

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

CP/1056/(IB)/2018

Under Section 7 of the IBC, 2016 r/w Rule 4 of the Insolvency and
Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of

M/s. FEDERAL BANK LIMITED

.....*Financial Creditor*

V/s

M/s. CARE IT SOLUTIONS PRIVATE LIMITED

.....*Corporate Debtor*

Order delivered on: 17.10.2018

CORAM:

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

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Applicant/FC : Shri.S.Sathiyarayanan, Advocate
Ms.D.Pavithra, Advocate

ORDER

Per : S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Under consideration is a Company petition filed by **M/s. FEDERAL BANK LIMITED** (in short Applicant/Financial Creditor) against **M/s. CARE IT SOLUTIONS PRIVATE LIMITED** (in short 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).

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1. The Corporate Debtor is a private limited Company incorporated under the Companies Act, 1956 on 07.03.2003 having its registered office at No.481, Anna Salai, 2nd floor, Nandanam, Chennai– 600035.
2. The amount claimed to be in default by the Corporate Debtor is ₹29,33,21,632.64 as on 11.07.2018 together with subsequent interest at the rates stated below;

| S.No. | Account No. | Interest Rate/p.a (%) |
|-------|----------------|-----------------------|
| 1 | 13245500004151 | 10.95 |
| 2 | 13246900002845 | 10.95 |
| 3 | 13249800000020 | 14.50 |
| 4 | 13249100002921 | 15.50 |
| 5 | 13249100002922 | 15.50 |
| 6 | 13249100002963 | 15.50 |

The date of occurrence of default for the purpose of IBC is considered to be the date of issuance of Demand Notice.

3. The Applicant Bank is a Financial Creditor of the Corporate Debtor having sanctioned initially various credit facilities to the tune of ₹1705 Lakhs to the Corporate Debtor vide Sanction Letter dated 03.10.2015. Thereafter, credit facilities offered to the Corporate Debtor by the Applicant Bank was

reviewed and enhanced at various dates at the request of the Corporate Debtor. The summary of the facilities sanctioned as per the loan and security documents on 03.10.2015, 23.03.2016 and 20.08.2016 are as follows;

| S.No. | Nature of Facilities | Amount ₹ in lacs |
|-------|-----------------------|------------------|
| 1 | PCL | 700.00 |
| 2 | FDBP(LC) | 850.00 |
| 3 | BG (sub limit of PCL) | 155.55 |
| 4 | Cash Credit | 280.00 |
| 5 | BG | 1000.00 |
| 6 | Bills Discounting | 500.00 |
| 7 | WCDL | 1120.00 |
| 8 | Adhoc CC | 200.00 |

4. The Corporate Debtor and the Guarantors have executed various loan and security documents as per the terms of sanction and mortgages were created by the Corporate Debtor and the Guarantors in favour of the Applicant Bank. The Corporate Debtor loan accounts were classified as Non-Performing Asset with effect from 07.10.2017 in accordance with the directions/guidelines issued by the Reserve Bank of India, in view of non compliance of the loan

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sanction documents and in relation to the various terms and conditions.

5. The Applicant-Financial Creditor has sent a recall cum demand notice dated 08.01.2018 to the Corporate Debtor (Pg. 204) demanding repayment of its dues amounting to ₹26,64,73,578. But the Corporate Debtor in spite of demand notice the corporate debtor has failed to repay the dues.
6. The Applicant Bank has initiated recovery action under SARFAESI Act and RDDBFI Act. The Applicant Bank has filed an Original Application before DRT-1, Chennai vide OA No.128 of 2018 and the same is pending for disposal. It has been stated that the Corporate Debtor in its counter in the above stated Original Application filed before the DRT-1 has admitted that the debt due to the Applicant Bank.
7. The Tribunal observes that the Corporate Debtor has not appeared before this Tribunal nor have they filed any counter in the matter under issue. In this regard, the Applicant Bank has filed an affidavit of service dated 28.09.2018.
8. The Applicant bank has stated that in the counter filed by the Corporate Debtor before the DRT-1 they have accepted the debt. But the same was not filed before this Tribunal for reference.

9. The Tribunal observes that a detailed demand notice dated 08.01.2018 was made by the Applicant Bank to the Corporate Debtor, the demand notice was not acknowledged, replied or complied with by the Corporate Debtor and they have not appeared before this Tribunal to defend their case in spite of the ample opportunities provided to them.
10. In view of the above, the Tribunal observes that there is a debt due payable by the Corporate Debtor and that a default has occurred which the Corporate Debtor was responsible to pay. Therefore, we are of the opinion that the petitioner has established clearly that the amount in default committed by the Corporate Debtor is a fact and it is supported by the documentary evidence placed before the Adjudicating Authority. In these circumstances, having been satisfied with the submissions put forth by the learned Counsel for the petitioner, we hereby admit the petition.
11. 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.
12. We appoint **Mr. Nurani Subramanian Suryanarayanan**, as Interim Resolution Professional (IRP) as proposed by the Applicant. There is no disciplinary proceedings pending against the IRP and his name is

reflected in IBBI website. The IRP is directed to take charge of the Corporate Debtor's management immediately. He 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.

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- 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 his functions under Section 20 of the I & B Code. Accordingly, the application is admitted.
- 16.**The Applicant/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.
- 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 disposed of.
- 19.**The address details of the IRP are as follows: -

Mr.Nurani Subramanian Suryanarayanan
Reg. No. IBBI/IPA-002/IP-N00379/2017-2018/11122)
SFlat V-II, Silver Palm Apartments,
340/1, Bajanai Koil Street,
Padi, Chennai – 600 050
E-mail ID: suri_nar@hotmail.com
Mobile No: 9789098947


S. VIJAYARAGHAVAN
MEMBER (TECHNICAL)


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

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