

SL No.141

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

Video Conference

CORAM: HON'BLE DR. VENKATA RAMAKRISHNA BADRINATH NANDULA-MEMBER (J)
CORAM: HON'BLE DR. BINOD KUMAR SINHA- MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 13.04.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No.150/7/HDB/2020
NAME OF THE COMPANY	Hari Shanker Paper Products Pvt Ltd
NAME OF THE PETITIONER(S)	Indiabulls Consumerr Finance Ltd
NAME OF THE RESPONDENT(S)	Hari Shanker Paper Products Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

Learned Counsel for the Financial Creditor appeared via video conference.

CP(IB) No. 150/7/HDB/2020- Order pronounced vide separate sheets. In the result the Petition is allowed and Corporate Debtor is admitted into the CIRP as per the terms mentioned in the order.


MEMBER (T)


MEMBER (J)

Ajay

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

CP (IB) No. 150/07/HDB/2020
Under Section 7 of IBC, 2016

In the matter of Hari Shankar Paper Products Pvt Ltd

Indiabulls Consumer Finance Limited,
Having its registered office at,
M-62 & 63, First Floor, Connaught Place,
New Delhi - 110001.

And

Hari Shankar Paper Products Private Limited,
Plot No. 409, 1st Floor, Sai Krupa Market,
Mahaboob Mansion, Near Electricity Office,
Malakpet, Hyderabad, Telangana - 500036.

Date of order: 13.04.2022

Coram:

**Dr. Venkata Ramakrishna Badarinath Nandula, Member Judicial
Dr. Binod Kumar Sinha, Member Technical**

Appearance:

For the Applicant: Mr. Harshavardhan Abburi, Advocate

For the Respondent: None [Ex-parte]

PER: BENCH

ORDER

1. Under consideration is an Application filed by Financial Creditor for initiating Corporate Insolvency Resolution Process under





Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy Rules, 2016.

2. Brief facts of the case as stated by the Applicant are as follows:-
 - a. That the Corporate Debtor, approached the Financial Creditor for availing business loan for a sum for Rs.34,00,000/- to meet the business related requirements. Subsequently, upon acceptance of the offer of the aforesaid Loan facility, Loan Agreement bearing Loan Account No. S000310216 was executed by and between the Corporate Debtor and the Financial Creditor for an amount of Rs. 34,00,000/- (hereinafter referred to as the "Loan Agreement"). As per the Loan Agreement, loan facilities was repayable in 35 Equated Monthly Instalments.
 - b. The Corporate Debtor committed breach of the Loan Agreement inter alia by making defaults in payment of the monthly instalments due and payable by the Corporate Debtor to the Financial Creditor on various dates including 05.10.2018 till date. That the Corporate Debtor has failed to pay its outstanding dues, till date.
 - c. This application is filed before this Adjudicating Authority to initiate a Corporate Resolution Process in respect of the Corporate Debtor namely M/s. Hari Shankar Paper Products Private Limited.
 - d. The instant Application is filed for an amount of Rs. 35,92,190.01/- and the date of default is 05.10.2018.
3. It is seen from the record that notice was duly served on 15.11.2021, however, the Corporate Debtor failed to appear before this Adjudicating Authority. Hence, the Corporate Debtor was set *Ex-parte* on 29.11.2021 and the matter was adjourned to 11.01.2022, 31.01.2022, 22.02.2022, 08.03.2023 and then on 28.03.2022 on which also the Respondent

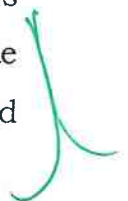


remained absent, and the Counsel for Financial Creditor alone could be heard and the matter was reserved for orders. Since the Respondent has neither filed its Counter nor availed the opportunity of being heard in the manner provided in accordance with principles of natural justice, we have no other option but to dispose of the instant application without the Respondent's assistance.

4. Heard. Perused the record.
5. After hearing the Petitioner and perusing record, we are of the view that in the instant case there is financial debt and there has been a default in repayment of the same and that this Adjudicating Authority is satisfied that the Financial Creditor has proved its case by placing evidence that default has occurred for which the Corporate Debtor was liable to pay. The instant case is also well within limitation. Further, it is pertinent herein to note that the Hon'ble Supreme Court, while deciding the matter in the case of INNOVENTIVE INDUSTRIES LTD Vs. ICICI BANK & ANR., in Civil Appeal Nos. 8337-8338 of 2017, held as under:

".....The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under subsection (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be."

6. The Financial Creditor has also fulfilled all the stipulations as required under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, having satisfied with the submissions made by the Petitioner/Financial Creditor, this Adjudicating Authority is inclined to admit the instant Application.
7. Accordingly, the instant application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process (CIRP) which shall ordinarily be completed



within the timelines stipulated in the IB Code, 2016 (as amended), reckoning from the day of this order is passed.

8. The Financial Creditor filed a memo dated 15.03.2022, proposing the name of Mr. Sunit Jagdishchandra Shah as Interim Resolution Professional and he has filed his written consent in Form 2. Accordingly, this Tribunal appoints Mr. Sunit Jagdishchandra Shah, as Interim Resolution Professional, having Registration No. IBBI/IPA-001/IP-P00471/2017-2018/10814, e-mail id: Sunit78@gmail.com as Interim Resolution Professional. He is directed to file Authorization for Assignment within three days from the date of this order.
9. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IB Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.
10. We direct the Financial Creditor/Petitioner to pay sum of Rs.2,00,000/- towards the advance fee of IRP and expenses towards CIRP, which shall be ratified later on by CoC.
11. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP. For the purposes referred to in section 14 of the IB Code, 2016. It is hereby ordered to prohibit all of the following namely:-
 - i. *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 or law, tribunal arbitration panel or other authority;*
 - ii. *Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal rights or beneficial interest therein;*
 - iii. *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 (54 of 2002);

- iv. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*
- v. Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*

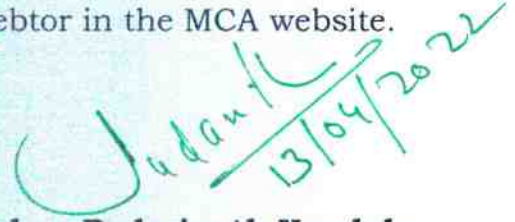
12. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.
13. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.

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14. The Petitioner/Financial Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
15. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
16. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
17. Accordingly, this Petition is admitted.



Dr. Binod Kumar Sinha
Member Technical



Dr. Venkata Ramakrishna Badarinath Nandula
Member Judicial