

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

**CP (IB) No.360/MB-IV/2022**

Under Section 7 of the I&B Code, 2016

In the matter of:

**Janaseva Sahakari Bank Limited**

[IN: UBD MH 863 P]

...Financial Creditor/Applicant

V/s

**Sanmati Pressings Private Limited**

[CIN: U28999MH1976PTC018830]

...Corporate Debtor/Respondent

**Order Dated: 20.01.2023**

*Coram:*

Mr. Prabhat Kumar  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

For the Petitioner(s) : Mr. Avinash Khanolkar a/w Ms. Surekha Yadav and Ms. Kavita Singh, Advocates.

For the Respondent(s) : Mr. Manoj Kumar Mishra, Advocate.

**ORDER**

*Per: Kishore Vemulapalli, Member (Judicial)*

1. This is an application bearing C.P. (IB) No. 360/MB/C-IV/2022 filed by Janaseva Sahakari Bank Limited, the Financial Creditor/Applicant,

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under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Sanmati Pressings Private Limited, Corporate Debtor.

2. The Application is filed by Mr. Shirish Polekar, Joint General Manager of the Financial Creditor duly authorised vide its Board Resolution dated 20.08.2020, claiming total default of Rs.10,00,93,571.63/- (Rupees ten crore ninety-three thousand five hundred seventy-one and sixty-three paise only) as on 31.03.2021 plus unapplied interest from 01.06.2016 and legal expenses/charges in case of suit filed accounts.
3. The Date of Default is stated to be 07.02.2015 in the Petition and the same is date of NPA as well. The Petition is filed on 07.09.2021.
4. The case of the Financial Creditor is as under:
  - a) The Financial Creditor has sanctioned total Credit Facility amounting to Rs.18.42 lakh under few Fund Based and Non-Fund Based Loan Accounts in terms of sanction letter dated 04.12.2012 as modified on 23.04.2014.
    - i. Term loan (A/c number: 175/109) – Rs.6,50,00,000/- (Rupees six crore fifty lakh only) (out of this Rs.3 crore is in consortium arrangement with Vardha Nagari Sahakari Bank Limited and Jalgaon Janata Sahakari Bank Limited), Date of Disbursement: 15.12.2012;
    - ii. Cash Credit (A/c number: 167/213) – Rs. 5,00,00,000/- (Rupees five crore only), Date of Disbursement: 07.06.2014;

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- iii. Term loan (A/c number: 175/107) – Rs.1,27,00,000/ Rupees one crore twenty-seven lakh only), Date of Disbursement: 15.12.2012;
  - iv. Term Loan (A/c number: 182/79) – Rs.90,00,000/- (Rupees ninety lakh only), Date of Disbursement: 15.12.2012;
  - v. Letter of Credit Facility (A/c number 167/218) – Rs.4,75,00,000/- (Rupees four crore seventy-five lakh only) consisting of
    - a. Letter of Credit Loan of Rs.4,00,00,000/- (Rupees four crore only), Date of Disbursement: 25.04.2014
    - b. Letter of Credit Facility, inter alia exchangeable with Cash Credit of Rs.75,00,000/- (Rupees seventy-five only)
5. The Financial Creditor had issued Notice dated 03.06.2015 under section 13(2) of the SARFAESI Act, 2002 for claiming total outstanding of Rs.15,58,89,874/- (Rupees fifteen crore fifty-eight lakh eighty-nine thousand eight hundred seventy-four only) plus interest thereon @ 16% p.a. w.e.f. 01.05.2015 within 60 days from the date of receipt of this notice.
6. The Financial Creditor also obtained four (4) Recovery Certificates on 13.04.2017 in Suit filed under section 101 of MCS Act for an aggregate sum of Rs.8.81 crore. As on the date of present Application the execution of the Recovery Certificates is stated to be in process. It is further stated that another Recovery Certificate for an amount of Rs.5.94 crore was obtained on 20.07.2018 on behalf of Consortium Banks and a flat situated at Shivaji Nagar Pune was attached against it.

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Further, some property situated Chimbali, Tal-Khed, District-Pune were also attached. The Applicant also recovered some money from the attachment of an Account with ICICI Bank and from Bank account of personal guarantors on 06.01.2021.

7. The Financial Creditor has filed the Statement of Accounts of the Corporate Debtor.
8. The Corporate Debtor had submitted OTS proposal to the Financial Creditor vide its letter dated 08.12.2020 for the settlement of the dues. Further, the Corporate Debtor has issued an Acknowledgement dated 06.02.2021 confirming the facility availed by the Corporate Debtor and acknowledging the liability to repay the debt. The Corporate Debtor issued another Settlement Offer Letter dated 23.02.2021 to the Financial Creditor.
9. The Corporate Debtor has filed its Affidavit-in-reply dated 03.10.2022 and challenged the maintainability of present Petition on the ground of limitation stating that the account was rendered NPA on 07.02.2015. The Corporate Debtor also disputed the correctness of the amount in default, the legality of SERFAESI Proceedings and the levy of interest incorrectly. The Corporate Debtor has also submitted that the Financial Creditor has recovered a sum of Rs.11,96,69,502/- (Rupees eleven crore ninety-six lakh sixty-nine thousand five hundred two only) from the sale proceeds of Immovable Property, attachment of Bank Account/Debtors. The Corporate Debtor has also submitted that it has been making bona fide efforts to settle the remaining dues of the Financial Creditor and has been consistently chasing the Financial Creditor to honestly reach the amount of settlement after considering

the payment already being made. However, in spite of reciprocating the efforts of the Corporate Debtor, the Financial Creditors consistently pressed upon the arbitrary demands, without any justifications.

