

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

CP/183/ (IB)/2018

Under Section 7 rule 4 of the IBC, 2016

In the matter of M/s. Jai Bhavani Steels Enterprises Private Limited

M/S. SREI Equipment Finance Limited

...Financial Creditor

V/s

M/S. Jai Bhavani Steels Enterprises Private Limited

...Corporate Debtor

Order delivered on: 02.04.2018

CORAM:

K. Anantha Padmanabha Swamy, Member (Judicial)

S. Vijayaraghavan, Member (Technical)

For the Petitioners/FC : Shri. Rishav Banerjee, Advocate

Shri. Vishnu Mohan, Advocate

Shri. Zeeshan Haque, Advocate

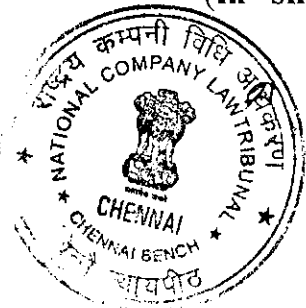
For the Respondents/CD: Shri. Sourojit Dasgupta, Advocate

Shri. Dalapathy Vighnesh Kumar, Advocate

ORDER

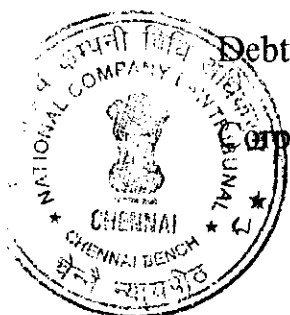
Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)

1. Under consideration is a Company petition filed by M/s. SREI Equipment Finance Limited (in short **Petitioner/Financial Creditor**) against M/s. Jai Bhavani Enterprises Limited (in short **Respondent/Corporate Debtor**) under section 7 of the Insolvency and Bankruptcy Code, 2016 (in short **IB Code 2016**) r/w rule 4 of Insolvency & Bankruptcy



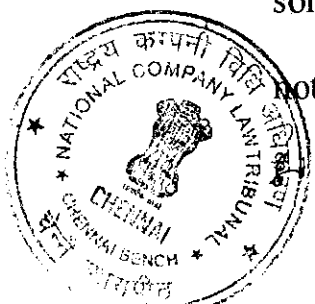
(Application to “**Adjudicating Authority**”) Rules, 2016 (for brevity, **IB Rules 2016**)

2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
3. The petitioner/FC and the Respondent/Corporate Debtor, both are public companies registered under the Companies Act, 1956 and the registered office of the Respondent/Corporate Debtor is situated at 2/221 (old No 4/181) G N T Road, Panjetty, Ponneri Taluk, Thiruvallur – 601 204. The Respondent/Corporate Debtor is engaged in the business of trade/ dealer of Iron and Steel items etc.
4. Shri. Vishnu Mohan, the learned Counsel appearing on behalf of the Petitioner/FC submitted that the Respondent/CD approached M/s. SREI Infrastructure Finance Limited to provide financial assistance in the nature of rupee loan to the extent of Rs. 25 crore and in this regard an agreement dated 01.04.2006 was entered into between the said M/s. SREI Infrastructure Finance Limited and the Corporate Debtor along with an addendum of the same date. Thereafter the rights and powers related to M/s. SREI Infrastructure Finance Limited was transferred to the Financial Creditor herein vide order dated 04.03.2008 made by the Hon’ble High Court in CP No. 288 of 2007 and thus the debt owed by the Corporate Debt or was assigned to the Financial Creditor. The total due of the Corporate Debtor inclusive of principal amount lent, interests and



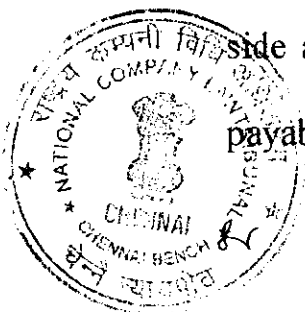
overdue charges as on 31.12.2017 is Rs. 169,27,13,509/-. The learned Counsel further submitted that the Financial Creditor issued a demand notice dated 14.05.2016 demanding the outstanding amount and the Corporate Debtor had issued a letter dated 02.06.2016 in acknowledgement of the debt amounts. A final demand notice dated 11.09.2017 was also issued to the Corporate Debtor, but the Respondent failed to repay the said debt and in terms of the Agreement. When the Corporate Debtor was unable to pay the Financial Debt which became due and payable to the Financial Creditor, then the petitioner, not left with any other option approached this Adjudicating Authority claiming the payment of Rs. 169,27,13,509/-. Including the interest against the corporate debtor in the capacity of a Financial Creditor under the provisions of the IB Code, 2016. The learned Counsel submitted that the Corporate Debtor has become commercially insolvent due to its inability to pay its debts and thus prayed to initiate Corporate Insolvency Resolution Process against the Respondent/CD.

