

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

CP/1195/ (IB)/2018

Under Section 7 of the Insolvency and Bankruptcy Code, 2016

In the matter of

M/s. Findeal Investments Private Limited

.....*Financial Creditor*

V/s

M/s. Dhananjaya Money Management Services Private Limited

.....*Corporate Debtor*

Order delivered on: 10.12.2018

CORAM:

B.S.V.PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Applicant/FC : Shri.Jayanth Viswanathan, PCS
Shri.Ankit M.Talsania, Advocate

ORDER

Per : S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Under consideration is a Company petition filed by **M/s. Findeal Investments Private Limited** (in short Applicant/Financial Creditor) against **M/s. Dhananjaya Money Management Services Private Limited** (in short Corporate Debtor) under section 7 of the Insolvency and Bankruptcy Code, 2016.

- 1.** The Corporate Debtor is a private limited Company incorporated under the Companies Act, 1956 on 12.05.1987 having its registered office at Ground Floor, 22/10 Veera Raghavan Street, Nanganallur, Chennai– 600061.
- 2.** The amount claimed to be in default by the Corporate Debtor as per the

Application is ₹9,40,000 along with interest @ 15% p.a. (**AnnexureB-1**)

3. The petitioner financial creditor, on demand and request of the respondent from time to time had provided long term loan of ₹3400000 out of which ₹2460000 has been repaid. However, an amount of ₹940000 and interest @ 15% on the loan granted from time to time has not been repaid.
4. In the month of April, 2017 the FC had requested to the Respondent to make the payment, however, the payment was not made and the respondent in a personal meeting held in the month of April, 2017, assured to the FC that the payment of such amount shall be made by them in 12 monthly instalment starting from 1st December, 2017. The petitioner accepted the same on the condition that the said assurance shall be given in writing and the amount of loan along with interest @ 15% thereon shall be made through direct transfer to the bank account of the petitioner. The respondent vide letter dated 1st May, 2017 gave assurance in writing that they will make the payment in 12 monthly instalment starting from 1st December, 2017 through direct transfer to the bank account of the FC (**Annexure-E**). The respondent also provided confirmation cum contra account for the year ending on 31st March, 2017 which

evidences that the principal loan amount of ₹2240000 was payable to the FC by the respondent (**Annexure-F**).

5. It has been submitted by the FC that the first instalment was not received by the FC in the beginning of December, 2017, the FC once again made a request to make the payment at the earliest. However, the respondent stated that they were suffering from financial crunch and they were expecting their recovery of payment from the market in 3-4 months and accordingly, once again, they made a request for 6 months time. The Respondent made payment of ₹1300000 on 30.08.2018 and did not clear the loan amount of the FC and also failed to pay interest @ 15% on the principal amount of loan granted to them from time to time.
6. Even after granting time, the Respondent did not make any payment. The FC telephonically informed the respondent that on account of their failure to make the payments, they would take legal actions, if the balance amount of loan of ₹940000 along with interest @15% on the loan granted from time to time is not paid within 5 days from 30th August, 2018.
7. The FC has stated that the Respondent is not in a stable position to clear its debts and liabilities. In such circumstances it would be appropriate to initiate the Insolvency proceedings against the Respondent.

- 8.** The Tribunal observes that the Respondent has not made any appearance/representation on their behalf before this Tribunal when the matter was called first on 02.11.2018 even after due communication was made to the registered address of the Respondent. Another chance was given to the Respondent to make their submissions on 16.11.2018. When the matter came up for hearing on 06.12.2018 also the Respondent had failed to make any appearance/representation.
- 9.** With regard to the above the Tribunal observes that in spite of the ample opportunity given to the Respondent to make their submissions, the Respondent has not availed the same and order has been reserved in the said matter on 06.12.2018.
- 10.**In view of the above, the Tribunal observes that there is a debt due and payable by the Corporate Debtor and that a default has occurred for which the Corporate Debtor was responsible to pay. We are of the opinion that the FC has established that the amount in default committed by the Corporate Debtor is a fact and it is supported by the documentary evidence placed before this Adjudicating Authority.
- 11.**Therefore, the instant petition is admitted and we order the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

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12. We appoint **Mr. Vinod Tarachand Agarwal**, as Interim Resolution Professional (IRP) as proposed by the Applicant. There is no disciplinary proceeding pending against the IRP and the IRP's name is reflected in IBBI website. The IRP has filed the Form-1 and conveyed his willingness to act as IRP. The IRP is directed to take charge of the Corporate Debtor's management immediately. The IRP is also directed to make 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.

13. 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.*

14. 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.

15.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 the functions under Section 20 of the I & B Code.

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

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

18.With the above directions the application is admitted.


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

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S. V. Vijayaraghavan.

S. VIJAYARAGHAVAN
MEMBER (TECHNICAL)

/sd/


B.S.V.PRAKASH KUMAR
MEMBER (JUDICIAL)