IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP (IB) -2793/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Punjab National Bank,

Plot No. 4, Sector – 10, Dwarka,

New Delhi – 110 075

.... Petitioner

Vs.

M/s Radiant Bizcom services Private Limited

Shop No. 160, 1st Floor,

Evershine Mall Jn. Off Link Road,

Malad West, Mumbai- 400 064

.... Corporate Debtor

Order delivered on: 04.11.2019

Coram: Hon'ble Suchitra Kanuparthi, Member (Judicial)
Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioner: Ms. Falguni Shete, Advocate
For the Respondent: Mr. Parul Sharma, Advocate

Per: V. Nallasenapathy, Member (T)

ORDER

1. Punjab National Bank (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process of M/s Radiant Bizcom services Private Limited (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default on 17.07.2019 to the extent of Rs. 33,31,92,829/- including interest 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 submits that at the request of the Corporate Debtor, the Petitioner, through its Head Office at New Delhi, had sanctioned Cash Credit facility of Rs. 25 crores and the same was disbursed to the Corporate Debtor from the Branch Office at Linking Road, Bandra (West), Mumbai – 400 050.

3. The Petitioner further submits that a sum of Rs. 33,31,92,829.54/- is due from the Corporate Debtor as on 17.07.2019 and has enclosed the computation of amount due from the Corporate Debtor which as follows:

Particulars	*Amount (Rs.)*
Principal amount	25,00,00,000
Interest	7,35,71,921.70
Penal interest	1,05,43,622.73
Recovery	(11,80,572.90)
Other Charges	2,57,858.00
Total	33,31,92,829.54

4. The Petitioner had executed the following documents in respect of the sanctioned facilities by the Corporate Debtor:
   a. Sanction Letter dated 12.02.2016
   b. Agreement for Hypothecation of Goods and Book Debts to secure Cash Credit Facility dated 15.02.2016
   c. Registered Indenture of Mortgage dated 15.02.2016
   d. Agreements of Deposit (by way of Pledge) of Securities to create Security Interest dated 15.02.2016
   e. Statement of Accounts for the period of 15.02.2016 to 12.07.2019
   f. Notice u/S 13(2) and u/S 13(4) of SARFAESI Act, 2002

g. CIBIL Report dated 05.10.2018
h. IT Certificate dated 17.07.2019 certifying the printouts enclosed.
i. Certificate under S. 2A(a) and S. 2A(b) of Bankers Book of Evidence Act, 1891 dated 17.07.2019

5. On 13.06.2017 the Corporate Debtor issued a letter confirming the debit balance of Rs 25,00,12,230 inclusive of interest @ 12.7% p.a. owed to the Petitioner as on 31.03.2017 and the same is enclosed at page no. 157 of the Petition.

6. It is to be noted that the deposits were made regularly to the said account by the Corporate Debtor but it turned irregular since 30.06.2017 Therefore, the Corporate Debtor was classified as a Non-Performing Asset (NPA) from 30.09.2017.

7. Further, on 09.10.2017, the Petitioner issued notice u/S 13(2) of SARFAESI Act, 2002 calling upon the Corporate Debtor, its directors and guarantors to pay the outstanding dues of Rs. 26,11,00,957 (as on 30.09.2017) along with future interest within 60 days of receipt of this notice failing which the Petitioner would exercise his right of enforcement of security interest. Accordingly, on failure of the Corporate Debtor to make good the said amount within 60 days, the Petitioner issued notice u/S 13(4) of SARFAESI Act, 2002 on 26.12.2017 demanding possession of secured assets.

8. The Petitioner has filed an Application (OA No. (L) 234/2018) against the Corporate Debtor and the guarantors before the Debt Recovery Tribunal-I, (DRT), Mumbai, under section 19 of The Recovery of Debts due to Banks and Financial Institutions Act, 1993 for recovery of debt due of Rs. 28,09,47,747/- and enforcement of mortgage, charge and guarantees.

9. The Petitioner has enclosed the Statement of Account which shows that a sum of Rs. 33,29,34,971.54 is payable by the Corporate Debtor as on 17.07.2019. The certificate under Section 2 A (a) of the Banker's Book of Evidence Act, 1891 dated 17.07.2019 is also submitted by the Petitioner.

10. Heard the Counsel for the Petitioner. The Counsel for the Corporate Debtor during the hearing on 04.09.2019 has admitted the debt and default. Hence the Petition deserves admission as provided under Section 7 of the Code.

11. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the loans 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 Application 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.

राष्ट्रीय कम्पनी विधि अधिकरण NATIONAL COMPANY LAW TRIBUNAL मुंबई न्यायपीठ MUMBAI BENCH

(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 04.11.2019 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. Arun K. Bagaria, 701, Stanford Building Junction of S.V. Road and Juhu Galli, Andheri West, Mumbai 400 058, email id: bagaria.arun@gmail.com, having Registration No. IBBI/IP-N00278/2017-18/10836 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

10. Accordingly, this Petition is admitted.

11. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional immediately.

SD/-
V. NALLASENAPATHY
Member (Technical)

SD/-
Suchitra Kanuparthi
Member (Judicial)