

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

C.P.(IB)No.78/BB/2022
U/S.7 of IBC, 2016
R/w. Rule 4 of I&B (AAA) Rules, 2016

IN THE MATTER OF:

Export-Import Bank of India
R/o. at Centre One Building,
Floor 21, World Trade Centre Complex,
Cuffe Parade,
Mumbai – 400 005 - Petitioner/Financial Creditor

Versus

M/s. Majestic Research Services and Solutions Limited
R/o. at 2nd Floor, Kalpak Arcade,
No.46/17, Church Street,
Bengaluru – 560 001 - Respondent/Corporate Debtor

Order delivered on: 25th May, 2023

Coram: 1. Hon'ble Justice (Retd.) T. Krishnavalli, Member (Judicial)
2. Hon'ble Shri Manoj Kumar Dubey, Member (Technical)

Parties/Counsels Present:

For the Petitioner : Shri Manu P Kulkarni with
Shri Manoj J Raikar
For the Respondent : None

O R D E R

Per: Manoj Kumar Dubey, Member (Technical)

1. The present Petition is filed on 31.03.2022, U/s.7 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'IBC/Code') by Export-Import Bank of India (hereinafter referred to as 'Petitioner/Financial Creditor') to initiate the Corporate Insolvency Resolution Process ('CIRP') against M/s. Majestic Research Services and Solutions Limited (hereinafter referred to as 'Respondent/Corporate Debtor').

2. The Corporate Debtor viz., M/s. Majestic Research Services and Solutions Limited is a Company incorporated under the Companies Act, 1956 with CIN: L72200KA2012PLC063818 having its registered office at 2nd Floor, Kalpak Arcade, No.46/17, Church Street, Bangalore – 560 001, which falls within the territorial jurisdiction of this Adjudicating Authority. The Authorized Share Capital of the Respondent/Corporate Debtor is Rs.15,00,00,000 and Paid-up Capital is Rs.10,02,60,000 as per the Company's Master Data attached at Annexure-B of this Petition.
3. Brief facts of the case, as mentioned in the instant Petition, which are relevant to the issue in question, are as follows:
 - i. It is stated that the Corporate Debtor submitted a Loan Application to the Petitioner on 18.08.2017 and in terms whereof, the Petitioner sanctioned a Term Loan to the Corporate Debtor under the Overseas Investment Finance Program of the Petitioner (Financial Facility). The details of which are as under:
 - a) Sanctioned amount: USD 383,000 (United States Dollars Three Hundred and Eighty Three Thousand only) dated 17.10.2017.
 - b) Date of disbursement: January 23, 2018
 - c) Repayment terms: the Financial Facility was repayable in sixteen equal quarterly instalments commencing after the moratorium. Moratorium was for 12 months from the date of first disbursement.

The Financial Facility was advanced by the Petitioner on the terms and conditions mentioned in clause (a) above, the Sanction Letter dated 17.10.2017 bearing reference No.EXIM:CBG:825:85 as modified by clause (b) the letter dated 17.01.2018 bearing reference No.EXIM:CBG:835:127 (Sanction Letter); and (c) the Facilities Agreement dated 28.11.2017.
 - ii. The Corporate Debtor also executed the relevant securities and documents in accordance with the terms of the Facilities Agreement. In addition to the documents, an Undertaking to

- create Mortgage Security and to obtain NOC(s) dated 28.11.2017 was executed by the Corporate Debtor in favour of the Petitioner.
- iii. On 30.04.2019, the Corporate Debtor acknowledged that principal outstanding debt of USD 359062.50 and interest of USD 4871.98 was outstanding towards the Financial Facility.
 - iv. In and around October 2019, the Corporate Debtor started defaulting in repayment of the Financial Facility on the terms and conditions agreed between the parties. Therefore, the Petitioner classified the Account of the Corporate Debtor as a Non-Performing Asset on 30.12.2019, as per the applicable rules and guidelines of the Reserve Bank of India. Subsequently, the Petitioner issued a Recall Letter dated 28.01.2020 calling upon the Corporate Debtor to repay an amount of USD 242,163.17 (United States Dollars Two Hundred and Forty Two Thousands One Hundred and Sixty Three and Seventeen Cents only) being the outstanding amounts under the Financial Facility as on 27.01.2020.
 - v. Despite receipt of the Recall Letter, no payment was received by the Petitioner towards repayment of the Financial Facility. On 05.02.2020, the Petitioner crystallized the outstanding dues of the Corporate Debtor and converted the outstanding dues of USD 242,752.73 to Rs.1,73,06,124.62/-. Further, Personal Guarantors were called upon to pay the balance of outstanding on 06.02.2020. Moreover, the Corporate Debtor in its Annual Report for the year ended 31.03.2021 acknowledged a debt that was owed to the Financial Creditor to an extent of Rs.2,32,90,000/- and it is suffering from losses to the tune of Rs.22,56,00,000/- as of 2020-21.
 - vi. As per Annexure-X of the Petition, the record of default as submitted to and held by NeSL dated 23.02.2022, the total outstanding Rs.2,40,61,207.53 as on 06.02.2020 being the date of default.

