

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

C.P. (IB) No. 4353/NCLT/MB/2018

Under Section 7 of the I&B Code, 2016

In the matter of:

Shriram City Union Finance Limited

...Financial Creditor / Applicant

V/s

GMV Agencies Private Limited

...Corporate Debtor / Respondent

Order Dated: 18th September 2019

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

For the Applicant: Adv. Amiy Kumar;

For the Respondent: None present.

Per: Rajesh Sharma, Member (Technical)

ORDER

1. This Application has already been admitted vide our Order dated 18.09.2019 and IRP has been appointed vide the same Order.
2. This is an Application filed on 15.11.2018, being CP 4353(IB)/MB/2018 filed by **Shriram City Union Finance Limited**, the Financial Creditor / Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **GMV Agencies Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).
3. The Application is filed claiming a total default of ₹41,51,603/- (Rupees Forty One Lakh Fifty One Thousand Six Hundred and Three Only) along with interest. The Application is filed by Mr. Sameer J Karekatte, the Senior Vice President (Legal and Compliance) of the Financial Creditor duly authorised to file this Application vide General Power of Attorney dated 13.06.2019.
4. The Applicant submits that the Applicant and Corporate Debtor entered into an agreement for financial assistance to the tune of ₹30,00,000/- (Rupees Thirty Lakh Only) vide Loan Agreement No. CDBDRTF1610070015 dated 07.10.2016. The loan sanctioned was to be repaid along with interest in 24 EMIs of ₹1,51,956/- (Rupees One Lakh Fifty One Thousand Nine Hundred and Fifty Six Only) from 05.11.2016 to 05.10.2018 through Twenty Four (24) Post Dated Cheques (PDCs) issued by the

Corporate Debtor towards repayment of the Loan. The copy of the said Loan Agreement is annexed to the Application.

5. It is submitted that Corporate Debtor passed Board Resolution dated 23.09.2016 for availing finance assistance from the Applicant and further authorised its Director, Mr. Sunitkumar T. Malhotra, who signed the Loan Agreement dated 07.10.2016 on behalf of the Corporate Debtor. The copy of the said Board Resolution is annexed to the Application.
6. The Applicant submits that Corporate Debtor made payments of initial monthly instalments however, the Corporate Debtor started defaulting in making payment since 4th EMI from 05.02.2017, as the PDCs issued by Corporate Debtor got bounced. The Statement of Corporate Debtor's Account maintained by the Applicant dated 24.10.2018 is annexed to the Application.
7. The Applicant submitted a Foreclosure Letter dated 30.09.2018 towards the Loan Agreement No. CDBDRTF1610070015 claiming an amount of ₹41,51,603/- (Rupees Forty One Lakh Fifty One Thousand Six Hundred and Three Only) due from the Corporate Debtor.
8. The Applicant issued a Demand-cum-Insolvency Notice dated 03.10.2018 upon the Corporate Debtor. The Corporate Debtor did not reply to the said Notice.
9. The Applicant submits that the Application has been filed within the period of limitation as the date of last payment made by the Corporate Debtor is 06.12.2016. A copy of Bank Certificate dated 14.08.2019 issued by Axis Bank certifying receipt of ₹1,51,956/- on 06.12.2016 from Corporate Debtor is annexed to the Application.
10. The Applicant was directed to serve the Court Notice to the Corporate Debtor vide Order dated 16.01.2019. The Applicant filed its affidavit of service of Court Notice on 14.03.2019 stating that although the Court Notice was sent on the registered address of the Corporate Debtor as available on the website of Ministry of Corporate Affairs the said service returned "Unclaimed", however, the Applicant also served the Court Notice on one of the Director of the Corporate Debtor on address as available on the website of Ministry of Corporate Affairs which was served successfully with remark "Item Delivered". Therefore, by our Order dated 14.03.2019 service of Court Notice upon the Corporate Debtor was held sufficient. The

original envelope returned unclaimed and copy of track status report is annexed to the Affidavit of Service.

11. On perusal of the documents submitted by the Applicant, it is clear that debt of ₹30,00,000/- repayable with interest in 24 EMIs of ₹1,51,956/- from 05.11.2016 to 05.10.2018 was granted and disbursed to the Corporate Debtor vide Loan Agreement No. CDBDRTF1610070015 dated 07.10.2016. As per the Statement of Accounts only Three (3) out of the Twenty Four (24) PDCs of ₹1,51,956/- each, issued by the Corporate Debtor for repayment of the Loan, were honoured and the remaining cheques were dishonoured for insufficient funds. Therefore, an amount of more than ₹1,00,000/- is due, payable and in default by the Corporate Debtor to the Applicant.
12. The Corporate Debtor has failed to appear before this Bench even after having sufficient notice of hearing. Therefore, we do not have any objection on record against the admission of this Application.
13. The Application is complete and has been filed under proper form. The debt amount of more than Rupees One Lakh and default of the Corporate Debtor has been established and the Application deserves to be admitted.
14. The Applicant has proposed the name of Mr. Sanjay Kumar Singh, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-002/IP-N00188/2017-18/10505] 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.
15. The Application under sub-section (2) of Section 7 of I&B Code, 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 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 **Shriram City Union Finance Limited**, Financial Creditor / Applicant, against **GMV Agencies 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. Sanjay Kumar Singh**, a registered insolvency resolution professional having Registration Number **[IBBI/IPA-002/IP-N00188/2017-18/10505]** 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.

16. The Registry is at this moment directed to immediately communicate this order to the Operational 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)

18th September 2019