NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Video Conference)

PRESENT: JUSTICE TELAPROLU RAJANI – MEMBER JUDICIAL
ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 29.11.2022 AT 10.30 AM

TC/CP. Nos.	CA/IA No.	Section/ Rule	Name of Parties
CP(IB)No.100/7/AMR/2022		7 of IBC	SREI Equipment Finance Limited Vs. Bharatiya Vaidya Vidhan Limited

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

CP(IB)No.100/7/AMR/2022 is admitted, vide separate orders.

Sd/-
JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL

NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI
*** *** ***

CP (IB) No.100/7/AMR/2022

In the matter of a Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 Read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

AND

In the matter of M/s. BHARATIYA VAIDYA VIDHAN LIMITED

Between:

M/s. SREI Equipment Finance Limited,
Vishwakarma, 86C, Topsia Road,
Kolkata – 700046. West Bengal.

... Financial Creditor

AND

M/s.Bharatiya Vaidya Vidhan Limited,
W-24/1820/86, Military Colony,
Dargah Mitta, Nellore,
Andhra Pradesh - 524003.

... Corporate Debtor

Date of Order: 29.11.2022

CORAM:

Justice Telaprolu Rajani, Member Judicial.

Appearance:

For Financial Creditor : Mr. Srikanth Hariharan, Advocate.

For Corporate Debtor : Mr.Y.Suryanarayana & Mr.Sachin Sharma, Advocates.

ORDER

1. This petition is filed by M/s. SREI Equipment Finance Limited i.e., the Financial Creditor (in short FC) against M/s.Bharatiya Vaidya Vidhan Limited i.e., the Corporate Debtor (in short CD) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against the CD for the default committed in discharging the debt that was due to the FC.

2. The facts of the case briefly as per the Petition are as follows:

   i). The FC is a registered non-banking financial company and the CD is in the business of shrimp culture and prawn farming. The FC extended credit facilities to the CD by virtue of Loan Agreement dated 24.09.2019 for Rs.73 Crores for the business purpose of the CD.

   ii). The CD also executed a pledge agreement dated 21.04.2017 earlier, pledging the shares with the FC for previous credit facilities. The said pledge was extended to the present credit facility by virtue Article 4.3 of the Loan Agreement. The CD also submitted a personal guarantee of Mr.Satish Babu Jana dated 24.09.2019 in respect of the present loan agreement.

   iii). The CD executed memorandum of deposit of title deeds in respect of the immovable properties belonging to the CD on 22.04.2017. The security or mortgage created by virtue of the said deed is also extended to the loan covered by the present Loan Agreement, through the undertaking dated 23.09.2019.

iv). The FC disbursed the loan amount on different dates. Thereafter, the CD defaulted in payment of the monies to the FC. The statement of account of the CD is filed. The CD was not coming forth for discharge of the loan. Hence, a demand notice dated 10.11.2021 was issued, to which no reply was issued by the CD. Hence, this Petition, seeking the above mentioned relief.

3. The CD did not choose to file counter but however, filed written submissions.

4. Heard the Counsel for the FC and the Counsel for the CD and perused the written submissions filed by the CD. The CD admits the fact of sanction of loan by the FC of Rs.42 Crores by virtue of the offer letter dated 15.03.2017. He also admits the entering into a loan agreement dated 01.04.2017. The property for which the loan was taken was purchased on 20.04.2017. The loan was secured by way of pledge of 100% of equity shares belonging to the shareholders, aggregating to Rs.2,65,00,720/- and post-dated cheques were issued and memorandum of deposit of title deeds was also given. The payment of installments of the loan was to commence from 15.12.2017, after nine months of moratorium as per the loan agreement. Contrary to the above arrangement, the FC

deposited a cheque which was dishonoured, for which a case was filed for wrongful presentation of the cheque. But later, it was settled between the parties. The CD was unable to honour the payment thereby the total outstanding payable has accumulated to Rs.73 Crores as on 23.09.2019. As the CD was unable to pay the outstanding amount, he approached the FC and obtained a fresh loan of Rs.73 Crores which included Rs.42 Crore principle plus the outstanding interest amount. The CD, on account of various issues raised in its email dated 11.09.2020 and also on account of Covid-19, was unable to discharge the loan availed and one time settlement of the loan was sought for from the FC. The FC is not coming forward to resolve the issue with the CD. The FC never informed the CD of all the various title possession and other related issues pertaining to the land . The CD, believing the FC's that the title to the land is clear, and that the CD will be able to undertake development of the land, agreed to purchase the land from the FC and availed loan. The various issues faced by the CD pursuant to availing the loan are subject matter of cases in various suits. It is solely on account of the FC not having disclosed the details of the various litigations that the CD is now facing the issue of non-development of the land. The default on the part of the CD is not intentional, but due to extraneous circumstances.

5. From the written submissions made by the CD it can be understood that the objection that the cheques were presented prior to the date

on which they were supposed to be presented is not valid any longer as that seems to be a history. After all that has happened, a fresh loan of Rs.73 Crores was raised, which is the subject matter of this Petition in respect of which allegedly the CD committed default. The written submissions are nothing but a clear admission of the debt and the default. The CD did not place before the Tribunal any documents with the help of which it can be said that the FC is the reason for all his problems and that the suits are pending before various courts. Hence, the written submissions are nothing but an admission of debt and default. Considering that there is no tenable defence raised by the CD, the Petition is admitted and ordered for initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The Financial Creditor has suggested one name i.e., Mr.Rajesh Chillale (IBBI/IPA-01/IP-P00699/2017-2018/11226) as Insolvency Resolution Professional (IRP).

ORDER

The Company Petition is admitted. The Corporate Insolvency Resolution Process of the Corporate Debtor shall commence from this date and shall be completed within 180 days hence.

i. **Mr. Rajesh Chillale (IBBI/IPA-01/IP-P00699/2017-2018/11226)**, having office at B-713, Western Plaza, OU Colony, HS Darga, Manikonda, Hyderabad, Telangana-500104; e-mail: **chillalerajesh@yahoo.co.in**;

Mobile:**9866294434**, is appointed as the Interim Resolution Professional. No disciplinary proceeding is pending against him as per the IBBI website.

ii. He is directed to take charge of the Corporate Debtor's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made thereunder.

iii. Moratorium in respect of the Corporate Debtor is hereby declared in terms of Section 14 of the Code.

iv. The Directors, Promoters or any other person(s) associated with the management of Corporate Debtor shall extend all assistance and cooperation to the IRP as stipulated under section 19 of the Code for effectively discharging his functions under the Code.

v. The Registry shall communicate the order to the Financial Creditor and the Corporate Debtor forthwith.

vi. The Financial Creditor and the Registry shall send the copy of this order to IRP for necessary compliance.

Sd/-

JUSTICE TELAPROLU RAJANI
MEMBER JUDICIAL

Swamy Naidu