

In the National Company Law Tribunal
Mumbai Bench.

C.P.(IB)-3700/MB/2018

Under Section 7 of Insolvency & Bankruptcy Code, 2016

In the matter of

Union Bank of India : Petitioner/ Financial Creditor
V/s

Vedant Industrial Systems & Automation Pvt. Ltd. : Respondent/ Corporate Debtor

Order delivered on: 18.11.2019

Coram:

Hon'ble Shri M.K. Shrawat, Member (Judicial)

For the Petitioner(s) : 1. Mr. Ankur Kumar, Advocate a/w.
2. Miss. Bindu Bhatia, i/b. Ezy Laws.
3. Mr. C.S. Pawar, Chief Manager, Union Bank
of India, Goregaon (East) Branch.

For the Respondent(s) : 1. Mr. Shailesh Kumar.

Per M.K. Shrawat, Member (Judicial).

ORDER

1. A Petition u/s.7 has been submitted in Form No.1 on 26.09.2018 by the Financial Creditor M/s. Union Bank of India against the Corporate Debtor M/s. Vedant Industrial Systems and Automation Private Limited, Mumbai – 400 068 for a Financial Debt amount of **Rs.10,78,80,854/-** plus Interest with effect from 10.08.2012 under the following heads:-

Cash Credit Facility (Working Capital)

Outstanding Principal as on 31.08.2018	:	Rs.197,46,920.58
Default Interest	:	Rs. 4,11,574/-
Uncharged Interest	:	Rs.131,93,003.36
Other Expenses	:	Rs. 4,04,173/-
Total	:	Rs. 337,55,670/-.

Term Loan:

Outstanding Principal as on 31.08.2018 –		3,59,96,767/-
Default Interest--	:	28,22,950/-
Uncharged Interest	:	2,20,66,456.53/-
Total	:	Rs.608,86,173.53/-

Letter of Credit

1. Devolved on 04.01.2014:

Outstanding Principal as on 31.08.2018-	:	37,34,036/-
Default Interest	:	3,64,223/-
Uncharged Interest	:	25,64,738.79/-
Total	:	Rs. 66,62,997.79/-

2. Devolved on 07.02.2014:

Outstanding Principal as on 31.08.2018	:	14,91,408/-
Default Interest	:	117,018/-
Uncharged Interest	:	10,24,388.38/-
Total	:	Rs. 26,32,814.38/-
3. Devolved on 15.02.2014:		
Outstanding Principal as on 31.08.2018	:	22,35,804/-
Default Interest	:	171,708/-
Uncharged Interest	:	1535685.26/-
Total	:	3943197.26/-
Total amount of Debt in Default	:	Rs.10,78,80,854/-.

Submissions from the side of the Petitioner/ Financial Creditor :-

2. The Petitioner submitted that on 10.08.2012 Debts were granted and disbursed on 10.08.2012 by Union Bank of India, Goregaon (East) Branch aggregating to Rs.730,00,000/- under Three heads of Loans (i) Cash Credit Account, Rs.1,80,00,000/-, (ii) Term Loan Rs.4,50,00,000/- and (iii) Letter of Credit Rs.1 Crore which were renewed on 24.01.2014; Term Loan of Rs.4.50 Crores was disbursed on 29.08.2012; Letter of Credit Rs.50 Lakhs was devolved on 04.01.2014, Rs. 20 Lakhs devolved on 07.02.2014; Rs.30 Lakhs devolved on 15.02.2014.

2.1. According to the Petitioner, the Cash Credit is secured by Hypothecation on the entire Stocks and Book Debts of the Corporate Debtor which was created on 29.08.2012. The Estimated Value for Stock was Rs.24,80,2874.30/- and Book Debts as per Stock Statement as on 30.07.2014 was Rs.2,30,35,362/-.

2.2. The Debts were further secured by Collateral Security as under:-

- a) Factory Land and Building of the Corporate Debtor at Silvassa on plot bearing Survey No.535/2/2/1, Village Sayali, Taluka-Silvassa, District Silvassa, Union Territory of Dadra Nagar Haveli admeasuring 2380 Sq. Mtrs. (Estimated Value : Rs.2.92 Crores) as per valuation dated 16.03.2017 by M/s. Padmavati Consulting Services).
- b) Industrial Court at Dahisar, Maharashtra on plot bearing Survey No. 101 & 109, Hissa No. 11, 6 & 5, Unit No./ 421, 4th Floor, Building No. 1, CTS 2975, 2971 & 2972, Village – Dahisar, Taluka Borivali, District : Mumbai Suburban admeasuring Carpet Area of 505.20 Sq.ft., Loft Area 338 Sq.ft. (Total Area : 7640.40 Sq.ft. including 40% Loft Area).

