

**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B) No. 299 /7/NCLT/AHM/2018

Coram: **Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER JUDICIAL**
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 09.01.2019**

Name of the Company: Reliance Commercial Finance Ltd.
V/s.
V S Texmills Pvt. Ltd.

Section of the Companies Act: Section 7 of the Insolvency and Bankruptcy Code
(Pronouncement of Order)

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Lalit Patel	Adv	Per.	for Patel Adv
2.	NATASHA DHIRUMAN LHAM	ADV.	R.	Natasha.

ORDER

The Respective Lawyers of both side's are present as per the Signatures put on Attendance/Order Sheet.

The case is fixed for pronouncement of order. The Order is pronounced in the open court, vide separate sheet. The Company Application is ~~conditionally~~ ^{conditionally} allowed and stands finally disposed of accordingly.


MANORAMA KUMARI
MEMBER JUDICIAL


HARIHAR PRAKASH CHATURVEDI
MEMBER JUDICIAL

Dated this the 9th day of January, 2019.

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AHMEDABAD BENCH**

C.P. No.(IB) 299/7/NCLT/AHM/2018

In the matter of:

M/s. Reliance Commercial Finance Limited.
Reliance Centre, 6th Floor
South Wing, Off. Western Express Highway
Santacruz (East)
MUMBAI 400 055

... Petitioner
[Financial Creditor]

Versus

M/s. V S Texmills Private Limited,
342, Govindpura,
Nadiad Mehmdabad Road
Village Kamla
Taluka Nadiad
Dist. Kheda 387 320

... Respondent
[Corporate Debtor]

Order delivered on 09th January, 2018.

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)
Hon'ble Ms. Manorama Kumari, Member (J).**

Appearance:

PCS Mr. Lalit Patel is present for the petitioner. Advocate Ms. Natasha D. Shah is present for the respondent.

ORDER

[Per: Ms. Manorama Kumari, Member (Judicial)]

1. M/s. Reliance Commercial Finance Limited, through authorised signatory, filed this petition under section 7 of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the Rules") seeking reliefs under Section 7(5)(a) and Section 13(1)(a)(b)(c) of the Code.
2. That the applicant M/s. Reliance Commercial Finance Ltd. is a limited company, incorporated under the Companies Act, 1956 on 17.08.2000,

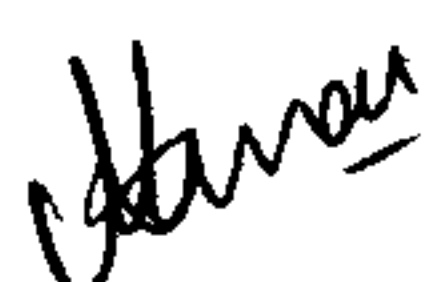
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[Signature]

having its registered office at Reliance Centre, Santacruz (East), Mumbai 400 055, having identification No. U66010MH2000PLC128301, is in the business of providing various types of financial facilities including business loans, personal loans, consumer loans, loan against property, home equity loans, term loan etc. and it is a non-banking finance company.

3. M/s. V S Texmillls Private Limited is a company incorporated under the Companies Act, 1956 on 20TH June, 2013, having identification No. U17120GJ2013PTC075697 having its registered office at 342, Govindpura, Nadiad Mehmadabad Road, Vill. Kamla, Taluka – Nadiad, Dist. Kheda inter alia engaged in the business of textiles. That Authorised share capital of the respondent company is Rs. 6,00,00,000/- and paid up share capital is Rs. 5,91,90,000/-.

4. That the respondent company was the original corporate debtor of the Reliance Capital Limited, which happens to be a group company of the petitioner company herein. However, vide order dated 09.12.2016, a scheme of demerger between Reliance Capital Limited and Reliance Commercial Finance was approved by the Hon'ble High Court of Mumbai whereby commercial finance division of Reliance Capital Limited was demerged into resulting company being Reliance Commercial Finance Limited. That by virtue of the said scheme, all the debts of the Reliance Capital Limited were transferred to Reliance Commercial Finance Limited and that is how present respondent has become corporate debtor of the petitioner company. That a copy of order dated 09.12.2016 passed by Hon'ble High Court of Bombay approving the scheme of demerger is kept with the application marked **Annexure – B**.



