

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD**

SPECIAL BENCH - COURT 1 (VEDIO CONFERENCE)

PRESENT: HON'BLE SHRI BHASKARA PANTULA MOHAN – MEMBER JUDICIAL

HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI - MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 26.04.2021 AT 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No. 149/7/HDB/2020
NAME OF THE COMPANY	EBC Bearing (India) Ltd
NAME OF THE PETITIONER(S)	Infotech Infin and Trading Pvt Ltd
NAME OF THE RESPONDENT(S)	EBC Bearing (India) Ltd
UNDER SECTION	7 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature

ORDER

Orders passed in CP(IB)No. 149/7/HDB/2020, vide separate orders.

Member(Technical)

Member(Judicial)

pavani

**THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.149/7/HDB/2020

U/s 7 of I&B Code, 2016 read with Rule
4 of I & B (AAA) Rules, 2016.

In the matter between :

M/s Info Tech Infin and Trading Private Limited
Having its registered office at:
D. No.6-3-712/ 119
House No.2/3 RT
Panjagutta Colony
Hyderabad, Telangana – 500082.

**.. Petitioner
Financial Creditor**

VERSUS

M/s EBC Bearings (India) Limited
Having its registered office at:
Plot No.10, IDA Bollaram
Jinnaram Mandal
Hyderabad, Telangana – 502325.

**.. Respondent
Corporate Debtor**

Date of order : 26.04.2021

Coram:

**HON'BLE SHRI BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)**

and

**HON'BLE SHRI VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)**

Parties / counsels present:

For the Petitioner : Shri M. Ravindra, PCS

For the Respondent: Shri M. Maharshi Viswaraj

**Per: SHRI BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)**

Heard on: 25.01.2020, 10.02.2021, 08.03.2021 and 24.03.2021.

ORDER

The petitioner/ company is constituted under the Companies Act, 1956, and incorporated on 25.01.2000, having its registered office as mentioned in the cause title.

2. The respondent/ Corporate Debtor is incorporated under the Companies Act, 1956 as EBC Bearings (India) Limited having its registered office as mentioned in the cause title.

3. The present application is filed by the Financial Creditor against the respondent/ Corporate Debtor for default of financial debt amount to **Rs.69,02,237/-**, which consists of principal : Rs.62,74,761/- and interest: Rs.6,27,476/-.

4. Hence, this Petition is filed under Section 7 of Insolvency and Bankruptcy Code, 2016, read with Rule 4 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the petition, initiation of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

5. It is averred in the petition that at the request of the respondent/ Corporate Debtor, the petitioner/ Financial Creditor had sanctioned unsecured loan of Rs.70,00,000/-, which was repayable in 10 EMIs of Rs.7,00,000/- each commencing from July 2018, with interest at 90% per annum. Loan agreement dated 11.06.2018 (ANNEXURE-I, pages 11-15) in favour of the Financial Creditor was signed and executed by the Director of the Corporate Debtor. The Corporate Debtor had paid only one instalment of Rs.7,25,239/- on 31.03.2019, after several reminders issued by the Financial Creditor to the Corporate Debtor, viz. letters dated 10.07.2018, 03.11.2018, 22.10.2018, 18.01.2019 20.04.2019, 30.04.2019 20.07.2019 (ANNEXURE-III, pages 17-23) and did not pay the balance amount of Rs.62,74,761/- plus interest. Thus, the Corporate Debtor had committed default of the terms and conditions of

H.D.

M.D. M.D.

the loan agreement and is liable to pay upto 31.01.2020 the following amount:

• Outstanding amount towards principal	..	62,74,761
• Interest at 12@ per annum	..	06,27,476

Total	..	69,02,237
		=====

6. The Corporate Debtor had acknowledged the debt vide its Ledger Statement dated 31.03.2019 (ANNEXURE-II, page 16)

COUNTER DATED 03.03.2021/ 05.03.2021 FILED BY THE CORPORATE DEBTOR.

7. The respondent/ Corporate Debtor, in para 4 of the Counter, has candidly admitted that,

- the Corporate Debtor had borrowed a sum of Rs.70,00,000/- with interest at 9% per annum from the petitioner vide Loan Agreement dated 11.06.2018.
- the said sum was repayable in 10 EMIs commencing from July 2018.
- the Corporate Debtor had paid only one instalment of Rs.7,25,239/- on 31.03.2019 towards part-payment of loan amount.

It is submitted by the Corporate Debtor that due to unavoidable circumstances the Corporate Debtor could not repay the rest of the amount borrowed by it and requested the petitioner to grant some time for clearing the dues.

OBSERVATIONS :

8. It is true that in an application filed under section 7 of the I&B Code, the Tribunal has to see whether debt and default exist. It is not in dispute that the Financial Creditor disbursed the amount in question and the Corporate Debtor has acknowledged the debt and default in clear and unequivocal terms vide its Ledger Statement dated 31.03.2019 (ANNEXURE-II, page 16). No other contention is raised by the Corporate

Debtor, except the prevailing COVID-19 pandemic situation and the financial crunch suffered by the Corporate Debtor. Thus, the Financial Creditor is able to establish the debt and default. Therefore, the petition is required to be admitted against the Corporate Debtor. After going through the documents filed by the petitioner we are of the view that the petition is liable to be admitted against the Corporate Debtor. The petition is accordingly admitted.

9. Hence, the Adjudicating Authority admits this Petition under Section 7 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:-

(A) The Bench hereby prohibits 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; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

(B) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(C) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(D) 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 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.



(E) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.

(F) That this Bench hereby appoints Shri Pankaj Rai having Registration No. IBBI/ IPA-001/ IP-P01746/ 2019-2020/ 12915, as Interim Resolution Professional, whose contact details are:

e-mail ID: pankaj.railive.com
Address: 12, Vayupuri, Road No.2
Post Sainikpuri
Secunderabad – 500094
Telangana.

as Interim Resolution Professional to carry the functions mentioned under the Insolvency & Bankruptcy Code.

(G) Proposed IRP has filed Form-B issued by the Institute of Insolvency Professionals. Authorisation for Assignment is valid till 24.12.2020. This information is also available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.

10. Registry of this Tribunal is directed to send a copy of this order to the Registrar of Companies, Hyderabad for marking appropriate remarks against the Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.

11. Accordingly, this Petition is admitted.


VEERA BRAHMA RAO AREKAPUDI
MEMBER (TECHNICAL)


BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

karim