*Findings/Observations:*

10. We have heard the arguments of the Learned Counsel for both the parties and perused the records.
11. It is observed by the Bench that the Financial Creditor has provided Consortium Loan Facility to Corporate Debtor to the tune of Rs.18,42,00,000/- (Rupees eighteen crore forty-two lakh only). The said facility is not disputed by the Corporate Debtor.
12. The Corporate Debtor has not disputed the amount of principal outstanding which is in any case more than the minimum threshold limit as prescribed under the Code for initiation of proceedings. The Corporate Debtor has acknowledged the existence of debt also by way of submission of offer for OTS dated 08.12.2020 and thereafter on 03.02.2021. Further, there is Acknowledgment of debt by the Corporate Debtor as 06.02.2021.
13. The Financial Creditor had also started the SARAFAESI proceedings under section 13(2) and 13(4) in respect of unpaid debt. The Financial Creditor also attached the recovery certificates dated 13.04.2017 obtained under section 101 of Maharashtra Co-operative Societies Act, 1960. Another Recovery Certificate was obtained on 20.07.2018 on behalf of Consortium Banks.
14. As per records available with the Bench, the Corporate Debtor had tried to settle the dues with the Financial Creditor by issuing the OTS

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proposal dated 08.12.2020 and 23.02.2021. Further, the Corporate Debtor issued a letter<sup>1</sup> dated 06.02.2021 to the Financial Creditor wherein the Corporate Debtor has acknowledged the amount of Rs.2392.97 lakh as on 31.12.2020 plus interest & charges thereon from 01.01.2021 is due and payable by the Corporate Debtor to the Consortium of Financial Creditors.

15. The Hon'ble Supreme Court of India vide its order dated 10th January 2022 disposed of the Miscellaneous Application No. 21 of 2022 by passing directions as mentioned below: -

*The order dated 23rd March 2020 is restored and in continuation of orders dated 8th March 2021, 27th April 2021 and 23rd September 2021, it was directed that in computing the period of limitation for any suit, appeal, application or proceeding, the period from 15-03-2020 till 28-02-2022 shall stand excluded and the balance period of limitation remaining as on 03-10-2021 if any, shall become available with effect from 01-03-2022 and in cases where period of limitation expired between 15-03-2020 till 28-02-2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01-03-2022, also if the actual balance period is greater than 90 days then longer period shall apply. Further, the period from 15-03-2020 till 28-02-2022 shall stand excluded for computing limitation period prescribed under various laws for institution of proceedings, termination of proceedings, condonation of delay.*

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16. In view of Hon'ble Apex Court order dated 10.01.2022 the period from 15.03.2020 till 28.02.2022 is to be excluded for the purpose of computation of limitation period. In the present case the Recovery Certificate was issued in favour of the Financial Creditor on 13.04.2017 and thereafter in favour of Consortium Financial Creditors on 20.07.2018. Even if limitation period is computed from the date of recovery certificate in favour of financial Creditor the period of three years would expire on 12.04.2020 which falls within the exclusion period as ordered by the hon'ble Apex Court. Accordingly, the present Petition, having been filed on 07.09.2021, is not barred by limitation.
  17. It is noted that the Corporate Debtor has nowhere denied existence of debt for sum exceeding Rupees one crore the dispute on the correctness of total outstanding or levy of incorrect interest is not relevant in the present case. Further, the legality of SERFAESI Proceedings does have a bearing on the admission of case under IBC as long as conditions precedent in section 7 of the code are met.
  18. After perusal of the material on record, this Bench is of considered view that there is no reason to deny the Petition under section 7 filed by the Financial Creditor to initiate the CIRP against the Corporate Debtor as the Corporate Debtor himself has admitted its liability.
  19. On perusal of the documents submitted by the Applicant, it is clear that financial debt amounting to more than Rs.1,00,00,000/- (Rupees One Crore Only) is due and payable by the Corporate Debtor to the Applicant. There is default by the Corporate Debtor in payment of debt amount. Therefore, we do not have any objection on record against the application filed for initiation of CIRP against the corporate debtor.

Hence, the Application filed by the Financial Creditor is liable to be admitted.

20. The Applicant has proposed the name of Ms. Anagha Anasingaraju, a registered insolvency resolution professional having Registration Number [IBBI/IPA-002/IP-N00247/2017-18/10732] as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code and has also given his declaration that no disciplinary proceedings are pending against him.

### **ORDER**

This Application being C.P. (IB) No. 360/NCLT/MB/C-IV/2022 filed under Section 7 of I&B Code, 2016, filed by Janaseva Sahakari Bank Limited, the Financial Creditor/Applicant, against Sanmati Pressings Private 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
- a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
  - b. a surety in a contract of guarantee to a Corporate Debtor.
- 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.

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- VI. That this Bench appoints Ms. Anagha Anasingaraju, a registered insolvency resolution professional having Registration Number [IBBI/IPA-002/IP-N00247/2017-18/10732], E-mail: [rp.anagha@kanjcs.com](mailto:rp.anagha@kanjcs.com), 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.
- e) The Financial Creditor shall deposit a sum of Rs.5,00,000/- (Rupees five lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- f) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor.
- g) 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 Whats App. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

Prabhat Kumar  
Member (Technical)

20.01.2023

Sd/-

Kishore Vemulapalli  
Member (Judicial)