2.3. A list of Loan and Security Documents are allegedly annexed with the Petition at Exhibit 'H' to the Petition.

3. The Petitioner/ Financial Creditor has annexed a copy of the computation of aggregate claim on the Corporate Debtor, reproduced below:-

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Union Bank of India
172-173, Shree Sadan, Shantaben Estate, Goregaon (E), Mumbai - 400063
Ph: 022-26862616/2682, Fax: 022-26863722, Email: cbsgoregaon@unionbankofindia.com

Date- 05 Sep 2018

Ref No. UBI/ADV/03/2018

COMPUTATION OF AGGREGATE CLAIM-VEDANT INDUSTRIAL SYSTEMS & AUTOMATION PVT LTD

ANNEXURE I

Nature of facility	Date of Sanction/ Renewals	Sanctioned limit	Date of disbursements	Outstanding dues as on 31-08-2018				Total
				O/s Principal amount as on 31-08-2018	Interest	Default interest	Uncharged interest	
CC	10-08-2012 (sanctioned) 24-01-2014 (Renewed)	Rs 1,80,00,000/-	10-08-2012	Rs 1,97,46,920.58	Rs 4,11,574/-	Rs 4,11,574/-	Rs 1,31,93,003.36/-	Rs 3,33,51,497.94/- (Other expense: Rs 4,04,173)*
TL	10-08-2012	Rs 4,50,00,000/-	29-08-2012	Rs 3,59,96,767/-	Rs 28,22,950/-	Rs 28,22,950/-	Rs 2,20,66,456.53/-	Rs 6,08,86,173.53/-
LC	04-01-2014	Rs 50,00,000/-	04-01-2014	Rs 37,34,036/-	Rs 3,64,223/-	Rs 3,64,223/-	Rs 25,64,738.79/-	Rs 66,62,997.79/-
LC	07-02-2014	Rs 20,00,000/-	07-02-2014	Rs 14,91,408/-	Rs 1,17,018/-	Rs 1,17,018/-	Rs 10,24,388.38/-	Rs 26,32,814.38/-
LC	15-02-2014	Rs 30,00,000/-	15-02-2014	Rs 22,35,804/-	Rs 1,71,708/-	Rs 1,71,708/-	Rs 15,35,685.26/-	Rs 39,43,197.26/-

* Other expense to be added in total amount. The total amount comes out to be 3,37,55,670/-

4. The Petitioner/ Financial Creditor has further submitted that the Corporate Debtor has acknowledged vide its 5 Letters, all dated 14.11.2014, the Debts, wherein recorded the existence of the Debt and Security created to secure the Debt.

5. The Petitioner has also placed on record an Appeal filed by it bearing No. ADM/COLL./SARFAESI/14/2016/54 in the matter of 'Appeal before the Hon'ble District Magistrate/ Collector, Dadra and Nagar Haveli, Silvassa' in which the Union Bank of India (impugned Financial Creditor) V/s. M/s. Vedant Industrial Systems & Automation Pvt. Ltd. and 4 Ors. were the Respondents. The Appeal was disposed of with the order reproduced below:-

ORDER

1. I have heard the arguments Shri S.K. Singh, Authorized Officer of Union Bank of India (Petitioner). I have also perused the original documents relating to the loan/ mortgage and the property in question produced by the Petitioner Bank. The documents have been produced in support of the submission that notice in terms of Section 13 (2) of the Act was duly served upon the respondents and despite that, the outstanding amount Rs. 8, 45, 54, 510.58 (Rupees Eight Crore Forty Five Lakh Fifty Four Thousand Five Hundred Ten and Fifty Eight Paise) plus charges and interest of M/s. Vedant Industrial Systems & Automation Pvt. Ltd. & Others have not been paid within the stipulated period.
2. During the course of submission, the Petitioner Bank seeks permission to take possession in respect of Primary Security / properties mortgaged i.e.

