

**IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI**  
**PRINCIPAL BENCH**

**C.P. NO. IB-1545(PB)/2019**

**IN THE MATTER OF:**

Urbtech Finvest Private Limited .....Financial Creditor/Petitioner  
v.  
MCCL Petrochem Limited .....Corporate Debtor/Respondent

**SECTION: UNDER SECTION 7 OF THE INSOLVENCY AND  
BANKRUPTCY CODE, 2016**

**JUDGMENT DELIVERED ON 23.10.2019**

**CORAM:**

**CHIEF JUSTICE (RTD.) M.M. KUMAR  
HON'BLE PRESIDENT**

**SHRI S.K. MOHAPATRA  
HON'BLE MEMBER (T)**

**PRESENT:**

For the Petitioner: Mr. Gauri Rishi & Ms. Srishti Juneja,  
Adv.  
For the Respondent: Ex parte

**M.M.KUMAR, PRESIDENT**

**JUDGMENT**

The 'Financial Creditor'-Urbtech Finvest Private Limited has filed the instant petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') with a prayer to trigger the Corporate Insolvency Resolution Process in the matter of MCCL Petrochem Limited-Corporate Debtor.

2. The Corporate Debtor- MCCL Petrochem Limited was incorporated on 10.06.2015. The identification number of the

Corporate Debtor is U23101DL2015PLC281390 and its registered office is situated at GC-22, Ground Floor, Khosla House, Shivaji Enclave, Near Shivaji College, New Delhi-110027.

3. The Financial Creditor has proposed the name of Resolution Professional, Mr. Pankaj Khaitan with the address H-381, CGF, Jangpura Extension, New Delhi-110014 (Mobile No. 9999883792). His registration number is IBBI/IPA-002/IP-N000101/2016-17/10014. He has filed his written communication which satisfies the requirement of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 along with the certificate of registration.

4. The case of the petitioner is that the facility of loan of Rs. 1,80,00,000/- (Rupees One Crore Eighty Lakhs Only) was furnished to the corporate debtor on 11.04.2016 at the rate of 10% interest for a period of two years from the date of disbursement. The loan was disbursed on the same date. However, at the end of two years, the amount has not been paid and default has occurred on 11.04.2018 which is continued till the date of filing of the petition. The petition has been filed on 21.06.2019 and the total amount claimed with interest is Rs. 2,35,42,558.20/- (Rupees Two

Crore Thirty-Five Lakh Forty Two Thousand Five Hundred Fifty Eight and Twenty Paise Only).

5. Subsequently an affidavit of service was filed by the learned counsel for the petitioner which showed that the service was effected by courier at the registered office of the corporate debtor on 17.08.2019 as well as by the speed-post sent on 13.08.2019 which was delivered on 14.08.2019. Accordingly, service was effected by the email. However, no one put in appearance on behalf of the respondent and vide order dated 30.09.2019 respondent was proceeded ex-parte.

6. According to the learned counsel there is no resistance nor the claim of the Financial Creditor in respect of 'unpaid debt' has remained uncontroverted. It must therefore be considered to have been admitted.

There is no opposition to the aforesaid factual statement made in para 4 of the Form-1 prescribed under Rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The amount has been disbursed as is evident from the statement of account (Annexure- A4) on 11.04.2016. Accordingly, we hold that there is disbursement of the loan which

was to be repaid with 10% interest within two years and the default has occurred after two years on 11.04.2018.

7. Learned counsel for the petitioner has argued that all requirements of Section 7 for the initiation of Corporate Insolvency Resolution Process by a Financial Creditor stand fulfilled. In that regard, he has submitted that the petition as prescribed by Rule 4 (1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 read with Section 7 (2) of IBC is complete in all respects. She has further submitted that the details of default along with the dates have been stated in part IV and the additional documents have been submitted subsequently along with all the minute details. There is overwhelming evidence available to prove default and name of the resolution professional has been specified who does not suffer from any disqualification.

8. Under sub-section 5(a) of section 7 of the code, the application filed by the petitioner financial creditor has to be admitted on satisfaction that:

- (i) Default has occurred;
- (ii) Application is complete, and
- (iii) No disciplinary proceeding against the  
proposed IRP is pending.

In view of the above no doubt is left that there was an advancement of loan and default on part of the respondent-corporate debtor is established. There is sufficient documentary evidence on record which support those findings.

9. We further find that the provisions of Section 7 (2) and Section 7 (5) of IBC have been complied with as discussed in detail in the case of ECL Finance Limited vs. Digamber Buildcon Pvt. Ltd. (IB- 1039(PB)/2018).

10. After a conjoint reading of the aforesaid provision along with Rule 4 (2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, as already recorded that a default has occurred and the application under sub section 2 of Section 7 is complete. The IRP proposed does not have any disciplinary proceedings pending against him.

11. As a sequel to the above discussion, this petition is admitted and Mr. Pankaj Khaitan is appointed as the Interim Resolution Professional.

12. We also declare moratorium in terms of Section 14 of the Code. It is made clear that the provisions of moratorium are not to apply to transactions which might be notified by the Central Government. Additionally, the supply of essential goods or services

to the Corporate Debtor as may be specified is not to be terminated or suspended or interrupted during the moratorium period. These would include supply of water, electricity and similar other supplies of goods or services as provided by Regulation 32 of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

13. In pursuance of Section 13 (2) of the Code, we direct that Interim Insolvency Resolution Professional shall immediately (3 days) make public announcement with regard to admission of this application under Section 7 of the Code. The public announcement is required to be made in all territories/areas where the business have been transacted by the Corporate Debtor so that all stakeholders may have noticed of the fact that Corporate Insolvency Resolution Process has been triggered in respect of the Corporate Debtor.

14. We direct the Financial Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of

receipt of this order by the Financial Creditor. The amount however be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

15. Directions are also issued to the Ex-Management/Auditors etc. to provide all the documents in their possession and furnish every information in their knowledge as required under Section 19 of the Code to the Interim Resolution Professional within a period of one week from today otherwise coercive steps to follow.

16. Before parting we must notice the complaint made against Financial Creditor in the form of discrepancies in the statement of account. We cannot in summary proceedings determine the amount due. This function is required to be performed by the Information Utility which is not yet fully functional. Therefore, Resolution Professional may ask the ex-promoter/director of the Corporate Debtor for any such correction if need be and act accordingly by placing it before the Financial Creditor as it is only fair to do so.

17. The office is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCR, New

Delhi at the earliest but not later than seven days from today. The Registrar of Companies shall update its website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified.

Sd/-

**(M.M. KUMAR)**  
**PRESIDENT**

Sd/-

**(S.K. MOHAPATRA)**  
**MEMBER (T)**

23.10.2019  
Aarti Makker