate Debtor.

Further: (2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) The provisions of sub-section (1) shall not apply to-

(a) such transaction as may be notified by the Central Government in consultation with any financial regulator;

(b) a surety in a contract of guarantee to a Corporate Debtor.

(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

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Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of Corporate Debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.

6. The Financial Creditor has proposed the name of Mr. Satyendra Prasad Khorania having registration No. IBBI/IPA-002/IP-N00002/2016-2017/10002, E-mail Id: skhorania@live.com, Mobile No: 9352132134 as the Interim Resolution Professional. His consent and certificate of registration are on record. We accordingly confirm the appointment of Mr. Satyendra Prasad Khorania as the IRP in this case. He is directed to take all such steps as are statutorily required under the Code inter-alia under Sections 15,17,18,20 and 21 and file his report before this Bench on or before 20.11.2019.



(RAGHU NAYYAR)
TECHNICAL MEMBER



(INA MALHOTRA)
JUDICIAL MEMBER

Shikha



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