

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-V

Item No.-320
IB-2354/ND/2019

IN THE MATTER OF:

Noble Cooperative Bank Ltd

Vs

Jarvis Infratech Pvt Ltd

....Applicant

....Respondent

SECTION

Under Section -7 of IBC, 2016

Order delivered on 10.02.2020

CORAM:

SHRI ABNI RANJAN KUMAR SINHA
HON'BLE MEMBER (JUDICIAL)

SHRI K.K. VOHRA,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant

: Adv/ Govind, Adv. PK Shukla

For the Respondent

: Adv. Abhigyan

ORDER

The applicant/Financial Creditor is filing the present application against the Respondent/Corporate Debtor under Section 7 of the Insolvency & Bankruptcy Code, 2016, (hereinafter referred to as the "Code") initiate corporate insolvency resolution process in respect of corporate debtor by which he claimed Rs. 69,00,000/- mentioned at page 4 column 1.

None present on behalf of Corporate Debtor ("hereinafter referred as CD"). Although, the reply has been filed on behalf of CD on 06.01.2020 which is on record. We have heard the Ld. Counsel for the applicant and perused the averments made in the application and reply filed on behalf of CD.

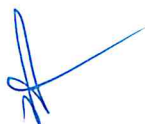
Ld. Counsel for the Financial Creditor submitted that CD has entered into an agreement with the Financial Creditor and accordingly, an over-draft facility of Rs. 69 Lakhs was sanctioned to the CD vide sanctioned letter dated



18.02.2018 at a simple interest rate of 13 per cent per annum, which is available at page 13 of the paper book. He further submitted that statement of account of CD is at Annexure 9 of the paper book which shows that the total amount of Rs. 76,54,410/- is outstanding against the CD. He also submitted that by filing reply, the CD has admitted the debt of the applicant and undertakes to repay the amount but the same has not been paid as yet. He further submitted that he has also proposed the name of the *IRP, Mr. Dinesh Kumar Gupta having Registration No. IBBI/IPA-001/IP-N00959/2017-18/11580, B-1/26, Sector-18, Noida-201301, E-mail ID:- guptadk54@gmail.com* who has given his written consent which is at page no. 161 and 163 of the paper book and therefore, CIRP may be initiated against the CD.

Now, in the light of the submissions raised on behalf of the applicant, we have gone through the averments made in the reply of the CD and we find that in para 3, 4, 5 & 6 the CD has specifically mentioned this fact that the CD has availed the over-draft limit of Rs. 69 lakhs given by the Financial Creditor and he is also willing to repay the amount of outstanding debt to the Financial Creditor and that the contention was also made when the CD appeared before this Adjudicating Authority on 21.10.2019 but due to financial crisis, the CD at present is not in a position to repay the amount.

Considering the submissions made on behalf of the parties and the averments made in the application and reply filed by the CD, we find that since the debt is due and default is admitted by the Corporate Debtor/Respondent in his reply, therefore, under such circumstances, we are of the considered view that the petitioner has completed all the conditions mentioned in section 7 of the IBC, 2016 and there is default of payment of Rs. 76,54,410/- and no dispute has been raised by the Corporate Debtor. Since, the amount in default is more than Rs. 1,00,000/- is being the minimum threshold limit fixed under IBC, 2016. Under such circumstances this Adjudicating Authority is inclined to admit this petition and initiate CIRP of the respondent. Accordingly, this



petition is admitted. A moratorium in terms of Section 14 of the IBC, 2016 shall come into effect forthwith staying:-

1. effect forthwith staying:-

(a) *the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

Further:

(2) *The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*

(3) *The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.*

(4) *The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:*

Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have



effect from the date of such approval or liquidation order, as the case may be.

Ld. Counsel for Financial Creditor undertakes to deposit the fee of Rs. 2,00,000/- of the IRP to meet immediate expense within two weeks. The same shall be fully accountable by the IRP and shall be reimbursed by the CoC, to the Financial Creditor to be recovered as CIR costs.

Registry is directed to communicate the order with the IRP as well both the parties.

sd/-

(K.K. VOHRA)
MEMBER (T)

sd/-

(ABNI RANJAN KUMAR SINHA)
MEMBER (J)