

IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

CP 426 (IB)/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of

Bank Of Baroda

...Financial Creditor/ Applicant
v/s

Trump Impex Private Limited

...Corporate Debtor

Order Dated 27th August 2019

Coram: Hon'ble Member (Judicial) Mr. V.P. Singh

Hon'ble Member (Technical) Mr. Rajesh Sharma

For the Petitioner: Adv. Samiksha Manik

For the Respondent: Adv. Rita Yadav

Per Rajesh Sharma, Member (Technical)

ORDER

1. This is an application being CP 426/2019 filed by Bank of Baroda, Financial Creditor or Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Trump Impex Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**). The Petition is filed on 25.01.2019.
2. This application is filed by Mr. Pravin Kumar, Chief Manager of the applicant Bank who is duly authorised to do the same.
3. The Applicant has extended a loan of ₹4.84 crore, vide its sanction letter dated 23.11.2012, to the Corporate Debtor. The said facility was eventually renewed and enhanced several times on 27.01.2014, 27.10.2014, 06.11.2015, 30.11.2016 and finally on 15.02.2018 to the tune of ₹29.56 crore. The account of the Corporate Debtor was declared Non-Performing Asset (NPA) on 30.11.2018. The Applicant sent a loan recall and NPA notice recalling an outstanding amount of ₹30,80,41,458.80 including interest as on 01.12.2018.
4. The Applicant submits that as on 31.12.2018, the total outstanding amount against the Working Capital facilities in default is ₹30.94crores. Further the date of default is mentioned as

31.08.2018. The Applicant has submitted on record the notice under section 13(2) of SARFAESI Act, 2002 dated 12.12.2018 recalling all the advances to the Corporate Debtor.

5. The Applicant has submitted on record the CIBIL Commercial Credit Information Report dated 04.01.2019 that reflect the classification of the account of the Corporate Debtor as sub-standard. The Applicant has also annexed to the Application a certificate under The Banker's Book of Evidence Act, 1891 dated 24.01.2019 and Bank Account Statement of the Corporate Debtor for the period 08.02.2013 to 15.01.2019. These documents including the loan recall notices, CIBIL reports and the bank statements establish the existence of debt and default in repayment of financial debt of more than ₹1,00,000/- by the Corporate Debtor.
6. The Corporate Debtor has raised objection to the admission of the present application on the technical ground that the applicant is not authorised to file the present application.
7. However, on perusal of the documents submitted on record, there is a debt due and payable by the Corporate Debtor to the Applicant. The outstanding amount that is in default is more than ₹1,00,000/-.
8. In the present case where the debt and default of more than ₹1,00,000/- is established and the application is complete in all respects and further in the light of the Judgment of the Hon'ble NCLAT in ***Palogix Infrastructure Private Limited vs ICICI Bank Limited, Company Appeal (AT) (Insol) No. 30 of 2017 dated 20.09.2017*** and also pursuant to the notification issued by Ministry of Corporate Affairs dated 27.02.2019, the objection of the Corporate Debtor regarding the insufficient authorisation of the Chief Manager of the applicant Bank to file the present application is not tenable.
9. The Applicant has proposed name of Mr Rajender Kumar Girdhar, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-003/IP-N00048/2017-18/10396] as **Interim Resolution Professional**, to carry out the functions as mentioned under I&B Code. In Form 2 annexed to the Application, the proposed IRP has declared that there are no disciplinary proceedings pending against him.

10. The Application under sub-section (2) of Section 7 of I&B Code, 2016 filed by the financial creditor for initiation of CIRP in prescribed Form No1, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 is complete. The existing financial debt of more than rupees one lakh against the corporate debtor and its default is also proved. Accordingly, the petition filed under section 7 of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the corporate debtor deserves to be admitted.

ORDER

This petition filed under Section 7 of I&B Code, 2016, by **Bank of Baroda** against **Trump Impex Private Limited**, Corporate Debtor for initiating corporate insolvency resolution process is at this moment **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 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 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.
- VI. That this Bench at this moment appoints Mr Rajender Kumar Girdhar, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-003/IP-N00048/2017-18/10396] as Interim Resolution Professional to carry out the functions as mentioned under I&B Code. The fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.
11. The Registry is at this moment directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
RAJESH SHARMA
Member (Technical)

Sd/-
V.P. SINGH
Member (Judicial)

27th August 2019