

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

CP(IB)3804/MB/2018

Under Section 7 of the I&B Code, 2016

In the matter of

Reliance Capital Limited,
H Block. 1st Floor, Dhirubhai Ambani,
knowledge City, Navi Mumbai-400710
... Petitioner

V/s

Win Trendz Exim Private Limited,
Lotia Palace 1st Floor, block 1 373,
Linking Road, Khar West Mumbai,
Maharashtra 400052.

... Corporate Debtor

Order delivered on: 07.11.2019

Coram:

Hon'ble Smt. Suchitra Kanuparthi, Member (J)

Hon'ble Shri V. Nallasenapathy, Member (T)

For the Petitioner: Mr. Soumen Ghosh Adv.

For the Corporate Debtor: Mr. Manan Shah Adv i/b Adv. Akshay Deshmukh

Per: V. Nallasenapathy, Member (Technical)

ORDER

1. Reliance Capital Limited (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process against Win Trendz Exim Private Limited (hereinafter called the 'Corporate Debtor') on the ground that the Corporate Debtor committed default to the extent of Rs. 87,53,464/- as provided under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereafter called the 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The Petitioner had granted a Term loan of Rs. 1,25,00,000/- against Hypothecation of equipment's, to the Corporate Debtor, vide sanction dated 02.07.2016.

3. The Petitioner enclosed the following documents in support of the Term loan granted to the Corporate Debtor:
 - (a) Agreement of facility cum Hypothecation dated 04.07.2016 between the Petitioner and the Corporate Debtor;
 - (b) Addendum to the facility cum Hypothecation dated 04.07.2019;
 - (c) Document confirming acceptance of the terms and conditions of Loan Agreement dated 04.07.2016;
 - (d) Demand Promissory Note dated 04.07.2016;
 - (e) Letter of continuity for demand promissory note dated 04.07.2016;
 - (f) Irrevocable power of attorney dated 04.07.2016;
 - (g) Deed of declaration cum indemnity dated 18.07.2016;
 - (h) Declaration cum undertaking dated 11.07.2016 for non-utilization of the fund allocated under the term loan for any other the purposes stipulated in the terms and conditions;
 - (i) Deed of creation of extension of equitable mortgage 18.07.2016;
4. The Petitioner enclosed the statement of account for the loan for the period from 07.06.2010 to 07.06.2018. The Petitioner has also annexed Commercial Credit Information Report of TransUnion (CIBIL) dated 16.05.2018 to further show the default of Corporate Debtor.
5. The Petitioner issued recall notice on 06.09.2017. calling upon the Corporate Debtor to pay a sum of Rs. 84,76,617/- within seven days of receipt of the notice. The Petitioner submits that the Corporate Debtor's account was declared as non-performing assets (NPA) on 12.10.2017. The statement of account captures several cheque bouncing charges levied indicating bouncing of post dated cheques.
6. The Counsel representing the counsel on record for the Corporate Debtor submits that there was no instruction from their client regarding the filing of reply despite giving notice to their client seeking for instruction for filing reply. The Counsel produced an Email copy seeking instruction from their client.
7. We have gone through the Form-1 filed by the Petitioner which shows that term loan of Rs. 1.25 crores was sanctioned, repayable in 48 monthly instalment of Rs. 3,37,709/-, starting from 10.07.2019 onwards. The statement of account shows that the out of 18

instalments due as on 10.06.2018 only 13 instalments are paid, and it shows that 5 instalments are overdue as on 01.02.2018. Counsel for the Petitioner submits that subsequent to 01.02.2018, no payment was received from the Corporate Debtor.

8. The above facts clearly reveals that there is debt as claimed by the Petitioner and Corporate Debtor defaulted in making the payment and hence this petition deserves admission.
9. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the loan availed and also placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional and there being no disciplinary proceedings pending against the proposed resolution professional, therefore the petition under sub-section (2) of Section 7 is taken as complete, accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:
 - I. (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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);
 - (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.
 - II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
 - III. That the provisions of sub-section (1) of Section 14 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 07.11.2019 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.

- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- VI. That this Bench hereby appoints, Mr. Pankaj Sham Joshi, having his address at, C/O Omega Business Solutions Pvt Ltd, unit 12, Kakad Industrial Estate, Lady Jamshedji Cross Road No 3, Mahim (West) having Registration No. IBBI/IPA-002/IP-N00507/2017-2018/11556 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.
10. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional immediately.

Sd/-
V. Nallasenapathy
Member (T)

Sd/-
Suchitra Kanuparthi
Member (J)