5. One of the Directors of the Corporate Debtor filed a Counter and inter-alia he disputed everything except the matters of record in the said Counter and submitted that though the debt had been acknowledged, the Corporate Debtor had earnestly requested the financial creditor to grant some more time in order to repay the dues as reflected in the said demand notices. However, without acceding to the request of the Corporate



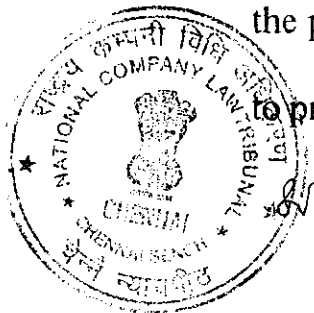
Debtor, the Financial Creditor straightway approached this Tribunal. The petition is filed only to arm twist the Corporate Debtor and to take advantage of the dismal financial condition of the Corporate Debtor. He submitted that the business of the Corporate Debtor is not in good shape and the chances of reviving the same are remote, though not improbable. In view of the above, he submitted that the petition is deserved to be dismissed and sought dismissal of the petition.

6. After hearing the submissions of the learned Counsel of the Petitioner/FC and also the averments made in the Counter filed by one of the Directors on behalf of the Corporate Debtor, this Adjudicating Authority is satisfied that the petitioner has clearly made out its case by establishing that the Corporate Debtor has defaulted in the payment of Financial Debt. The petitioner has proved by placing overwhelming evidence viz legal notice, financial transactions and the acknowledgement of debt by way of letter dated 2.6.2016 by the Corporate Debtor which has been placed at page no. 114 alleged to have been signed by an authorised signatory whose name, however has not been specified thereat. But the Counsel for the petitioner while making submissions stated that this signature belongs to one of the directors by name Mr. Pramod Saraf. This particular acknowledgement of debt by way of this letter is not denied by the other side and fairly accepted the transaction. Therefore, there is a debt due payable by the Respondent/CD and that a default has occurred which the



Corporate Debtor was responsible to pay. Therefore, this Adjudicating Authority is of the opinion that the petitioner has established clearly that the amount in default committed by the Corporate Debtor is genuine and it is supported by the documentary evidence placed before the Adjudicating Authority. In these circumstances, having satisfied with the submissions put forth by the learned Counsel for the petitioner, we hereby admit the petition.

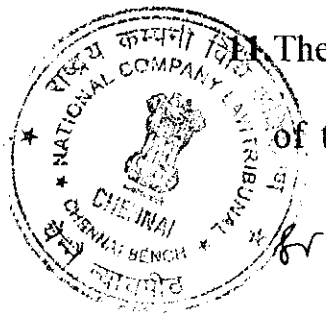
7. Therefore, the instant petition is admitted and we order commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.
8. We appoint Ms. Sridharanrevathi, as Interim Resolution Professional (IRP) proposed by the Applicant. There are no disciplinary proceedings pending against the IRP and her name is reflected in IBBI website. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. She is also directed to cause public announcement as prescribed under Section 15 of the I & B Code, 2016 within three days from the date of the copy of this order is received and call for submissions of claim in the manner as prescribed.
9. We declare the moratorium which shall have effect from the date of this order till the completion of Corporate insolvency resolution process for the purpose referred to in Section 14 of the I & B Code, 2016. We order 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 of law, tribunal, Arbitration panel or other Authority.*
- (ii) *Transferring, encumbering, alienating or disposing of by the corporate debtors 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.*

10. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

11. 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 cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I & B Code. Accordingly, the application is admitted.

12. The petitioner/FC as well as the Registry is directed to send the copy of this order to IRP so that he could taken charge of the Corporate Debtor's assets etc and make compliance with this order as per the provisions of the I & B Code, 2016.

13. The Registry is also directed to communicate this order to the Financial Creditor and the Corporate Debtor.

14. With the above directions the application is disposed of.

15. The address details of the IRP are as follows: -

Ms. Sridharanrevathi
Reg. No. IBBI/IPA-002/IP-N00231/2017-2018/10682)
S1, A Block Kgeyes Apporva Apartments,
No. 2, Nolambur Main Road,
Gangaiamman Nagar Extn, Chennai – 600 095
E-mail ID: revisri@yahoo.co.uk
Mobile No: 9840966464

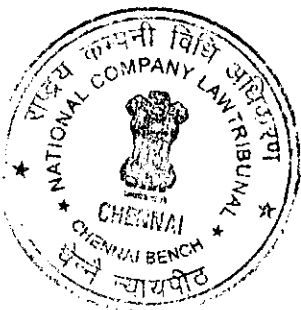
S. Vijayaraghavan

S. Vijayaraghavan
Member (Technical)

K. Anantha Padmanabha Swamy

K. Anantha Padmanabha Swamy
Member (Judicial)

GP/TJS



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G. Sridharan
3/4/18
NATIONAL COMPANY LAW TRIBUNAL
CHENNAI
CORPORATE DEBTOR
FLOOR
0001

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Mobile No: 9840966464

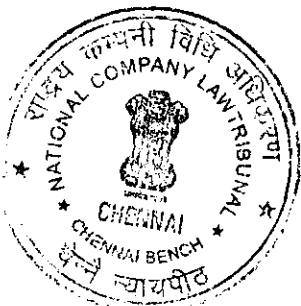
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