

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

**CP (IB) No. 2758/MB/2019**

Under section 10 of IBC, 2016

In the matter of

**Paharia Textile Mills Private Limited,  
(CIN-U17110MH1993PTC073129)**

Jai Hind Estate No 2A, 2nd Floor, Dr. A M Road,  
Mumbai City-400062, Maharashtra India

.... Corporate Applicant

Order delivered on: 16.05.2022

***Coram:***

Mr. Prabhat Kumar

Hon'ble Member (Technical)

Mr. Kishore Vemulapalli

Hon'ble Member (Judicial)

***Appearances (via videoconferencing):***

For the Applicants

:

None Present

**ORDER**

***Per: Kishore Vemulapalli, Member Judicial***

1. This Company Petition is filed by Paharia Textile Mills Private Limited (hereinafter called Corporate Applicant), under Section 10 of Insolvency and Bankruptcy Code 2016 ("the Code") read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, for initiation of Corporate Insolvency Resolution process.
2. The Corporate Applicant says that its registered office is at Jai Hind Estate No. 2A, 2nd Floor, Dr. A M Road, Mumbai City-400062,

Maharashtra India, incorporated on 26/07/1993 vide CIN U17110MH1993PTC073129 on the file of Registrar of Companies, Mumbai, having paid up share capital of Rs. 1,20,00,000/-.

- 2.1 The Corporate Applicant submits that they are engaged in the business of weaving and finishing of textiles.
- 2.2 The Corporate Applicant had earlier resorted to buying raw material in view of likely rise in prices, however, this business strategy backfired in view of recession and the Corporate Applicant was saddled with high inventories. In order for survival, the Corporate Applicant had to give more discounts and credits to its customers and consequently, it started increasing the losses of the Corporate Applicant. Around the same time, the rate of interest was increased by the banks in September 2008 from 0.75% below BPLR to BPLR at 13.25% p.a. (As per internal credit rating of bank) and the Corporate Applicant's plea to retain the same rate of interest was denied by the bank. The account of the Corporate Applicant has been classified as NPA on 31.12.2008 and notice for Demand has been served on 09.01.2009.
- 2.3 The Corporate Applicant has submitted a copy of Special Resolution passed by the Members in their Extra Ordinary General Meeting held on 23.05.2019 for initiating Corporate Insolvency Resolution Process u/s 10 of Insolvency & Bankruptcy Code. The Board of Directors of the Corporate Applicant in their meeting held on 24.05.2019 authorised Mr.

Shikharchand Mohanlal Paharia, to file necessary application under the Code.

- 2.4 The Corporate Applicant has disclosed that a sum of Rs. 67,52,000/- is due to Unsecured Financial Creditors and a sum of Rs. 7,85,36,000/- is due to the Operational Creditors (secured/unsecured creditors) which is in default.
- 2.5 However, in January 2009, there was a massive fire in unit of the Corporate Applicant (on 17.01.2009) due to which he incurred a loss of goods to the extent of Rs. 12.10 Crore and the damage to the building was of about Rs. 50 lacs. Additionally, all the accounting records i.e. all vouchers, bills, registers get destroyed in fire. The factory is closed from 17.01.2009 till date.
- 2.6 The Corporate Applicant received Rs. 4.86 Cr against insurance claim from insurance company and the same was deposited in bank on 25.05.2010, which was initially kept in escrow account as ordered by DRT, Mumbai. The same has been taken by secured creditors against their overdues.
- 2.7 The Corporate Applicant submits that after the fire, the Corporate Applicant could not dispatch its goods to the creditors, due to which they went to other suppliers and even an amount overdue and receivables from all these parties would not be recovered. Since then, the outstanding balance reflected in the books of accounts remains mostly same.
- 2.8 The Corporate Applicant submits that from year 2010-2013 scale of turnover of the Corporate Applicant drastically fall and the Corporate Applicant is almost at the stage where it is facing

massive losses and due to which, it is unable to maintain the accounts of the operational creditors regular and as a result of which, has made default in their accounts.

- 2.9 The Company has stated the list of creditors whose Debt is outstanding and unpaid as on date in Exhibit "C" of the Affidavit of service submitted by the Corporate Applicant. The total amount of default of debt stands at Rs. 8,52,87,531.50/- (Rupees Six Crores Fifty Four Lacs Sixty Five Thousand Seven Hundred Ninety Eight and Paise Sixty One only). The Company is unable to pay the Creditors the amounts due to them and thus has defaulted on the Debt payment to the 2 Governmental Departments, 17 Operational Creditors and 3 Unsecured Financial Creditors of the Company. The Company has stated the details of Creditors in the list of Creditors whose debt is outstanding and unpaid as on date.
- 2.10 The Default in payment and the inability of the Company to pay any of its debt has led to the application by the Corporate Applicant for initiating Corporate Insolvency Resolution Process in the matter of self and it has sought approval of its members for filing section 10 petition under the code vide Board Resolution passed in the Board Meeting of the Company convened 24.05.2019.
- 2.11 Further, the Corporate Applicant has also enclosed the audited financial statements for the years, 2016-17 and 2017-18 and the provisional financial statements for the period from 1.4.2019 to 30.05.2019 (i.e. 14 days before filing the application).

3. On reading the Petition and the supporting documents annexed with the Petition, this Bench is of the view that the Corporate Applicant has committed default and the Petition contains the particulars as required u/s 10 of the Code and that the Corporate Applicant is not disqualified U/s 11 of the Code. Hence, this Bench hereby **admits** this petition, declaring moratorium with consequential directions as mentioned below:
- (i) That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Applicant including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the Corporate Applicant any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Applicant in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant.
  - (ii) That the supply of essential goods or services to the Corporate Applicant, 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 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 or passes an order for liquidation of Corporate Applicant 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 the proposed Resolution Professional after perusing the written communication in Form 2 by the RP, Mr. Arun Chadha, having address at 727, Brahmpuri, Meerut- 250002, Uttar Pradesh, having IBBI Registration No. IBBI/IPA-001/IP-P00165/2017-18/10334 and Email- [chadharun@yahoo.com](mailto:chadharun@yahoo.com) as Interim Resolution Professional to carry the functions as mentioned under the Code.
4. The Registry is hereby directed to communicate this order to the Applicant. The Learned Counsel for the Petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith within 10 days of the order being uploaded on the website.

Sd/-  
Prabhat Kumar  
Hon'ble Member (Technical)

Sd/-  
Kishore Vemulapalli  
Hon'ble Member (Judicial)

//LRA Akshata//