

IN THE NATIONAL COMPANY LAW TRIBUNAL
COURT NO. 5, MUMBAI BENCH

CP (IB) - 4230/I&BP/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Kai Bhimrao Jyoti Chavan Multistate Co-
Op Credit Society Ltd.

110, 1st Floor, West Wing, Aurora Tower,
Camp, Pune - 411 001

....Petitioner

Vs.

Pratibha Skyscrapers Private Limited,

Plot No. 49-50, Ramnagar Taluka,
Karveer, Kolhapur - 416 005

....Corporate Debtor

Order pronounced on: 17.12.2019

Order delivered on: 20.01.2020

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (J)

Hon'ble Shri. V. Nallasenapathy, Member (T)

For the Petitioner: Mr. Amir Arsiwala, Advocate.

For the Corporate Debtor: Mr. Abhay Wadhwa, Advocate I/b Pankaj Singh

Per: V. Nallasenapathy, Member (T)

ORDER

1. Kai Bhimrao Jyoti Chavan Multistate Co-Op Credit Society Ltd., (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process of Pratibha Skyscrapers Private Limited, (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default on 01.02.2018 in repayment of facilities granted to the Corporate Debtor to the



extent of Rs. 93,45,423/- including interest @12% p.a., 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 Petition reveals that, the Petitioner has been registered with Registrar of Multistate Co-operative Societies and is engaged in the business of providing credit facilities to the needy persons.

3. It is submitted that on 31.03.2017, credit facilities were availed by the Corporate Debtor from the Petitioner by requesting for a short-term loan of Rs. 1,55,55,000/- for a period of 12 months vide a loan application dated 31.03.2017. The One of the Director of Corporate Debtor Mr. Mahadev B. Gondhale has executed a personal guarantee in favour of the Petitioner to secure the loan. The Corporate Debtor executed a promissory note on 31.03.2017 for Rs. 1,55,55,000/- Thereafter, the Petitioner advanced the said Cash Credit Loan of Rs. 1,55,55,000/- to the Corporate Debtor by entering into a Loan Agreement No. 145/03 dated 31.03.2017 for a period of 12 months with interest @12 % p.a.

4. It is further submitted that the Petitioner maintained a running account of the Corporate Debtor and over the period of time kept disbursing amount to the Corporate Debtor and the Corporate Debtor also kept making payments to the Petitioner.

5. The Petitioner enclosed the statement of account of the Corporate Debtor wherein it was found that the instalment overdues are pending, which shows that the Corporate Debtor has defaulted in making payment.

6. The Petitioner enclosed the notices dated 01.04.2019, 01.07.2019 and 01.08.2019 sent to the Corporate Debtor demanding Rs. 1,04,89,881/-, Rs. 1,15,70,923/- and Rs. 1,19,64,018/- respectively.

7. The Petitioner has annexed the Certificate dated 04.08.2018 issued under Section 2A(a) of Banker's Books Evidence Act, 1891.



8. On 17.12.2019, the counsel for the Corporate Debtor filed a reply for the petition wherein it was stated that the *"due to bad market conditions and adverse competitive environment, Corporate Debtor failed to resist with the market situation, hence the said amount of loan could not be repaid by the Corporate Debtor. The Corporate Debtor has made genuine efforts to repay the said amount but default has occurred only because of sluggish business environment in the entire sector, where Corporate Debtor is doing operation."*

9. The above facts clearly reveal that the Corporate Debtor is liable to pay the Petitioner and defaulted in making the payment to the Petitioner. During the hearing of this matter by this Bench, the Counsel representing the Corporate Debtor accepted the liability as well as default.

10. This Adjudicating Authority, on perusal of the documents filed by the Petitioner, 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 petition 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 Securitisation 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 20.01.2020 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 Ms. Jovita Reema Mathias, having office at 506, Inizio, Cardinal Gracious Road, Chakala, Andheri east, Mumbai - 400 099, Email:- ip.reemajm@gmail.com, having Registration No. IBBI/IPA-002/IP-N00337/2017-18/10941 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

11. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional immediately.

SD/-
V. Nallasenapathy
Member (T)

SD/-
Suchitra Kanuparthi
Member (J)



Certified True Copy
Copy Issued "free of cost"
On 30.01.2020

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Assistant Registrar
National Company Law Tribunal Mumbai Bench