

**THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH-IV**

Company Petition No. (IB)-778(ND)/2021

Under Section 7 of the Insolvency and Bankruptcy Code, 2016

In the matter of:

L&T FINANCE LIMITED

APPLICANT/FINANCIAL CREDITOR

Vs.

MABSOOT BUILDHOMES INDIA PRIVATE LIMITED

RESPONDENT/CORPORATE DEBTOR

Judgment delivered on: ¹⁷~~24~~.02.2022

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CORAM:

JUSTICE RAMALINGAM SUDHAKAR, HON'BLE PRESIDENT

SH. NARENDER KUMAR BHOLA, HON'BLE MEMBER (TECHNICAL)

ORDER

Per: Narender Kumar Bhola, MEMBER, (T)

1. The L&T Finance Ltd. has filed the instant application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') with a prayer to trigger Corporate Insolvency Resolution Process in respect of respondent

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Company M/s. Mabsoot Buildhomes India Private Limited, referred to as the corporate debtor.

2. It is appropriate to mention that the applicant L&T Finance Ltd., is a company registered under the Companies Act, 1956 on 24.11.1993 with the registered office situated at 7th Floor, Technopolis, A-Wing, Plot No. 4, Block-BP, Sector-V, Salt Lake, Kolkata, West Bengal-700091, India.
3. Mr. Ruchir Jauhari, duly authorized on behalf of applicant vide Board Resolution dated 18.10.2019, has preferred the present application on behalf of the applicant for initiation of insolvency resolution process against the respondent under the Code. A copy of the Board Resolution has been placed on record.
4. The Respondent Company M/s. Mabsoot Buildhomes India Private Limited (CIN No. U70109DL2013PTC254691) against whom initiation of Corporate Insolvency Resolution Process has been prayed for, was incorporated on 01.07.2013 having its registered office situated at A-8B, Second Floor, Friends Colony East, South Delhi-110065. Since the registered office of the respondent corporate debtor is in New Delhi, this Tribunal having territorial jurisdiction over the NCT of Delhi is the Adjudicating Authority in relation to the prayer for initiation of Corporate Insolvency Resolution Process in respect of respondent corporate debtor under sub-section (1) of Section 60 of the Code.



5. The case of the applicant precisely is that the corporate debtor had availed financial facility from the financial creditor, L&T Housing Finance Limited and L&T Infrastructure Finance Company Limited (wherein, L&T Housing Finance Limited and L&T Infrastructure Finance Company Limited stands merged with the financial creditor with effect from 12.04.2021 by way of scheme of amalgamation) on 30.12.2019.
6. It is the case of the applicant that the corporate debtor has agreed to repay the amount but the corporate debtor has defaulted in payment of the said loan. Therefore, as per part IV of the application it is claimed that as on 30.11.2021 a sum of Rs. 2,37,04,10,634.89 /- (Indian Rupees two hundred thirty seven crores four lakhs ten thousand six hundred thirty four and eighty nine paise only) is due and payable by the respondent company.
7. Sub-section (3) (b) of Section 7 mandates the financial creditor to furnish the name of an Interim Resolution Professional. In compliance thereof the applicant has proposed the name of Mr. Ajit Gyanchand Jain, for appointment as Interim Resolution Professional having registration number IBBI/IPA-001/IPP00368/20107-18/10625 resident of 204, Wallstree-1, Near Gujarat College, Ellisbride, Ahmedabad, Gujarat-380006, with email - id ajit@vcanca.com. Mr. Ajit Gyanchand Jain has agreed to accept the appointment as the interim resolution professional and has signed a communication in

Form 2 in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that no disciplinary proceedings are pending against him in Insolvency and Bankruptcy Board of India or elsewhere. In addition, further necessary disclosures have been made by Mr. Ajit Gyanchand Jain as per the requirement of the IBBI Regulations. Accordingly, it is seen that the requirement of Section 7 (3) (b) of the Code has been satisfied.

8. The applicant has placed following documents on record to prove its claim:

- i. Copy of loan agreement dated 30.12.2019.
- ii. Copy of the balance confirmation dated 13.04.2021 issued by the corporate debtor admitting their liability of Rs. 2,18,80,23,381.00 @9% applicable interest towards payment of outstanding amounts as on 31st March 2021.
- iii. Copy of statement of accounts of the financial creditor reflecting the total outstanding amount of debt towards the corporate debtor.
- iv. Copy of Demand Promissory note from the Corporate Debtor, wherein, through their authorized representative unconditionally promise to pay the financial creditor.
- v. Copy of recall notice dated 25.11.2021.



9. Notice by the Authority was issued vide order dated 23.12.2021. Despite the notice been served to the respondent corporate debtor neither they appeared nor filed its reply objecting the said petition.
10. Needless to say, that an application under Section 7 of the Code is maintainable if the debt is proved to be due and there is default. In view of Section 4 of the Code, the moment default is of Rupees one hundred lakhs or more, an application to trigger Corporate Insolvency Resolution Process under the Code is maintainable. The corporate debtor despite notice has failed to show that there is no debt or default in existence so as to avoid the proceedings under the Code.
11. The applicant clearly comes within the definition of Financial Creditor. The material placed on record as stated in the paras above further confirms that respondent has debt due and has committed default in repayment of the outstanding financial debt. On a perusal of Form – I filed under Section 7 of the Code read with Rule 4 of the Rules shows that the form is complete and there is no infirmity in the same. It is also seen that there is no disciplinary proceeding pending against the proposed Interim Resolution Professional.
12. We are satisfied that the present application is complete in all respect. The applicant financial creditor is entitled to move the application against the corporate debtor in view of admitted outstanding financial debt and default of the same by the

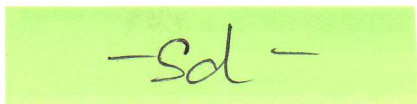
corporate debtor. That there has been default in payment of the financial debt is not refuted by the Corporate Debtor.

13. As a sequel to the above discussion and in terms of Section 7 (5) (a) of the Code, the present application is admitted.
14. Mr. Ajit Gyanchand Jain, having registration number IBBI/IPA-001/IPP00368/20107-18/10625 having email – id ajit@vcanca.com is appointed as an Interim Resolution Professional for corporate debtor.
15. In pursuance of Section 13 (2) of the Code, we direct that public announcement shall be made by the Interim Resolution Professional immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations, 2016) with regard to admission of this application under Section 7 of the Insolvency & Bankruptcy Code, 2016.
16. We direct the applicant Financial Creditor to deposit a sum of Rs. 2 Lakhs with the Interim Resolution Professional namely Mr. Ajit Gyanchand Jain to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Financial Creditor. The said amount however be subject to adjustment towards Resolution Process cost as per applicable rules.

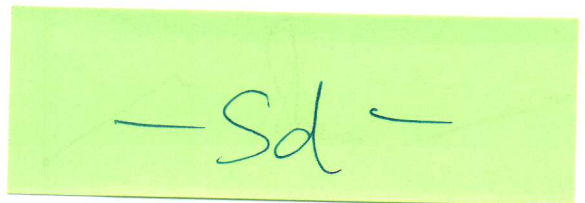


17. We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:
18. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.
19. The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution

19. Professional as may be required by him in managing the day to day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing appropriate orders. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.
20. The office is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCT of Delhi & Haryana at the earliest possible but not later than seven days from today.



(NARENDER KUMAR BHOLA)
MEMBER (T)



(JUSTICE RAMALINGAM SUDHAKAR)
HON'BLE PRESIDENT