

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI**

IB-1551/(ND)/2019

Section: Under Section 7 of the Insolvency and Bankruptcy Code, 2016 and Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

In the matter of:

VOLGA ESTATES PVT. LTD.

304, Sitaram Mansion,
718/21, Joshi Road,
Karol Bagh,
New Delhi – 110005.

...Applicant

Versus

WALL ROCK INFRAHOME PVT. LTD.

301, Neelkanth Chamber-II,
Plot No. 14,
Local Shopping Complex,
New Delhi – 110092.

...Respondent



Coram:

DR. P.S.N. PRASAD
Hon'ble Member (Judicial)

DR. V.K. SUBBURAJ
Hon'ble Member (Technical)

Counsel for Applicant: Mr. Anurag Bhatt
Counsel for Respondent: Mr. Abhishek Kumar



ORDER

Date:17.12.2019

1. This is an application filed by the Applicant Volga Estates Pvt. Ltd. seeking to initiate corporate insolvency resolution process ("CIRP") of the Respondent Wall Rock Infracore Pvt. Ltd. under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("the Code") for the alleged default on the part of the Respondent in settling an amount of Rs. 16,21,79,041/- including the interest component lent by the Applicant. The details of the transactions leading to the filing of the application as averred by the Applicant are as follows:
 - i. On 16.11.2015, an amount of Rs. 7 crores was advanced as loan by the Applicant to the Respondent by way of executing composite agreement for loan and guarantee. The said loan was for a fixed term of 12 months with interest payable monthly.
 - ii. Simultaneously with execution of composite agreement for loan and guarantee dated 16.11.2015, the Respondent issued 12 post-dated cheques for servicing monthly interest and 1 post-dated cheque for the purpose of discharging its liability to repay principal loan amount of Rs. 7 crores.
 - iii. On 07.12.2016, the Applicant extended the tenure of the loan for a further period of 12 months vide extension of loan cum

3




guarantee agreement. Simultaneously, the Respondent issued post-dated cheques for servicing monthly interest and one post-dated cheque repayment of principal loan amount of Rs. 7 crores.

- iv. On 28.10.2017 the financial creditor again extended the tenure of the loan for a further period of 12 months vide extension of loan cum guarantee agreement. Simultaneously, the Respondent issued post-dated cheques for servicing monthly interest and one pot-dated cheque repayment of principal loan amount of Rs. 7 crores.
- v. On 31.05.2017, the Applicant advanced a further sum of Rs. 1 crore only to the Respondent ("second loan") and entered into composite agreement for loan and guarantee. Simultaneously the Respondent issued post-dated cheques for servicing monthly interest and one post-dated cheque repayment of principal loan amount of Rs. 1 crore.
- vi. On 21.06.2018, the Applicant extended the tenure of the second loan for further period of 12 months vide extension of loan cum guarantee agreement.
- vii. On 19.07.2018, the Respondent fails to discharge its obligation to pay interest to the Applicant for the month of June 2018 and cheque issued by the Respondent returned unpaid on 19.07.2018

4



- on presentation to bank. The Respondent has failed to pay the interest for the month of June, 2018 which was due on 19.06.2018 even till date.
- viii. Between 20.07.2018 to 19.10.2018, the Respondent failed to discharge its obligation to pay interest to the Applicant for the months from July 2018 to October 2018 as all the cheques issued by the respondent for the months of July 2018 to October 2018 in respect of the first loan were returned unpaid by bank on being presented. The Respondent has failed to pay the interest for the months from July 2018 to October 2018 till date.
- ix. Between 19.08.2018 to 19.01.2019, the Respondent failed to discharge its obligation to pay interest to the Applicant for the months from August 2018 to January 2019 as all the cheques issued by the Respondent for the months of August 2018 to January 2019 in respect of the second loan were returned unpaid by bank on being presented. The Respondent has failed to pay the interest for the months from August 2018 to January 2019 till date.
- x. On 19.10.2018, the Respondent also failed to discharge its obligation for repayment of loan as agreed on 29.10.2018 as cheque issued by the Respondent for repayment of the first loan



dated 19.10.2018 returned unpaid by the bank on 30.10.2018.

the Respondent has so far not repaid the loan to the Applicant.

2. The Respondent in its reply has admitted that the two loans were taken by the Respondent from the Applicant and that the Respondent defaulted on the loans.
3. It is pertinent to note that the Respondent was set ex-parte vide order dated 18.10.2019. The Respondent has filed an application for setting aside the order dated 18.10.2019 on the ground that the counsel of the Respondent could not reach on time on the said date of hearing when the matter was called and that this was the only occasion when the Respondent had failed to appear before the Tribunal.
4. Considering the submissions of the Respondent the order dated 18.10.2019 is set aside and the reply of the Respondent is taken on record. Since the Respondent has admitted the debt and its default in its reply, the present application is admitted and CIRP of the Respondent is initiated.
5. A moratorium in terms of Section 14 of the Code is imposed forthwith in following terms:



“(a) the institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent 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 the possession of the Respondent.

(2) The supply of essential goods or services to the Respondent 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 such transactions as may be notified by the Central



Government in consultation with any financial sector regulator.

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process.”

6. The interim resolution professional (“IRP”) proposed by the Applicant is Mr. Vijay Kumar Gupta (Email – vkgupta2004@yahoo.com) and is being confirmed by this Bench. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report within 30 days before this Bench.

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(DR. V.K. SUBBURAJ)
MEMBER (TECHNICAL)

- S d -

(DR. P.S.N. PRASAD)
MEMBER (JUDICIAL)

Deepak