

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

CP No. 3506/IBC/NCLT/MB/MAH/2019

Under Section 7 of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of

Suraksha Asset Reconstruction Private Limited.
..... Financial Creditor
(Petitioner/Applicant)

V.

Sneha Natural World Private Limited.
..... Corporate Debtor
(Respondent)

Heard on: 10.10.2019

Pronounced on: 11.11.2019

Coram :

Hon'ble M.K. Shrawat, Member (J)

Hon'ble Chandra Bhan Singh, Member (T)

For the Petitioner : Advocate Sanjay Udeshi a/w Advocate Darshan Ashar i/b Bathiya Udeshi & Associates

For the Respondent : None Present

Per: Chandra Bhan Singh, Member (T)

ORDER

1. The Petitioner/Applicant viz. 'Suraksha Asset Reconstruction Private Limited' (hereinafter as **Financial Creditor**) has furnished Form No. 1 under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter as **Rules**) in the capacity of "Financial Creditor" on 04.09.2018 by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code (hereinafter as **Code**) against 'Sneha Natural World Private Limited' (hereinafter as 'Corporate Debtor'). The registered address of the Corporate Debtor is stated to be Flat 26-A, 1st Floor, A-3, Narayan P Chandivali Road, Off. Sakivihar, Sakinaka, Mumbai.
2. In the requisite Form, under the head "Particulars of Financial Debt" the total amount of Debt granted is stated to be ₹76,00,00,000/-, and the amount claimed to be in default is ₹76,99,28,961/- of which the principal amount is ₹74,03,00,000/- and interest amount till 31.08.2018 is ₹2,96,28,961/-. The loan account of the Corporate Debtor was declared as Non-Performing Asset on 30.08.2012.

SUBMISSIONS BY THE FINANCIAL CREDITOR

3. The Financial Creditor submits that vide an Arrangement Letter dated 29.06.2009 and Loan Agreement dated 02.07.2009, both instruments as amended from time to time, SBI had granted Fund Based facilities of ₹31 crore and Non-Fund Based Facility of ₹46 crore in the form of Working Capital Limits and Term Loan to Corporate Debtor.
4. The loan facilities are secured by hypothecation on assets of the Corporate Debtor, mortgage of immovable properties of the Corporate Debtor and the personal guarantee given by Mr. Dyandeo G Salunkhe and Mr. Uday Pandurang Bhosle.
5. The Financial Creditor stated that the Corporate Debtor has availed the aforesaid respective credit facilities from the SBI from time to time, however, their account has been irregular for quite some time, as a result of which the account of the Corporate Debtor has been declared as NPA by SBI on 30.08.2012. It is further stated that the Corporate Debtor defaulted in repayment of loan amount, hence, SBI issued notice under section 13(2) of the SARFAESI Act, 2002 dated 06.12.2013 calling upon Corporate Debtor to repay the amount. Nothing fructified. The SBI had initiated proceedings before DRT, Mumbai.
6. Thereafter, the Financial Creditor herein acquired the financial assets of the Corporate Debtor from State Bank of India (hereinafter referred to as 'SBI'/ 'Original Lender'), pursuant to an Assignment Agreement dated 31.03.2018 executed between SBI and the Financial Creditor.
7. The Financial Creditor submitted the SBI Bank Statement of Account of the Corporate Debtor from 02.04.2011 to 25.06.2014 detailing the amounts disbursed on different dates, thus corroborating to the amount claimed in this petition. The total amount disbursed under respective credit facilities is ₹51.12 crore.
8. Hence, the petitioner submits that the petition is complete in all respects, the default has been corroborated by enough substantial evidences, therefore, the petition ought to be admitted and the Corporate Debtor's Corporate Insolvency Resolution process be initiated.

SUBMISSIONS BY THE CORPORATE DEBTOR

9. The Corporate Debtor appeared through his Counsel appeared on 14.11.2018 and 13.12.2018. However, no reply to this petition was filed by the Corporate Debtor. Thereafter, the Respondent Corporate Debtor who is Respondent in this case through his counsel stopped appearing before this Bench despite intimation of hearing dates by notice as well as paper publication. The Financial Creditor has duly produced the Affidavit of Service on record. This conduct of the Respondent Corporate Debtor is evident of the fact that there is no defence to the debt claimed in this petition. The Corporate Debtor has nowhere denied his liability to pay the amount claimed.

FINDINGS

10. On going through the submissions made by the Learned Counsel and on perusing the documents produced on record, it is understood that the Corporate Debtor has defaulted in repayment of debt. The Financial Creditor has made out its case with ample evidences for his claim. The Corporate Debtor has chosen not to challenge this petition by not filing an affidavit in reply. It seems like there is no defence left with the Corporate Debtor with regard to this petition. Therefore, owing to the inability of the Corporate Debtor to pay its dues, this is a fit case to be moved u/s 7 of the I&B Code.
11. The only two essentials for admission of a section 7 petition being 'debt' and 'default' have been established by substantial corroboration with Loan and Security Documents, Bank Statement of the Corporate Debtor, SARFAESI notices and proceedings etc.
12. Considering the above facts, we come to conclusion that the nature of Debt is a "Financial Debt" as defined under section 5 (8) of the Code. It has also been established that there is a "Default" as defined under section 3 (12) of the Code on the part of the Debtor. The two essential qualifications, i.e. existence of 'debt' and 'default', for admission of a petition under section 7 of the I&B Code, have been met in this case.
13. As a consequence, keeping the afore said facts in mind, it is found that the Petitioner has not received the outstanding Debt from the Respondent and that the formalities as prescribed under the Code have been completed by the Petitioner, we are of the conscientious view that this Petition deserves 'Admission'.
14. Further that, we have also perused the Form – 2 i.e. written consent of the proposed Interim Resolution Professional submitted along with this application/petition by the

- Financial Creditor and there is nothing on record which proves that any disciplinary action is pending against the said proposed Interim Resolution Professional.
15. The Financial Creditor has proposed the name of Interim Resolution Professional (IRP). The IRP proposed by the Financial Creditor, Mr. Ravindra Chaturvedi, having registration No. IBBI/IPA-001/IP-P00792/2017-18/11359, is hereby appointed as IRP to conduct the Insolvency Resolution Process.
 16. Having admitted the Petition/Application, the provisions of Moratorium as prescribed under Section 14 of the Code shall be operative henceforth with effect from the date of order, and shall be applicable by prohibiting institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the “Corporate Debtor” shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under Section 31 of the Code.
 17. That as prescribed under Section 13 of the Code on declaration of Moratorium the next step of Public Announcement of the Initiation of Corporate Insolvency Resolution Process shall be carried out by the IRP immediately on appointment, as per the provisions of the Code.
 18. That the Interim Resolution Professional shall perform the duties as assigned under Section 18 and Section 15 of the Code and inform the progress of the Resolution Plan and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.
 19. The Petition is hereby “Admitted”. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of the Order.
 20. Ordered Accordingly.

SD/-

CHANDRA BHAN SINGH
MEMBER (TECHNICAL)

Dated : 11.11.2018

J

SD/-

M.K. SHRAWAT
MEMBER (JUDICIAL)