

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C.P. NO. 1069/I&BP/NCLT/MAH/2017**

Coram: B. S. V. Prakash Kumar, Member (Judicial)
V. Nallasenapathy, Member (Technical)

In the matter of under Section 7 of the Insolvency and Bankruptcy Code, 2016 and Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rule 2016)

Pine Forest Products and Investment Ltd.	... Applicant
v/s.	
Zenith Computers Ltd.	...Corporate Debtor

Applicants' Counsel: None present.

Corporate Debtors' Counsel: Mr. Rishikesh Soni, Counsel, a/w. Nikhil Patil i/b. P. N. Jadhav.

ORDER

(Heard on 09.06.2017 & Pronounced on 12.06.2017)

Per V. Nallasenapathy, Member (Technical)

1. This Company Petition is filed by M/s. Pine Forest Products & Investment Ltd., 811-812, Tulsiani Chambers, Nariman Point, Mumbai – 400 021 against the Corporate Debtor, M/s. Zenith Computers Ltd., Plot No.: EL 117, 1st Floor, TTC Area, MIDC, Mahape, Navi Mumbai – 400 710, alleging that the Corporate Debtor failed to pay the financial debt of Rs. 1,25,00,000/- with interest @ 24% p.a. from 13.10.16 to 30.04.2017 amounting to Rs. 16,35,660/- and hence this Petition is filed under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred as “the Code”) for initiation of corporate insolvency resolution process.

2. The Petitioner submits that its Board of Directors by a Resolution dated 14.02.2017 authorized one of its Directors, Mr. Kamal Dujodwala, to

initiate proceeding before NCLT Mumbai Bench against the Corporate Debtor.

3. The Financial Creditor discloses that the Corporate Debtor had approached it for a short term loan of Rs. 2,00,00,000/- repayable within 30 days with 24% interest per annum. Accordingly, the Financial Creditor sanctioned a sum of Rs. 1,25,00,000/- as short term loan and issued cheque No.: 786610 dtd. 13.10.2016 drawn on Jammu & Kashmir Bank, Fort Branch, for Rs. 1,25,00,000/-. The said loan is an unsecured short term loan for a period of 30 days repayable with interest of 24% per annum. The Corporate Debtor vide letter dated 14.10.2016 acknowledged the receipt of the cheque issued by the Financial Creditor. The Financial Creditor vide letter dated 17.11.2016 called upon the Corporate Debtor to repay the said loan of Rs. 1,25,00,000/- along with interest @ 24% per annum from 13.10.2016 till the date of payment, within 7 days from the receipt of the letter, failing which legal proceedings will be taken. In reply to the said letter, the Corporate Debtor on 23.11.2016 requested the Financial Creditor to extend the time for repayment by one month and stated that the principal and interest will be paid on or before 12.12.2016. Since there was no repayment, the Financial Creditor sent another letter on 15.12.2016 seeking repayment of the loan, for which the Corporate Debtor on 19.12.2016 responded seeking another 6 months for start paying the loan in mutually agreed instalments. Then the Financial Creditor on 15.03.2017 issued notice under the Code with a request to repay the loan. The above facts clearly shows that there is a financial debt payable by the Corporate Debtor and the same is on default from 17.11.2016.

4. The Counsel appearing on behalf of the Corporate Debtor submitted that his client requires three years' time for repaying the loan which was rejected by the Counsel for the Financial Creditor.

5. The Financial Creditor has named Mr. Chetan T. Shah, No. 3, Wing A, Satyam Shopping Centre, M.G. Road, Ghatkopar East, Mumbai – 400 077, email ID: chetanshah@hotmail.com, Reg. No.: IBBI/IPA-001/IP-P00026/2016-17/10059 as the Interim Resolution Professional, who by letter dated 27.04.2017 given his acceptance and also certified that no disciplinary proceedings are pending against him with Insolvency & Bankruptcy Board of India or the Indian Institute of Insolvency Professional of ICAI.

6. This Adjudicating Authority is of the view that the petition is in compliance of provisions of Sections 3(11), 3(12), 5(7), 5(8)(C) and 7 of the Code and admits this petition declaring moratorium with consequential reliefs as below:

- (i) That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor 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 debtor 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 debtor.
- (ii) That the 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 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 12.06.2017 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 debtor 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 Mr. Chetan T. Shah, No. 3, Wing A, Satyam Shopping Centre, M.G. Road, Ghatkopar East, Mumbai – 400 077, email ID: chetanshah@hotmail.com, Reg. No.: IBBI/IPA-001/IP-P00026/2016-17/10059, as interim resolution professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

7. Accordingly, this Petition is admitted.

8. The Registry is hereby directed to communicate this order to the Financial Creditor and the Corporate Debtor.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

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