5. That the respondent company had approached and applied to Reliance Capital Limited to avail a term loan facility for purchasing five chamber pin stenter machine from M/s. Hi Tech Engineers for its business.
6. That Reliance Capital Limited sanctioned the term loan facility of Rs. 62,10,362/- (Rupees sixty-two lacs ten thousand three hundred sixty-two only) to the respondent company as per the proforma invoice issued by M/s. Hi Tech Engineers in terms of sanction letter dated 25.04.2015 and upon execution of the various security documents viz. facility cum hypothecation agreement, demand promissory note, power of attorney etc. in favour of Reliance Capital Limited by the respondent company for security of repayment of the said facility, Reliance Capital Limited disbursed the amount of the said facility. That copy of sanction letters, facility cum hypothecation agreement, promissory note and other documents executed by the respondent company are attached to the application marked **Annexure C**.
7. That all these deed, contracts and other security documents stood assigned in the name of the petitioner vide order dated 09.12.2016, whereby, scheme of demerger between Reliance Capital Limited and Reliance Commercial Finance Limited was approved by the Hon'ble High Court of Mumbai.
8. That at the time of availing the said term loan facility, the respondent company assured Reliance Capital Limited that the amount of the said loan facility will be repaid by way of 60 equal monthly instalments (EMIs) of Rs. 1,42,101/- each from 01.06.2015 to 10.05.2020 as per the terms and conditions of the loan agreement and there will be no default in

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making repayment of the loan facility. However, after availing the aforesaid facility, the respondent company did not care to make payment of the instalments regularly as per agreed terms and conditions and made default in payment of the instalments from June 2016 onwards.

9. That, it is further submitted by the applicant's counsel that despite repeated requests, reminders and personal follow up over telephone and in person, to pay and to clear up the outstanding instalments due to Reliance Capital Limited as well as the present petitioner, the respondent company failed and neglected to pay the pending instalments of Rs. 24,78,870/- till May 2018, more particularly mentioned in the statement annexed with the ledger account. That this conduct on part of the respondent clearly suggest inability to repay the outstanding dues of the company which is public money.

10. That Reliance Capital Limited and thereafter the petitioner has regularly maintained the account of the respondent company. That since the respondent company failed to pay the overdue instalments, the petitioner company has right to foreclose the loan account and as per the foreclosure statement an amount of Rs. 67,36,328/- is due and payable to the petitioner as on 30.05.2018 including the principal amount, interest and other charges, more particularly mentioned in the said statement annexed with the ledger account. That the amount due from the respondent herein upon default made by the respondent in repayment of the said amount squarely falls within the definition of financial debt as provided under clause (i) of sub-section (8) of Section 5 of the Insolvency and Bankruptcy Code, 2016.

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11. That the petitioner being financial creditor has to recover an amount of Rs. 67,36,328/- which is still remaining unpaid by the respondent as on 30.05.2018 being the corporate debtor, more particularly as per the ledger accounts for the period from 29.04.2015 to 30.05.2018 annexed to the application and marked as **Annexure 'D'**.

12. That, the petitioner filed the instant application with proof of service on the respondent, however, when the matter was listed on Board, a formal notice was issued upon the respondent through the Registry informing the date of hearing. On receipt of the notice learned lawyer viz. Ms. Natasha Dhruvan Shah appeared and filed affidavit in reply sworn by one of the Directors of the respondent company, admitting the debt and respondent by way of an affidavit categorically admitted that the corporate debtor is under financial distress on account of poor and negative growth of the textile industry and change in various government policies. Corporate debtor also enclosed the Board Resolution along with the affidavit in reply.

13. Heard both sides at length as also perused the documents annexed with application. In support of the contention, the applicant annexed master data of the respondent company, order dated 09.12.2016 passed by Hon'ble High Court of Bombay approving the scheme of demerger, sanction letter, facility cum hypothecation agreement, promissory note and other documents executed by the respondent company, ledger account of the respondent and foreclosure statement for the period from 29.04.2015 to 30.05.2018.




14. There is no dispute in the case that the petitioner is the financial creditor. More so when the corporate debtor has admitted the debt by way of an affidavit in reply. The application is also furnished in the prescribed form – I of the Rules and the prescribed fee has also been paid. Along with the application, the applicant proposed the name of the Resolution Professional namely Shri Bhavi Shreyans Shah, CA to act as an interim resolution professional. Form 2 along with the certificate of registration of the proposed interim resolution professional has been annexed and placed at page No. 61 of the application where declaration is made that no disciplinary proceeding is pending against him with the Board or Indian Institute of Insolvency Professionals of ICAI.
15. On perusal of record and as also discussed above, it is held that there is existence of default and that the application under Section 7(2) of the Code is also complete in all respect.
16. In view of the above, the petitioner/financial creditor having fulfilled all the requirements of Section 7 of the Code, the instant petition deserves to be admitted.
17. The petition is, therefore, admitted and the moratorium is declared for prohibiting all of the following in terms of sub-section (1) of Section 14 of the Code: -
- (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 of law, tribunal, arbitration panel or other authority;

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- (ii) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right 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 Securitisation 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.
18. It is further directed that the supply of goods and essential services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) shall, however, not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.
19. 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 as the case may be.
20. This Petition stands disposed of accordingly with no order as to costs.

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21. Communicate a copy of this order to the Applicant, Financial Creditor, Corporate Debtor and to the Interim Insolvency Resolution Professional.



Ms. Manorama Kumari
Member (Judicial)
Adjudicating Authority



Harihar Prakash Chaturvedi
Member (Judicial)
Adjudicating Authority

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