

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

IBA/90/2019

Under Section 7 r/w rule 4 of the IBC, 2016

In the matter of M/s. Jayabharatham Lifespaces International Private
Limited

Mr. M. Balasubramaniam

---Financial Creditor

V/s

M/s. M/s. Jayabharatham Lifespaces International Private Limited

---Corporate Debtor

Order delivered on: 09.04.2019

Coram:

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

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor : *Shri. G. George Raja Selvan, Advocate*
For M. Manikandan, Advocate

For the Corporate Debtor : **None-Present** on the date of hearing

ORDER

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

Heard and Pronounced on: 09.04.2019

It is a Company Petition filed u/s 7 of the Insolvency & Bankruptcy
Code, 2016 ("the Code") by the Financial Creditor seeking initiation of
Corporate Insolvency Resolution Process against the Corporate Debtor

on the ground the Corporate Debtor defaulted in repaying an amount of ₹ 4,00,000 (principal) along with interest at the rate of 12% per annum aggregating to ₹ 4,40,000.

2. On perusal of this case, it is apparent on record that the Corporate Debtor on 21.01.2017 availed loan of ₹ 4,00,000 from the Financial Creditor on having the managing Director on behalf of the corporate debtor executed Demand Promissory Note dated 21.01.2017 agreeing to repay the principal along with interest at the rate of 12% per annum within a period of ten months. This Demand Promissory Note executed by the Managing Director of the Corporate Debtor was supported by the Board Resolution dated 21.01.2017 passed by the Board of Directors and the letter dated 21.01.2017 issued by the Corporate Debtor acknowledging receipt of money. Thereafter, when the Corporate Debtor failed to repay the same, on 26.10.2017 the Financial Creditor sent a letter to the Corporate Debtor demanding repayment of loan availed by the debtor, to which the Corporate Debtor on 20.11.2017 replied requesting the creditor for extension of time for repayment.

Thereafter since no payment has come from the Corporate Debtor almost for a period of one year, the Financial Creditor initiated this proceeding against the Corporate Debtor.

4. This case was filed on 29.08.2018, ever since several adjournments were given, wherein the Corporate Debtor counsel appeared 3 to 4 times before this Bench whereas today none appeared on behalf of the corporate debtor. As this Bench has already provided ample time to the corporate debtor to argue the case, construing that the debtor failed to avail the opportunity of audience, this bench having noticed that the creditor filed promissory note, Resolution of the Board of the Corporate debtor deciding to avail loan from the creditor, receipt of acknowledgement reflecting money has been loaned to the debtor against consideration of time value of the money, and also material reflecting the debtor acknowledging its inability to repay the same on the demand made by the creditor, we are of the view that the Financial Creditor has proved the existence of debt and default against the debtor, this Bench hereby admits this Company Petition by appointing

Mr. Muthiah Thevar Rajapandian as Interim Resolution Professional (IRP) looking at the consent letter given by him with directions as follows:

- I. That Moratorium is hereby declared prohibiting all of the following actions, namely,
 - a) 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;
 - b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - c) 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 - d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

- II. That Supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- III. That the provisions of sub-section (1) of Section 14 of IBC 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 **09.04.2019** till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, 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 IBC.
- VI. That this Bench hereby appoints **Mr. Muthiah Thevar Rajapandian**, having Registration Number [IBBI/IPA-003/IP-N00090/2017-18/10854], 3/158, Bharathiyar Street, Indian Bank Colony, Narayanapuram, Madurai-625 014, Email: rajapandianm1955@gmail.com, as Interim Resolution Professional to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

5. Accordingly, this Petition is **admitted**.
6. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by way of email or whatsapp.

-SD-

(S. VIJAYARAGHAVAN)
MEMBER (Technical)

-SD-

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

VS/TJS