IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP(IB)No.1839/NCLT/MB/2019
Under Section 7 of the I&B Code, 2016
In the matter of

TJSB Sahakari Bank Limited

...Financial Creditor/ Applicant

v/s

Care Stationers & Agencies Private Limited

...Corporate Debtor

Order Dated 13.12.2019

Coram:
RAJESH SHARMA
Member (Technical)

BHASKARA PANTULA MOHAN
Member (Judicial)

For the Applicant: PCA Praveen Mahajan
For the Respondent: None Present.

Per: Rajesh Sharma, Member (Technical)

ORDER

1. This is an Application being CP 1839(IB)/MB/2019 filed by **TJSB Sahakari Bank Limited,** a Bank registered under the Banking Regulation Act, 1949, the Financial Creditor / Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Care Stationers & Agencies Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**) claiming ₹4,86,27,965/- (Rupees Four Crore Eighty Six Lakh Twenty Seven Thousand Nine Hundred and Sixty Five only) as on the date of this Application, including interest on the principal sum of ₹4,33,72,886/-

2. This Application is filed by Mr. Shyam Anikhindi, Chief Manager of the Applicant Bank duly authorised vide Board Resolution dated 15.04.2019, which is annexed to the Application.

3. The Applicant vide memorandum of loan sanction dated 17.10.2015 sanctioned the cash credit facility for a sum of ₹200 Lakh only at an interest rate of 12.75% p.a and Term Loan Facility of a sum of ₹350 Lakh at the interest rate of 12.75% p.a to the Corporate Debtor. Copy of the sanction letter dated 17.10.2015 is annexed to the Application.

4. The Applicant has annexed statement of accounts of the Corporate Debtor maintained by the Applicant showing the disbursement of the loan amounts. The Ledger entries showing the last payments of ₹4,94,000/- on 28.03.2018 and ₹4,06,000/- on 29.03.2018 are pointed out to this Bench at the time of arguments by the PCA representing the Applicant. The statement of accounts are accompanied by Certificate under the Banker's Book Evidence Act, 1891.

5. The Applicant has annexed the Mortgage Agreement dated 13.11.2015 and the Deposit of Title Deeds executed by the Corporate Debtor in favour of the Applicant Bank in support of its claim that there is a financial debt.

6. The Applicant has also annexed the Letter dated 31.03.2018 being the Acknowledgement of Debt and Letter of confirmation of Balance and Security of a sum of ₹1,74,73,385/- (Rupees One Crore Seventy Four Lakh Seventy Three Thousand Three Hundred and Eighty Five Only) under the Cash Credit Facility.

7. The Applicant submits that the Corporate Debtor exceeded its limit and its cash credit facility was continuously overdrawn since March 2018.

8. The Applicant has annexed the Notice dated 17.05.2018 issued by the Applicant for regularisation of cash credit loan account and term loan account along with postal acknowledgement showing the delivery of the Notice.

9. The Applicant issued Loan Recall Notice dated 05.06.2018 demanding payment of ₹4,56,04,990.69 (Rupees Four Crore Fifty Six Lakh Four Thousand Nine Hundred Ninety and Paise Sixty Nine Only). Copy of the Recall Notice dated 05.06.2018 along with postal acknowledgements is annexed to the Application.

10. The Applicant has annexed copies of charge registration certificate, Possession Notice dated 16.10.2018 copy of the Public Auction Notice published in newspaper dated 09.02.2019 evidencing the legal action taken for recovery under the SARFAESI Act, 2002.

11. The Applicant has filed Affidavit of Service of intimation of hearing given to the Corporate Debtor as per the directions of this Bench

12. It is pertinent to note that despite sufficient opportunity being provided to the Corporate Debtor to appear and file its Reply, the Corporate Debtor has failed to appear before this Bench. The Corporate Debtor has been set ex-parte on 13.11.2019.

13. We have heard the Applicant and perused the records.

14. On perusal of records filed by the Applicant Bank, the financial Debt is established by the Sanction Letter dated 17.10.2015, the Loan Agreements dated 13.11.2015, Mortgage by Deposit of Title Deeds, the Statement of Accounts of the Corporate Debtor and the Charge Registration Certificate.

15. On perusal of the Recall Notice dated 05.06.2018 and Notice dated 08.06.2018 issued by the Applicant under section 13(2) of the SARFAESI Act, 2002 demanding the due amount of ₹4,56,04,990.69, it is established that the Corporate Debtor has defaulted to repay the loan amount.

16. On perusal of the Letter of Acknowledgement dated 31.03.2018 of the Corporate Debtor acknowledging the Debt, it is established that the Corporate Debtor has defaulted in making payments.

17. On perusal of the Application, the date of default as per the Applicant for the Cash Credit facility is 31.03.2018 and the dated of default of the Term loan facility is 13.02.2018.

18. The Applicant has proposed the name of **Mr Ritesh R Mahajan**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-002/IP-N00048/2017-18/10132]** as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code 2016, along with his declaration in Form 2, that no disciplinary proceedings are pending against him.

19. The Application filed under Section 7 of I&B Code, 2016 is complete. The existence of financial debt of more than Rupees One Lakh against the Corporate Debtor and its default is also proved. Accordingly, the application 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 Application filed under Section 7 of I&B Code, 2016, filed by **TJSB Sahakari Bank,** Financial Creditor /Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Care Stationers & Agencies 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 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 appoints **Mr Ritesh R Mahajan**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-002/IP-N00048/2017-18/10132]** 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.

20. 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 WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today**

Sd/-
RAJESH SHARMA
Member (Technical)

13.12.2019

Sd/-
BHASKARA PANTULA MOHAN
Member (Judicial)

Certified True Copy
Copy Issued "free of cost"
On 16/12/2019

Assistant Registrar
National Company Law Tribunal Mumbai Bench