

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

IBA/128/2019

*Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read
with Rule 4 of the Insolvency and Bankruptcy (Application to
Adjudicating Authority) Rules, 2016*

In the matter of M/s. Jepiaar Power Corporation Private Limited

M/s. Indian Bank

---Financial Creditor

V/s

M/s. Jepiaar Power Corporation Private Limited

---Corporate Debtor

Order delivered on: 04.03.2019

Coram:

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

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor: *Ms. T. Geethanjali, Advocate
Mr. Jayesh B. Dolia, Advocate
For Aiyar & Dolia*

For the Corporate Debtor: *Non-Present*

ORDER

Per: S.VIJAYARAGHAVAN, MEMBER (TECHNICAL)

It is a Company Petition filed under Section 7 of the Insolvency & Bankruptcy Code (“the Code”) by Indian Bank (in short, “Creditor Bank”) for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor on the ground that it has defaulted repaying an amount of ₹147,89,38,608.49 as on 21.12.2018 as against the loans availed by the Corporate Debtor.

2. On perusal of the record, it appears that since 2013, the Corporate Debtor availed credit facilities for an amount of ₹91,76,98,358 under the head of “Term Loan-I” and ₹42,23,07,534 under the head of “Term Loan-II” in aggregate, it comes to ₹134,00,05,892 (rupees One Hundred and Thirty Four Crores Five Thousand Eight Hundred Ninety Two only) to the Corporate Debtor.
3. To support this claim, the Creditor Bank filed dates and events disclosing existence of debt and occurrence of default, which are as follows:

S.No	DATES	EVENTS
1.	27.06.2013	Initially credit facilities were sanctioned to the tune of Rs. 92.50 crores as Term Loan-I to the CD.
2.	23.11.2013 to 26.11.2013	The CD executed various Security Documents/Agreement of Guarantee for the credit facilities sanctioned by the Bank
3.	05.08.2016	Term Loan-II credit facilities availed by the CD and Security Documents were executed
4.	07.10.2016	Acknowledgement of Debt-cum-Security for a sum of Rs.86.82 crores as on 30.09.2016 by the CD and Corporate Guarantors
		Agreement for Irrevocable of Letter Credit Limits upto Rs.25 crores
		Agreements of Guarantee by Jeppiaar Furnace & Steels Pvt. Ltd. & Jeppiaar Cements Pvt. Ltd.
5.	19.04.2018	Valuation Report of land & Building and Plant & Machinery
6.	25.06.2018	MoU between legal heirs of Dr. Jeppiaar (deceased) to discharge liability of the Corporate Debtor
7.	30.09.2018	Loan amount of the Corporate Debtor was

		declared as Non-Performing Asset (NPA), in accordance with RBI directives
8.	15.10.2018	Demand Notice issued u/s.13(2) SARFAESI Act
9.	21.12.2018	Statement of Accounts of CD

4. Looking at the dates and events as well as the annexures to the Application, we hereby hold that the Creditor Bank has furnished material disclosing the Creditor Bank providing credit facilities as mentioned above, the Corporate Debtor, in turn, defaulted in repaying the same.
5. Before proceeding with the matter, it is necessary to mention herein that the Creditor Bank has sent notice to the Corporate Debtor at the registered office address. The proof of the same is also placed on file. Thereafter, as per the direction of this Bench, the Creditor Bank has also sent private notice to the Registered Office of the Corporate Debtor on 07.02.2019 for their appearance and reply but it was returned with an endorsement "Refused". Copy of the notice and track delivery report is placed on record along with an affidavit.
6. It appears that the Corporate Debtor is deliberately avoiding causing appearance in the matter before this Adjudicating Authority. The Service of notice on the Corporate Debtor is held sufficient and opportunities were given vide orders dated 06.02.2019 and 15.02.2019 but they failed to appear before this Tribunal.

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7. The learned Counsel for the Financial Creditor submitted that the Corporate Debtor is unable to pay its debts and therefore he has no other option except approaching this Adjudicating Authority under I & B Code seeking an order for commencing the Corporate Insolvency Resolution Process.
8. In view of the reasons aforementioned and the material furnished by the Creditor Bank, the Tribunal observes that there is a debt due and 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 Applicant Bank 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. Hence, we hereby hold that it is a fit case for admission. The Financial Creditor has also filed consent letter given by the Insolvency Resolution Professional. We hereby declare moratorium with the following directions:

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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*
- d) *the recovery of any property by a owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

- II. The supply of essential goods or services of the Corporate Debtor 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 the date of issue of order 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.Umesh Garg, having Registration Number [IBBI/IPA-001/IP-P00135/2017-2018/10277] No.3 Scindia House, 2nd Floor, Janpath, New Delhi-110001, E-Mail:umeshg60@gmail.com, Mobile No.9818990001 as Interim Resolution Professional (IRP) 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.

9. Accordingly, the Application **IBA/128/2019** is hereby **admitted**.

S. Vijayaraghavan.
(S. VIJAYARAGHAVAN)
MEMBER (Technical)

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

TJS/KNP