- vii. In these circumstances, as on 28.03.2022, a total amount of Rs.2,46,83,582.67/- together with interest thereon at the rate of 14.95% p.a along with liquidated damages at the rate of 1% p.a. and additional interest at the rate of 1% p.a since the Corporate Debtor has not created certain securities, from March 29, 2022 till payment and/or realization is payable by the Corporate Debtor to the Petitioner. The Corporate Debtor has defaulted in making the said payment and hence this Petition.
4. In support of its submissions, the Petitioner *inter alia* filed the following documents, in respect of all the persons making this Application U/s.7 of the Code:
- i.) A copy of the Loan Application submitted by the Corporate Debtor to the Petitioner dated 18.08.2017;
 - ii.) A copy of the Sanction Letter issued by the Applicant on 17.10.2017 to the Corporate Debtor;
 - iii.) A copy of the Facilities Agreement dated 28.11.2017, executed between the Applicant and the Corporate Debtor;
 - iv.) A copy of the Annual Report of MRSS dated 31.03.2021, acknowledging the debt owed by the Corporate Debtor to the Applicant;
 - v.) A copy of the Deed of Pledge of Shares executed on 28.11.2017, by the Corporate Debtor in favour of the Applicant;
 - vi.) A copy of the Record of default of the Corporate Debtor maintained with the National E-Governance Services Limited (Information Utility) as on 23.02.2022.
5. We have heard the learned Counsel for the Petitioner and have also perused the record carefully. Since no one has appeared for the Respondent, the Petition is being disposed of on the basis of available record.
6. In response to the notice issued on 26.05.2022 and served on the Respondent; Counsel for the Respondent attended on 27.07.2022 and

sought two weeks' time to file objection, which was granted. On 20.09.2022, further time of two weeks' was allowed as requested by the Counsel. Again it was allowed, on 28.10.2022; and on 23.11.2022, the right to file objections was forfeited; since no objections were filed. No one attended for the Respondents on the next date fixed for hearing; i.e. on 21.12.2022 and 02.02.2023. Therefore, it is noticed that sufficient opportunities were granted to the Respondent on 27.07.2022, 20.09.2022, 28.10.2022 and on 23.11.2022 but the Respondent had failed to file their objections/reply, and failed to represent in the proceedings thereafter.

7. Pursuant to the Order dated 02.02.2023, one week time was granted to the Petitioner to file brief synopsis along with index of all the relevant documents regarding sanction of loan, disbursement of loan and notices etc. Pursuant to the above, the learned Counsel for the Petitioner has filed written submission vide Diary No.1208 dated 01.03.2023.

8. The first issue to be examined is whether the C.P. is within the period of limitation. The CD had acknowledged the outstanding debt of US 359,062.50 and interest USD 4,872 on 30.04.2019; and the same is attached to the C.P. as Annexure-'J'. The transaction involving the defaulted amount dates back to in or around October, 2019 and the Applicant classified the Account of the Corporate Debtor as a Non-Performing Asset on 30.12.2019 as per the applicable rules and guidelines of the Reserve Bank of India. Since the instant Petition was filed on 31.03.2022, the same is within the period of limitation. The remaining issue to be examined is whether the debt and default there of are proved. The various documents filed along with the C.P. confirm the debt. The amount claimed to be in default as per Part-IV of Form-1 is Rs.2,46,83,582.67/- as on 28.03.2022. The Financial debt owed and payable to the Financial Creditor is undisputed by the Corporate Debtor

and the Corporate Debtor is suffering from large losses. Therefore, for the reasons stated above, the C.P. is liable to be admitted.

9. Section 7(5)(a) of the Code is as follows:-

*“5) Where the Adjudicating Authority is satisfied that-
(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application.”*

10. In the given facts and circumstances, the present Petition being complete and having established the fact that the default in payment of the Financial Debt is above Rs.1,00,00,000/-, the Petition is admitted in terms of Section 7(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequences of the moratorium in terms of Section 14, the following prohibitions are imposed, which must be followed by all and sundry:

- (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 the possession of the Corporate Debtor;
- (e) It is further directed that the supply of essential goods or services to the Corporate Debtor as may be specified, shall not be

terminated or suspended or interrupted during the moratorium period;

(f) The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a Corporate Debtor;

(g) The order of moratorium shall have effect from the date of this order till completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under sub-section (1) of Section 31 or passed an order for liquidation of Corporate Debtor under Section 33 as the case may be;

11. In Part-III of Form No.1, Ms. Vineeta Maheshwari, Insolvency Professional, Registration No. IBBI/IPA-001/IP-P00185/2017-18/10364 has been proposed as Interim Resolution Professional (IRP). Form No.2 dated 15.04.2022 are found at Page Nos.320-324 of the Petition along with the Certificate of Registration issued by the Insolvency and Bankruptcy Board of India as per Regulation 7 of the IBBI (Insolvency Professionals) Regulations, 2016 and has been placed on record. It is noticed that the Petitioner has filed a memo vide Diary No.2424 dated 02.05.2023 enclosing a copy of latest Authorization for Assignment and the Certificate is valid from 02.01.2023 to 01.01.2024 and the same is taken on record. In view of the above, we appoint Ms. Vineeta Maheshwari, bearing Reg. No. IBBI/IPA-001/IP-P00185/2017-18/10364, registered address at 3rd Floor, Reegus Business Centre, above Mercedes Showroom, New City Light Road, Bharthana, Vesu, Surat – 395 007, Gujarat, e-mail: ipvineetak@gmail.com as the Interim Resolution Professional. The IRP is directed to take the steps as mandated under the IBC, specially under Sections 15, 17, 18, 20 and 21 of IBC, 2016.

12. The Financial Creditor shall deposit a sum of **Rs.2,00,000/- (Rupees Two Lakhs 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.

13. The Interim Resolution Professional shall after collation of all the claims received against Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days for filing the report of Constitution of the Committee. The Interim Resolution Professional is further directed to send regular progress reports to this Tribunal every fortnight.
14. A copy of the order shall be communicated to both the parties. The learned Counsel for the Petitioner shall deliver copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send the copy of this order to the Interim Resolution Professional at his e-mail address forthwith.

-Sd-

MANOJ KUMAR DUBEY
MEMBER (TECHNICAL)

-Sd-

T. KRISHNAVALLI
MEMBER (JUDICIAL)