

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 1

TP 241 of 2019 [CP(IB) 628 of 2018]

Coram: MADAN B. GOSAVI, MEMBER (JUDICIAL)
VIRENDRA KUMAR GUPTA, MEMBER (TECHNICAL)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING THROUGH VIDEO CONFERENCING BEFORE THE
INDORE BENCH AT AHMEDABAD OF THE NATIONAL COMPANY LAW TRIBUNAL ON 04.12.2020

Name of the Company:

Bank of Baroda
V/s
Divya Jyoti Industries Ltd

Section:

7 of the Insolvency and Bankruptcy Code, 2016

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Dated this the 4th day of December, 2020.

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD
COURT 1**

CP (IB) No.628/7/NCLT/AHM/2018

An application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016

In the matter of :

Dena Bank
(Mr. Manoj Kumar, Assistant General Manager)
Dena Corporate Centre,
C-10, G-Block, Bandra-Kurla Complex,
Bandra
Mumbai-400051

..Financial Creditor

Versus

M/s Divya Jyoti Industries Ltd.,
CIN:L15143MP1992PLC007090
Registered Office at :
19039, Sector III Industrial Area,
Pithampur, Dhar,
Madhya Pradesh-411900

.... Corporate Debtor

Date of Hearing: 3rd December, 2020

Date of Pronouncement of Order 4th December, 2020

**Coram: MADAN B. GOSAVI, MEMBER(J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance:

Learned Counsel Mr. Vishal Dave for the Financial Creditor.
Learned Counsel Mr. Nithis Bagera for the Corporate Debtor.

ORDER

[Per Bench]

1. The facts, in brief, are that the application filed under Section 7 by Financial Creditor to initiate CIRP against the Corporate Debtor M/s. Divya Jyoti Industries Ltd.. The amount of debt in default has been claimed at Rs.13,85,98,815/- including interest. The date of default has been stated as 27.02.2018 when first letter of credit devolved and party did not pay. The account of the Corporate Debtor has been classified as NPA as on 31.03.2018.
2. The Learned Counsel Mr. Vishal Dave appeared and after narrating basic facts pleaded that there was a debt which was due and payable in law and the Corporate Debtor had failed to pay the same, hence, this application was liable to be admitted. It was also argued that such debt was not barred by limitation.
3. As regard to defence taken by the Corporate Debtor, it was pointed out that except the constraints faced by the Corporate Debtor, no other legal pleading had been taken. It was also submitted that name of the IRP had been proposed whose consent had been on record and no adverse proceedings were pending against the such person, hence, he could be appointed as IRP.
4. The Learned Counsel Mr. Nithish Bagera on behalf of the Corporate Debtor submitted that company was facing liquidity issues because of adverse business environment

being faced by the Corporate Debtor. It was also contended that some part payment amounting to Rs. 35 lakhs had been made. It was further contended that OTS proposal was also to be given. It was also contended that it was a case of recovery, hence, the application was liable to be dismissed.

5. We have considered the submission made by both sides and material on record. As far as amount of outstanding debt is concerned, the same is not in dispute. It is also not in dispute that the liability to pay the debt has arisen firstly from 27.02.2018 and thereafter account has been classified as NPA on 31.05.2018. The application has been filed in April 2019. Thus, application is not barred by limitation. The Corporate Debtor has not disputed these facts and has merely taken plea that it is facing financial constraints. The amount paid is minuscule as compared to the total outstanding debt, hence, there does not appear any chance for paying the debt as per the requirement of the Financial Creditor. IB Code, 2016 has been promulgated with a view to revive such Corporate Debtors and for their insolvency resolution either by way of resolution or liquidation. As far as Section 7 application is concerned, the present application meets all requirements of IB code, 2016 as regard to its admissibility. Name of the IRP has also been proposed whose consent is on record and based upon the record produced before us, it is noted that no disciplinary proceedings are pending against such

person. Therefore, we can appoint him as IRP to conduct CIRP.

6. The application is otherwise complete and defect free.
7. In view of above facts and applicable legal position, we admit this application and order as under:

ORDER

1. Corporate Debtor M/s Divya Jyot Industries Limited is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.
2. We appoint Mr. Sajjan Kumar Dokania, registration no. IBBI/IPA-003/IP-N000150/2017-2018/11729, having address 25, Globus Fab City, Kolar Road, Chuna Bhatti, Near Suyash Hospital, Bhopal-462016, Email sajjan_suman@hotmail.com under section 13(1) (c) of the IB Code as IRP.
3. That the Moratorium under Section 14 of the Code shall come to effect from **04.12.2020** till the completion of 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.

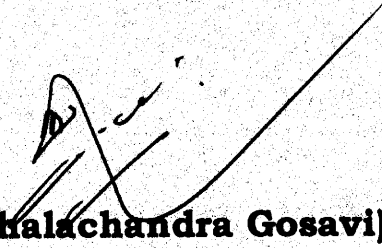
4. That the Bench hereby prohibits the institution of suits or continuation of pending suit or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any Court of law. Tribunal, Arbitration Panel or other Authority(s), transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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 SARFAESI Act, 2002 the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
5. Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to pronouncement of this order such proceedings are expected to be dealt with in accordance with law r.w. Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.
6. That the supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the Moratorium, period. The Corporate Debtor to provide effective

assistance to the IRP as and when he takes charge of the Corporate Debtor.

7. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.
8. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
9. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation

- imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
10. We direct the Financial Creditor / Applicant to pay the IRP a sum of **Rs. 50,000/- (Rs. Fifty Thousand)** as fees & expenses till the COC decides about his fees / expenses.
 11. The Registry is directed to communicate a copy of this order to the Petitioner-Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.
 12. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.
 13. CP(IB) No. 628/7/NCLT/AHM/2018 is allowed and stands disposed of.


(Virendra Kumar Gupta)
Member (Technical)


(Madan Bhalachandra Gosavi)
Member (Judicial)

Signed on this, the 4th day of December, 2020.