

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

CP (IB) No. 1417/MB/2018

Under section 10 of IBC, 2016

In the matter of

Brainer Trade and Fin-Tech Private Limited  
102, Shree Gajanan Apartment, Chincholi  
Bunder Rd., Opp. Infant Jesus School, Malad  
West, Mumbai - 400064

.... Corporate Applicant

Order delivered on 25.07.2018

**Coram:**

Hon'ble Mr. Bhaskara Pantula Mohan, Member (J)

Hon'ble Mr. V. Nallasenapathy, Member (T)

For the Applicant: Mr. Amir Arsiwala, Advocate

For Intervener: Mr. Kirit Hakani, Advocate

*Per : Bhaskara Pantula Mohan, Member (J)*

**ORDER**

1. This Company Petition is filed by Brainer Trade And Fin-Tech Private Limited (hereinafter called Corporate Applicant), under Section 10 of Insolvency and Bankruptcy Code 2016 ("the Code") read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, for initiation of Corporate Insolvency Resolution process.

2. The Corporate Applicant says that its registered office is at 102, Shree Gajanan Apartment, Chincholi Bunder Rd., Opp. Infant Jesus School, Malad West, Mumbai - 400064, incorporated on 08.11.2006 vide CIN U51101MH2006PTC165432 on the file of Registrar of Companies Maharashtra, having paid up share capital of Rs.1,99,28,330/-.

3. The Corporate Applicant has submitted a copy of Special Resolution passed by the shareholders in their Extra-Ordinary General Meeting held on 06.04.2018 for initiating Corporate



Insolvency Resolution Process u/s 10 of Insolvency & Bankruptcy Code. The Board of Directors of the Corporate Applicant in their meeting held on 09.04.2018 authorised Mr. Ghanshyam Ramkumar Chourasia, Director of the Company, to file necessary application under the Code.

4. The Corporate Applicant has disclosed that a sum of ₹21,86,76,474/- is due to Financial Creditors which is in default. Further it has disclosed that a sum of Rs. 3,50,90,064/- is due to Operational Creditors.

5. The petition reveals that Janaseva Sahakari Bank Ltd, Pune and Pune People's Co-operative Bank Ltd, Pune sanctioned a sum of Rs. 10 crores and Rs. 5 crores respectively as Cash Credit Facility, on 16.12.2014, in a consortium arrangement, to the Corporate Applicant. Further Pune People's Co-operative Bank Ltd, Pune sanctioned Term Loan of Rs. 2 crores on 08.05.2014. The sanction letters for the above said loans were enclosed with the petition. Further statement of account for the above said loans were also enclosed.

6. The Corporate Applicant also enclosed the certificate of registration of mortgage under Section 132 of Companies Act 1956 in favour of the Janaseva Sahakari Bank Limited for the facilities sanctioned by it. Further a Certificate of Modification of Charge for the above said loans is also enclosed with the petition.

7. Janseva Sahakari Bank Ltd, Pune issued SARFAESI Notice on 04.02.2017 requiring the Corporate Applicant to pay a sum of Rs. 16,80,93,675/- in respect of working capital facilities sanctioned by the said bank and by Pune People's Co-operative Bank Ltd, Pune.

8. Both the above stated financial institutions filed an Intervener application in IA No. 554/2018 and the said Intervention Application was allowed. The intervener submitted that in case of admission of this Petition, the Insolvency Resolution Professional suggested by the interveners may be considered for appointment of Insolvency Resolution Professional instead of the name suggested by the



Corporate Applicant. The intervener suggested the name of Ms. Anagha Anasingaraju, having IBBI registration no. IBBI/IPA-002/IP-N00247/2017-18/10732, having address Kanjmag & Co, 1-2 Aishwarya Sankul, G.A. Kulkarni Path, Pune, Maharashtra, 411038 as Interim Resolution Professional, the same was accepted by the Petitioner as well.

9. The Corporate Applicant has enclosed the audited financial statements for the years 2016-17 and 2017-18, the provisional financial statement for the period from 1.4.2018 to 19.04.2018, list of financial creditors and operational creditors as on 19.04.2018, list of properties given as security for the loans availed and extract of charges registered with the Registrar of Companies taken from MCA portal. The Corporate Applicant disclosed the names and addresses of the members of the Company with details of their shareholding, details of debt owed by or to the Corporate Applicant to or by persons connected with it and details of personal guarantors of the Corporate Applicant.

10. On reading the Petition and the supporting documents annexed with the Petition, this Bench is of the view that the Corporate Applicant has committed default and the Petition contains the particulars as required u/s 10 of the Code. Hence, this Bench hereby admits this petition, declaring moratorium with consequential directions as mentioned below:

- (i) That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Applicant including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the Corporate Applicant any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Applicant in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any



property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant.

- (ii) That the supply of essential goods or services to the Corporate Applicant, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
  - (iii) That the provisions of sub-section (1) of Section 14 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 25.07.2018 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 Applicant under Section 33, 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 the Code.
  - (vi) That this Bench hereby appoints Ms. Anagha Anasingaraju, having IBBI registration no. IBBI/IPA-002/IP-N00247/2017-18/10732, having address Kanjmag & Co, 1-2 Aishwarya Sankul, G.A. Kulkarni Path, Pune, Maharashtra, 411038 as Interim Resolution Professional to carry the functions as mentioned under the Code.
11. Accordingly, this Petition is admitted.
12. The Registry is hereby directed to communicate this order to the Applicant.

Sd/-

V. NALLASENAPATHY  
Member (Technical)

Sd/-

BHASKARA PANTULA MOHAN  
Member (Judicial)