"Land/Constructed factory building on the land bearing Survey No.535/2/2/1 of Village Sayali, JUT of Dadra & Nagar Haveli, together with Plant & Machinery with stock of goods, lying thereon situated at village Sayali, DNH."

To the tune of amount Rs. 8, 45, 54, 510.58 (Rupees Eight Crore Forty Five Lakh Fifty Four Thousand Five Hundred Ten and Fifty Eight Paise) plus charges and interest of M/s. Vedant Industrial Systems & Automation Pvt. Ltd. & Others.

3. *Therefore, it is hereby ordered that the possession proceedings shall take place as per existing law in force in the presence of Mamlatdar (S) and Police Inspector (Silvassa) who shall assist the Secured Creditor in the bank case of any resistance or a law and order situation to ensure that this bank takes possession in a peaceful manner.*

Under the scheme of the Act this Court is supposed to provide the assistance to the Financial Institutions to obtain the possession of the secured assets in accordance with law. Accordingly, the application is disposed of with the above directions.

*Sd/-
District Magistrate,
Union Territory of Dadra & Nagar Haveli,
Silvassa.*

To

*Shri S.K. Singh,
Assistant General Manager,
Union Bank of India,
Goregaon (East) Branch,
72/73, Shree Sadan, Shantaben Estate,
Goregaon (East)
Mumbai – 400 063."*

6. The Financial Creditor has further submitted that the Affidavit of Service regarding the Notice of hearing to be held on 10th July 2019 along with necessary details were sent to the last known address of the Corporate Debtor and also to the Advocate of the Corporate Debtor by Speed Post on 4 July 2019. The Tracking Report which confirms the delivery of the consignment on 05.07.2019 is on record. An Affidavit by a Bank Authority affirming the issuance of various Notices is also on record, submitted on 08.02.2019.

FINDINGS

7. Heard the Petition in the light of the above submissions. It is pleaded by the Petitioner/ Financial Creditor that the Corporate Debtor had defaulted to make repayments of the impugned Financial Debt. From the side of the Respondent Debtor, there was no satisfactory representation or reply in respect of the Debt in question, therefore, this Bench hereunder proceed on merits after considering the evidence on record.

8. In the light of the above discussion and on due perusal of the documents annexed, the Debt is to be qualified as "Financial Debt" as defined under section 5(8)

of Insolvency & Bankruptcy Code, 2016. As a result, the Financial Creditor has filed this Application in Form 1 for initiating Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor.

9. Since this is a Petition of "Financial Creditor", therefore, the Insolvency Process shall commence as prescribed under Section 7 of I&BC, 2016.

10. The Petitioner / Financial Creditor has proposed the name of the IRP **Mr. Rakesh Rameshwarlal Rathi**, Registration No. IBBI/IPA-001/IP-P00696/2017-18/11211, Address: 21, Hassan Ali Building, 2nd Floor, J.D. Lane, Behind Videocon House, Fort, Mumbai-400001. The proposed IRP has furnished the requisite Certificate on Form No.2 that no Disciplinary Proceeding is pending. On due consideration, the proposal of appointment of the IRP is hereby confirmed.

11. Upon Admission of the Application and Declaration of "**Moratorium**" the Insolvency Process such as Public Announcement etc. shall be made immediately as prescribed under section 13 read with section 15 of The Code. The appointed IRP shall perform the duties as an Interim Resolution professional as defined under section 18 of The Code and inform the progress of the Resolution Process and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.

12. It is hereby pronounced that the "Moratorium" as prescribed under Section 14 of the Code 2016 shall come into operation. As a result, institution of any suit or parallel Proceedings before any Court of Law are prohibited. The assets of the Debtor must not be liquidated until the Insolvency Process is completed. However, the supply of essential goods or services to the Corporate Debtor shall not be suspended or interrupted during "Moratorium Period". This direction shall have effect from the date of this Order till the completion of Insolvency Resolution process.

13. Accordingly, this **C.P.(IB)-3700/(MB)/2018** stood "Admitted".

14. The Corporate Insolvency Resolution Process is commenced from the date of this Order.

Sd/-
M.K. SHRAWAT
Member (Judicial)

Date : 18.11.2019

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