BEFORE THE AJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

C.P. (I.B) No. 282/NCLT/AHM/2018

Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 18.11.2019

Name of the Company: Capman Conpro Pvt. Ltd. & Anr.
V/s
Global Softech Ltd.

Section of the Companies Act : Section 7 of the Insolvency and Bankruptcy Code

S.NO. NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
1. Rahul S. Patel a/w Kanya A. Shah	Advocate	Financial Creditor	
2. i/b Nanavati Associates			

ORDER

The Petitioner is represented through learned counsel.

The Order is pronounced in the open court vide separate sheet.

CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL

MANORAMA KUMARI
MEMBER JUDICIAL

Dated this the 18th day of November, 2019

PC

BEFORE ADJUDICATING AUTHORITY (NCLT) AHMEDABAD BENCH AHMEDABAD

C.P. No. (IB) 282/7/NCLT/AHM/2018

In the matter of:

Capman Conpro Private Limited
Gala No. 106, Everest Industrial Estate
N, 66 KVA Power Sub Station,
Amli
Silvassa 396 230 (DNH) : **Petitioner No. 1**
Financial Creditor

Vighnahartha Corrugators Private Limited
RM-81, Sudarshan Nagar
MIDC Phase II
Dombivli (East)
Dist. Thane 421 201
Maharashtra State : **Petitioner No. 2**
Financial Creditor

Versus

Global Softech Limited
Plot No. 58/B
Industrial Estate
Piperia
SILVASSA 396 230 (DNH) : **Respondent**
Corporate Debtor

Order delivered on 18th November, 2019.

Coram: Hon'ble Ms. Manorama Kumari, Member (J)
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)

Appearance:

Advocate Kamya Shah i/b. Nanavati Associates for petitioners
Advocate Mr. Karan Vyas for respondent

ORDER

[Per: Ms. Manorama Kumari, Member (Judicial)]

1. Mr. Rajendra Ramesh Nagpal, authorised signatory of the Financial creditors M/s. Capman Conpro Private Limited and M/s. Vignahartha Corrugators Private Limited filed this Petition on 29th May, 2018 under section 7 of The Insolvency

and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the Rules") seeking reliefs under Section 7(5)(a) and Section 13(1)(a)(b)(c) of the Code.

2. The applicant No. 1 is a registered private limited company incorporated on 18.01.2007 having identification No. U4520IDN2007PTC000228 and having registered office at Amli, Silvassa.

3. The applicant No. 2 is a registered private limited company incorporated on 03.11.2009 having identification No. U74990MH2009PTC196826 and having registered office at Dombivli (East), Thane, Maharashtra State.

4. The respondent is a limited company incorporated on 07.02.2000 having identification No. U65910DN2000PLC000147 and having registered office at Piperia Industrial Estate, Silvassa. Authorised share capital of the respondent company is Rs. 66,00,00,000/- and paid up share capital is Rs. 65,00,00,000/-.

5. The applicants/Petitioners have submitted that as per the computation of claim amount placed at page No. 13 to the application, the first applicant had sanctioned unsecured

term loan of Rs. 5,00,00,000/- (Rupees five crores only) to the respondent against the promissory note dated 30.09.2012 placed at page No. 15 to the application to be matured on 30.09.2017. Similarly, the second applicant had sanctioned unsecured term loan of Rs. 9,69,21,000/- (Rupees nine crores sixty-nine lacs twenty-one thousand only) to the respondent against the promissory note dated 31.12.2013 placed at page No. 19 to the application to be matured on 31.12.2017. In both the cases, as per the promissory note executed between the parties, the unsecured term loan to carry interest @ 18% per annum with quarterly rest, to be paid at the time of maturity.

