

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

COURT – IV

10.

C.P.(IB)/754(MB)/2021

CORAM:

SHRI RAJESH SHARMA
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON 12.04.2022

NAME OF THE PARTIES: Shapoorji Pallonji Development Managers Pvt. Ltd.
v/s.
Grand Vacations Pvt. Ltd.

SECTION: 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016.

ORDER

The Court is convened through Video Conference.

1. Mr. Nimay Dave a/w Ms. Saloni Sulakhe i/b Dhaval Vussonji & Associates, Ld. Counsel for the Financial Creditor present. None present for the Corporate Debtor.
2. This case was first listed on 31.08.2021 on which Court Notice was ordered to be issued to the Corporate Debtor intimating the next date of hearing.
3. Court Notice was served upon the Corporate Debtor on 11.09.2021 and proof of service was filed with the registry by the Financial Creditor. However, Corporate Debtor did not appear for the consecutive hearings, hence, newspaper publication was ordered on 08.12.2021.

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4. As per order of this Bench dated 08.12.2021, the Financial Creditor carried out newspaper publications on 24.01.2022, indicating the next date of hearing, in two local newspapers; one in "Free Press Journal" in English and another in "NavShakti" in Marathi. Proof of newspaper publications was also filed with the registry.
5. Due to continuous non-appearance of the Corporate Debtor, vide order of this Bench dated 01.02.2022 the Corporate Debtor has already been set *ex-parte*.
6. This is a Company Petition filed under Section 7 of the Insolvency & Bankruptcy Code, 2016 (IBC) by **Shapoorji Pallonji Development Managers Pvt. Ltd.**, ("the Financial Creditor"), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Grand Vacations Pvt. Ltd.** ("the Corporate Debtor"), [CIN: U63040MH2012PTC226986].
7. The Corporate Debtor is a company incorporated on 15.02.2012 under the Companies Act, 1956, as a private company limited by shares with the Registrar of Companies, Maharashtra, Mumbai. Its registered office is at 26, Matrusmruti, 4th Floor, Lokmanya Tilak Colony, Dadar (E), Mumbai – 400 014. Therefore, this Bench has jurisdiction to deal with the present Petition.
8. Heard the argument of the Ld. Counsel for the Financial Creditor and perused the documents.

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9. The Financial Creditor extended a loan of Rs.28.50 crores to the Corporate Debtor which was disbursed on 29.03.2019 and on the same date the Corporate Debtor and the Financial Creditor entered into the following documents:
- i. Facility Agreement
 - ii. Deed of Hypothecation.
 - iii. Irrevocable Power of Attorney in favour of the Financial Creditor by Corporate Debtor.
 - iv. Deed of Corporate Guarantee executed by Ornate Spaces Pvt. Ltd. in favour of the Financial Creditor.
 - v. Indemnity-cum-Undertaking executed by the Corporate Debtor in favour of the Financial Creditor.
10. As per the Petition under Section 7, the date of default is 26.09.2019 and the Corporate Debtor created charge vide Charge Registration Cert. No. 100263729 dated 28.05.2019 in favour of the Financial Creditor as attached in the additional affidavit dated 28.3.2022.
11. The Corporate Debtor neither filed any reply to the Petition nor made its presence to defend the case.
12. This Bench is satisfied with the submissions made by the Counsel for the Financial Creditor and the documents submitted along with the Petition as well as through the additional affidavit. The Petition filed by the Financial Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount of one crore rupees stipulated under the

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IBC. This Bench is of the considered view that this is a fit case for admission as there is a debt and there is a default, therefore, there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.

13. The Financial Creditor has proposed Mr. Popat Mayur Rajendrakumar as Interim Resolution Professional (IRP) in the matter. He has filed his consent dated 02.02.2021 to act as IRP in this case.

14. This Petition bearing **C.P.(IB)-754/MB/2021** filed under Section 7 of I&B Code, 2016, presented by **Shapoorji Pallonji Development Managers Pvt. Ltd.**, Financial Creditor/Petitioner against **Grand Vacations Pvt. Ltd.**, Corporate Debtor for initiating Corporate Insolvency Resolution Process (CIRP) is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

- 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;

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- 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 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 the moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to
- a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
 - b. a surety in a contract of guarantee to a Corporate Debtor.
- 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, 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 I&B Code.

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- VI. That this Bench appoints Mr. Popat Mayur Rajendrakumar, a registered insolvency resolution professional having Registration Number IBBI/IPA-001/IP-P-01918/2020-2021/13046 (email: mayurpopat2002@gmail.com) as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
15. The Financial Creditor shall deposit a sum of Rs.5,00,000/- (Rupees five 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 (CoC).
16. The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of e-mail or WhatsApp. Compliance report of the order by designated Registrar is to be submitted today.

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)

Sd/-
RAJESH SHARMA
Member (Technical)