

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

C.P. No.1118/I&BP/2019

Under section 7 of the IBC, 2016

In the matter of

Bank of India,

Head Office at Star House, C-5, "G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai-400051

....Petitioner

v/s.

Suwarnsparsh Gems and Jewellery Ltd.,

10th Floor, Parekh Market, 39 Jagannath

Shankar Seth Road, Opera House, Mumbai-
400004

....Corporate Debtor

Order Pronounced on 22.10.2019

Coram: Hon'ble Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble Shyam Babu Gautam, Member (Technical)

For the Petitioner : Mr. B Gopalakrishnan, Advocate, a/w Ms. Ishita Merchant
and Mr. Ruben Mascreen, Advocates, i/b S.K Sanghi & Advocates,

For the Respondent: Mr. Bruno Casteleno, Advocate

Per: Shyam Babu Gautam, Member (Technical)

ORDER

1. This Company Petition is filed by Bank of India (hereinafter called "Petitioner") seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Suwarnsparsh Gems and Jewellery Ltd. (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default in making payment to the extent of Rs. 17,18,85,788.17 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 Petitioner has enclosed the computation of amount due from the Corporate Debtor at Exhibit D at page 1353-1356 and sanction letters dated 05.08.2016, 01.07.2013, 27.11.2013, 30.04.2014 and 19.12.2015 which shows that the facilities were granted to the Corporate Debtor by the Petitioner from time to time. The copy of the sanction letters are annexed with the petition. The followings are the facilities provided to the Corporate Debtor by the Petitioner to the extent of Rs. 14.22 Crores:

Sr. No.	Nature of Facility	Disbursed Amount in Rs.
1	Cash Credit	13,50,00,000.00
2	Term Loan	72,00,000
Total		14,22,00,000

3. The Petitioner has enclosed the following loan and security documents in connection with the sanction of loan: -
- Copy of Supplemental Deed of Hypothecation (Goods, Book Debts, and other movable assets to secure multiple facilities)
 - Copy of Term Loan Agreement
 - Documents in respect of equitable mortgage, valuation reports.
 - Copy of guarantee agreements.
 - Copy of Letter of undertaking
 - Copy of letter of acknowledgement of debt and securities
 - Certificate of Registration of Modification of charge
4. Since, the Corporate Debtor failed to repay the outstanding dues, the Petitioner had issued several letters and reminders demanding for repayment of outstanding dues. Despite receipt of aforesaid notices and reminders, Corporate Debtor failed to repay the dues as a result of which the account of corporate debtor has classified as Non-Performing Asset on 30.06.2017 as per Reserve Bank of India Prudential Norms.
5. The Petitioner has enclosed notice under Section 13(2) of SARFAESI Act, 2002 dated 26.11.2018 issued to the Corporate Debtor demanding a sum of Rs. 16,35,78,781/- as on 30.06.2017 with further interest, charges etc.

which shows that the Corporate Debtor defaulted in repaying the credit facilities availed by them.

6. The Petitioner has enclosed the Statement of Account for the aforesaid credit facilities granted to the Corporate Debtor which shows that the amount claimed in the Petition is in consonance with the Statement of Account. The Petitioner has also enclosed the CRILC report, Certificate under the Banker Book Evidence Act, 1891.
7. Heard the Petitioner. During the course of arguments learned Counsel appearing for the Corporate Debtor had given up his Vakalatnama for the reason that the corporate debtor had not co-operated with him and have not even instructed him with a proper manner.
8. The Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the loans 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 Securitization 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 22.10.2019 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 Mr. Birendra Kumar Agarwal, 402, Corporate Annexe, Sonawala Lane, Near Udyog Bhawan, Goregaon East, Mumbai-400063, Registration No. IBBI/IPA-001/IP-P00564/2017-2018/11040, email-id bk@bhamaconsulting.com, contact No.9769379944 as interim resolution professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

9. Accordingly, this Petition is admitted.

10. The Registry is hereby directed to communicate this order to both the parties as well as IRP immediately.

Sd/-
SHYAM BABU GAUTAM
Member (Technical)
/NP/

Sd/-
BHASKARA PANTULA MOHAN
Member (Judicial)