

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

COURT – IV

6.

C.P.(IB)/143(MB)/2021

CORAM:

SHRI PRABHAT KUMAR
MEMBER (Technical)

SHRI KISHORE VEMULAPALLI
MEMBER (Judicial)

ORDER SHEET OF THE HEARING HELD ON 09.03.2023

NAME OF THE PARTIES:

Vikram Kumar

Vs

Aranca (Mumbai) Private Limited

SECTION: 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016.

ORDER

The Court is convened through Video Conference.

1. Mr. Karmveer, Ld. Counsel for the Financial Creditor present. Mr. Dhiraj Mhetre a/w Mr. Satyasrikant Vutha and Mr. Shreyas Lele i/b Khaitan Legal Associates, Ld. Counsel for the Corporate Debtor present.
2. It is an Application filed by the Financial Creditor viz. Sourya Containers Leasing Company, to initiate Corporate Insolvency Resolution Process (CIRP) against the Corporate Guarantor/Debtor viz. Aranca (Mumbai) Private Limited [CIN: 74130MH2004PTC145476] under Section 7 of the IBC, 2016 as an amount of ₹3,94,99,355/- was due and payable as on 24.08.2020 to the Financial Creditor by the Principal Borrower viz. Mehar Miracles Private Limited against the loan availed by the Principal Borrower on 09.01.2017 after execution of an irrevocable deed of Guarantee by Aranca (Mumbai) Private Limited as Corporate Guarantor.

Contd.....2

: 2 :

3. As per the agreement, the principal loan amount of ₹1,00,00,000/- (Rupees One Crore only) was fell due on 11.06.2017 and the Financial Creditor invoked the guarantee on 25.08.2020 by sending notice to the Guarantor demanding re-payment of loan amount along with commitment charges, interest charges and taxes totalling to ₹3,94,99,355/- as on 24.08.2020.
4. As the Corporate Guarantor/Debtor did not make the payment as demanded by the Financial Creditor, the Financial Creditor is before this Adjudicating Authority to initiate CIRP against the Corporate Guarantor/Debtor.
5. During the course of hearing the case, this Bench *prima-facie* observed that the Financial Creditor has invoked the Guarantee on 24.08.2020 which is falling under period specified under Section 10A of the IBC. Therefore, without going into the merit of the case, this Bench considers that the present Petition is not maintainable as per provision of Section 10A of the IBC. Hence, the Petition [C.P.(IB)/143(MB)/2021] is hereby **dismissed** as not maintainable.

Sd/-
PRABHAT KUMAR
Member (Technical)

Sd/-
KISHORE VEMULAPALLI
Member (Judicial)