

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP(IB)No.494/NCLT/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Srei Equipment Finance Limited

...Financial Creditor/ Applicant

v/s

Shree Ram Urban Infrastructure Limited

...Corporate Debtor

Order Dated 06.11.2019

Coram: Hon'ble Member (Judicial): Mr Bhaskara Pantula Mohan
Hon'ble Member (Technical): Mr Rajesh Sharma

For the Applicant: Adv. Ativ Patel.

For the Respondent: None Present.

Per: Rajesh Sharma, Member (Technical)

ORDER

1. This is an Application being CP 494(IB)/MB/2019 filed by **Srei Equipment Finance Limited**, a Non-Banking Financial Company, the Financial Creditor / Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Shree Ram Urban Infrastructure Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**) claiming ₹327,03,27,748/- (Rupees Three Hundred Twenty Seven Crore Three Lakh Twenty Seven Thousand Seven Hundred and Forty Eight only) as on 07.01.2019, including interest on the principal sum of ₹182,87,36,261/-
2. This Application is filed by Mr. Shamik Roy, duly authorised vide 'Letter of authorisation' dated 06.11.2017, which is annexed to the Application.
3. The Applicant extended financial assistance to the Corporate Debtor under three Agreements bearing Agreement No.99684 dated 22.12.2015, Agreement No. 106008 dated 12.04.2016 and Agreement No.14673 dated 24.11.2017. The facilities were granted at rate of interest of 17.75% per annum. The abovementioned agreements are annexed to the Application. The Detailed computation of the Total claim amount arising out of the 3 Agreements stated above is annexed to the Application.



4. The Applicant has annexed copies of registration of charge in favour of the Applicant, in respect of the abovementioned Agreements and also annexed copies of Hypothecation Agreements, Personal Guarantees executed in favour of the Applicant against the 3 Agreements bearing No.99684 dated 22.12.2015, No. 106008 dated 12.04.2016 and No.14673 dated 24.11.2017 to establish the Financial Debt.
5. The last payment received by the Applicant from the Corporate Debtor was a sum of ₹143,90,732/- on 24.11.2017. The Notice dated 24.04.2017 demanding payment of the entire sums under the 3 Agreements
6. The Applicant reported the default in repayment of the financial debt to the TransUnion CIBIL. The Commercial Credit Information Report dated 11.01.2019 issued by TransUnion CIBIL shows that the Corporate Debtor has defaulted in making the payments and the assets are classified as sub-standard. Copy of the Commercial Credit Information Report dated 11.01.2019 issued by TransUnion CIBIL is annexed to the Application.
7. The Applicant issued Notice dated 24.04.2017 demanding the repayment of sums due under 3 Agreements and the same was duly served on the Corporate Debtor.
8. The Applicant filed Affidavit of service along with proof of delivery showing that the notice was duly served on the Corporate Debtor on 05.06.2019. The Corporate Debtor has failed to file its Reply despite sufficient opportunity being provided for the same.
9. We have heard the parties and perused the records.
10. On perusal of the records, it is noted that the Corporate Debtor has received a sum of ₹223,10,00,000/- (Rupees Two Hundred Twenty Three Crore Ten Lakh Only) from the Applicant under the Agreements dated No.99684 dated 22.12.2015, Agreement No. 106008 dated 12.04.2016 and Agreement No.14673 dated 24.11.2017. The Corporate Debtor has executed hypothecation Agreements in favour of the Applicant against the facilities availed by it. Further copies of registration of Charge in favour of the Applicant are also annexed to the Application establishing the



financial Debt. The Financial Debt ought to have been repaid by the Corporate Debtor to the Applicant in accordance with the Repayment schedule annexed to the facility Agreements. The Corporate Debtor failed to repay the amounts due as per the repayment schedules and the defaulted in payment of the Financial Debt. The last date of payment received by the Applicant is 24.11.2017. The CIBIL Report issued by TransUnion CIBIL reflects that the Corporate Debtor's assets are classified as Sub-Standard. The Applicant issued Notice dated 24.04.2017 demanding repayment under the 3 Agreements. However, the Applicant has not received any payments

11. In this regard, it is relevant to mention that in the case of **M/s Innoventive Industries Limited v. ICICI Bank & Anr in Civil Appeal No.8337-8338/2017**, the Hon'ble Supreme Court of India has held that

"...in the case of a corporate debtor who commits a default of financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due," i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date..."

12. In the light of the above judgement and as per section 7 of the I&B Code, 2016, the contention of the Corporate Debtor that the debt is disputed is not maintainable as the existence of a dispute is of no consequence in an application filed under section 7 of the Code.
13. The Applicant has proposed the name of **Mr Srigopal Choudhary**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-001/IP-P01238/2018-19/11893]** as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code 2016,



along with his declaration in Form 2, that no disciplinary proceedings are pending against him.

14. The Application filed under sub-section (2) of Section 7 of I&B Code, 2016 is complete. The existing financial debt of more than Rupees One Lakh against the corporate debtor and its default is also proved. Accordingly, the application filed under section 7 of the Insolvency and Bankruptcy Code for initiation of Corporate Insolvency Resolution Process against the corporate debtor deserves to be admitted.

ORDER

This Application filed under Section 7 of I&B Code, 2016, filed by **Srei Equipment Finance Limited**, Financial Creditor /Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Shree Ram Urban Infrastructure Limited** Corporate Debtor for initiating corporate insolvency resolution process 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;
- 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 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 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.
- VI. That this Bench appoints **Mr Srigopal Choudhary**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-001/IP-P01238/2018-19/11893]** 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 Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today**

Sd/-
RAJESH SHARMA
Member (Technical)


Sd/-
BHASKARA PANTULA MOHAN
Member (Judicial)

06.11.2019



5/5

Certified True Copy
Copy Issued "free of cost"
On 21/11/2019


Assistant Registrar
National Company Law Tribunal Mumbai Bench