IN THE NATIONAL COMPANY LAW TRIBUNAL

MUMBAI BENCH

CP 983 (IB)/MB/2019

Under Section 7 of the I&B Code, 2016

In the matter of
Bank of India

...Financial Creditor/ Applicant

v/s

Provogue Personal Care Private Limited

...Corporate Debtor

Order Dated 26.09.2019

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

For the Petitioner: Adv.Rahul Dev.
For the Respondent: None present.

Per V. P. Singh, Member (Judicial)

ORDER

1. This Application was admitted on 26.09.2019, and IRP was appointed on the same date.
2. This is an application being CP 983/2019 filed by **Bank of India**, Financial Creditor or Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (**I&B Code**) against **Provogue Personal Care Private Limited**, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (**CIRP**).
3. This application is filed by Mr Mahesh Batra, Chief Manager and constituted Attorney of the applicant Bank, who is duly authorised to do so.
4. The Applicant had sanctioned credit facilities to the extent of ₹ five crores in the year 2013. Various documents about the said credit facilities were executed 1.11.2013. The said credit facilities, among other things repayable on demand.
5. The Applicant has claimed ₹5,21,76,808.29 as outstanding and in default of repayment. The Applicant has stated the date of

commencement of default as 13.08.2015. The Applicant states that the first default by the Corporate Debtor occurred on 13.8.2015; however, some delayed payments were made after that by the Corporate Debtor. **The account of the Corporate Debtor was classified as NPA on 30.04.2018. The Applicant sent recall notice dated 29.10.2018 demanding repayment of ₹5,21,76,808.29. Therefore application is within limitation.**

6. The Applicant has submitted on record the Certificate of Registration of Charge dated 30.11.2013 issued by ROC, Mumbai for charge amounting to ₹ five crores.

7. The Ld. Counsel for the Financial Creditor has filed an affidavit of service which shows that the notice on the Corporate Debtor was served. It is to be noted that after service of Court notice, Counsel for the Corporate Debtor submitted before this Bench that a one time settlement had been proposed to the Applicant. However, till date no settlement has been arrived at, and the Corporate Debtor has filed no reply.

8. On perusal of the documents submitted by the financial creditor, it is clear that debt amounting to ₹5,21,76,808.29 is due and payable by the Corporate Debtor to the Applicant. The outstanding debt is admitted by the Corporate Debtor when it proposed one time settlement to the Applicant. The account statement submitted by the Applicant reflects an outstanding amount of ₹5,21,76,808.29. The Corporate Debtor was called to repay the outstanding amount vide the recall letter dated 29.10.2018, however the Corporate Debtor failed to repay. The outstanding amount in default is more than ₹1,00,000/-.

9. The application filed by the financial creditor is on proper form 1, as prescribed under the Adjudicating Authority Rules and application is complete.

10. The Applicant has proposed the name of Mr Vinodkumar Ambavat, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-001/IP-P00420/2017-18/10743] 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 no disciplinary proceedings are pending against him.

राष्ट्रीय कंपनी विधि अधिकरण NATIONAL COMPANY LAW TRIBUNAL मुंबई न्यायपीठ MUMBAI BENCH

11. The Application under sub-section (2) of Section 7 of I&B Code, 2016 filed by the financial creditor for initiation of CIRP in prescribed Form 1, as per the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 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 petition 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 petition filed under Section 7 of I&B Code, 2016, filed by **Bank of India**, against **Provogue Personal Care Private Limited**, 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 activity 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 Vinodkumar Ambavat, a registered Insolvency Resolution Professional having Registration Number [IBBI/IPA-001/IP-P00420/2017-18/10743]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.

12. The Registry is at this moment directed to immediately communicate this order to the Financial 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)

26th September 2019

राष्ट्रीय कम्पनी विधि अधिकरण
NATIONAL COMPANY LAW TRIBUNAL
मुंबई न्यायपीठ
MUMBAI BENCH