6. In support of its claim, the petitioners have submitted copy of the following documents: -

Sr. No.	Particulars	Page No.
1	Board resolution passed by Board of Directors of the applicant companies authorising Mr. Rajendra Nagpal to sign and file the application before NCLT	9-10
2	Computation of claim amount as on 31.03.2018	13-34
3	Financial contract reflecting all amendments and waivers	35-49
4	Entries in bankers book in accordance with the Bankers Books Evidence Act, 1891	50-63
5	Documents in order to prove existence of financial debt	64-66

7. On perusal of the records it is found that Mr. Narayan Ghumtakar, authorised representative of the respondent filed additional affidavit admitting total debt of **Rs. 33,65,13,190/- (Rupees thirty-three crores sixty-five lacs thirteen thousand one hundred and ninety only)**

inclusive of contractual interest as due and payable to the financial creditors as on 31.03.2018.

Findings

8. Heard learned lawyers appearing for both the sides and also seen the documents annexed to the application.

9. On perusal of the records it is found that the respondent has fairly admitted the debt due to the applicant companies by filing additional affidavit. The respondent vide letter dated 30.09.2016 has confirmed having executed demand promissory note dated 31.12.2013 and the balance outstanding payable to the second applicant. Similarly, by letter dated 03.11.2017, the respondent has confirmed the debt due to the first applicant and promising to make arrangement of the funds by 31st March, 2018.

10. On perusal of the record it is found that the respondent company has filed affidavit admitting the liability of Rs. 33,65,13,190/- payable to the financial creditors towards the unsecured loan.

11. In view of the above, while going through the documents so filed by the petitioner, it is found that, corporate debtor admitted and acknowledged liability by letters of acknowledgement of debt/balance confirmation letters in favour of the petitioners.

12. In the instant application, from the material placed on record by the Applicant, this Authority is satisfied that the Corporate Debtor committed default in paying the financial debt to the Applicants and the respondent company has acknowledged the debt.

13. In the instant case, the documents produced by the Financial Creditors clearly establish the 'debt' and there is default on the part of the Corporate Debtor in payment of the 'financial debt'.

14. There is no dispute in the case that the petitioners are the financial creditors. The application is also furnished in the prescribed form – 1 of the Rules and the prescribed fee has also been paid. Along with the application, the applicant proposed the name of the Resolution Professional The applicant/operational creditor has proposed the name of Mr. Hemant Sharma to act as Interim Resolution Professional. Therefore, the Adjudicating Authority hereby appoint Mr. Hemant Sharma, Block No. 2, House No. 263, Subhash Nagar, New Delhi 110 027 having registration No. IBBI/IPA-002/IP-N00015/2016-17/10019 to act as an interim resolution professional under Section 13(1)(c) of the Code.

Form 2 of the proposed interim resolution professional has been annexed and placed at page No. 64-65 to the application where declaration is made that no disciplinary proceeding is pending against him with the Board or Indian Institute of Insolvency Professionals of ICAI.

15. On perusal of record and as also discussed above, it is held that there is existence of default and that the application under Section 7 (2) of the Code is also complete in all respect.

16. In view of the above, the petitioner/financial creditor having fulfilled all the requirements of Section 7 of the Code, the instant petition deserves to be admitted.

17. The petition is, therefore, admitted and the moratorium is declared for prohibiting all of the following in terms of sub-section (1) of Section 14 of the Code: -

(i) 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;

(ii) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(iii) 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 (54 of 2002);

(iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

18. It is further directed that the supply of goods and essential services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) shall, however, not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.

19. The order of moratorium shall have effect from the date of receipt of authenticated copy 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 or passes an order for liquidation of corporate debtor under Section 33 as the case may be.

20. This Petition stands disposed of accordingly with no order as to costs.

21. Communicate a copy of this order to the Applicant, Financial Creditor, Corporate Debtor and to the Interim Insolvency Resolution Professional.

Chockalingam Thirunavukkarasu
Adjudicating Authority
Member (Technical)

Ms. Manorama Kumari
Adjudicating Authority
Member (Judicial)

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