

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-671(ND)/2019

In the matter of

Volkswagen Finance Pvt. Ltd.

Registered Office

3rd Floor, Wing-A
Silver Utopia Cardinal
Gracious Road, Chakala
Andheri Mumbai,
Mumbai City MH-400099

.....Financial Creditor

V/s

Kelvin Recruiters Pvt. Ltd.
408, 4th Floor, Crown Heights
Rithala, Delhi-110085

.....Corporate Debtor

SECTION: 7 of IBC, 2016

Order delivered on: 17.09.2019

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
DR. V.K. SUBBURAJ, HON'BLE MEMBER (T)

Present for the Petitioner: Mr. Rajeev Sagar, Advocate

ORDER

PER SMT. INA MALHOTRA, MEMBER (J)

The petitioner is a Financing Company engaged in the business of financing vehicle loans. At request of the Corporate Debtor, it had



23/9/19

sanctioned and disbursed loans to enable the Corporate Debtor. purchase Luxury vehicles. As the Corporate Debtor had defaulted in adhering to its repayment schedule, the loans had been recalled. Failure to liquidate the outstanding liability has given rise to the present application u/s 7 of the Insolvency & Bankruptcy Code 2016, for initiating the Corporate Insolvency Resolution Process of the Corporate Debtor.

2. The Corporate Debtor had executed and delivered documents at the time of availing the loans. It is submitted that the details of car loan account no. 20161102548, a sum of Rs. 24,50,000/- was disbursed and that the outstanding amount claimed to be in default is Rs. 23,44,133.74/- inclusive of interest and other charges.

3. On being served with the notice of the present proceedings, the Corporate Debtor has failed to put in appearance and was therefore proceeded ex parte. Keeping in view that the averments made by the Operational Creditor have not been controverted to and in the absence of any pre-existing dispute, the prayer of the Operational Creditor merits consideration. Accordingly, the petition is Admitted. A moratorium in terms of Section 14 of Code comes into effect forthwith, staying:

“(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;

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(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;

(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.

Further,

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator. (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

“Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating

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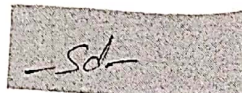
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Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."

4. The Financial Creditor has proposed the name of Mr. Kamal Agarwal, as the IRP in this case. His particulars are: Registration No. D/4083/2015-IBBI/IPA-001/P00868/2017-18/11466 address: 487/27, School Road, Near Peeragarhi Metro Station, New Delhi-110087, email id: advocate.kamal.aggl@gmail.com Consent and certificate of eligibility of Mr. Kamal Agarwal, are on record. We therefore confirm him as the IRP in this case. He is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21. The IRP shall file his report within 30 days as per statutory requirements.
5. Copy of the order be communicated to both the parties as well as to the IRP.
6. To come up on 1st November, 2019 for further consideration.



(V.K Subburaj)
Member (T)



(Ina Malhotra)
Member (J)

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