

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
PRINCIPAL BENCH

ITEM No. 105
(IB)-1444(PB)/2018

IN THE MATTER OF:

Reliance Commercial Finance Ltd. Applicant/petitioner
Vs.
Sunar Jewels Pvt Ltd. Respondent

Order under Section 7 of Insolvency & Bankruptcy Code, 2016 (CIRP)

Order delivered on 04.03.2020

Coram:

SH. B.S.V. PRAKASH KUMAR
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:-

For the Applicant : Mr. Milan Singh Negi, Adv.
For the respondent : Mr. Anirudh Bhattacharaya, Adv. for R-2
Mr. Sagar Bansal, Adv. with Mr. Manoj Garg,
RP

ORDER

CA-1161(PB)/2019

This is an application filed towards the claim of the applicant seeking relief as follows:-

- a) Allow the instant application;
- b) Direct the Interim Resolution Professional/Resolution Professional, as the case may be, to verify and admit the claim of the Applicant herein to the extent of Rs. 72,30,77,027/-;
- c) Direct the Interim Resolution Professional/Resolution Professional, as the case may be, to verify and admit the claim of Respondent No. 2 only to the extent of Rs. 5,71,92,667/- (as provided in the First Progress Report);

- c) Reconstitute the CoC in case of the Corporate Debtor in terms of prayer (b) and (c) above;
- d) Direct that the Interim Resolution Professional has failed to observe the code of conduct for Insolvency Professionals as provided in the first schedule of the Insolvency & Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 and the Interim Resolution Professional may accordingly be removed;
- d) Appoint Mr. Dilip Bhagtani, as proposed by the Applicant, as the Resolution Professional in case of the Corporate Debtor herein;
- e) Any other relief(s) as this Hon'ble Tribunal may deem fit in the facts and circumstances of the present case;

On hearing the claimant and the RP, it appears that Resolution professional has already admitted the claim of this applicant for an amount of ₹ 65,81,74,830/- stating that the remaining part of the claim made by the applicant has not been admitted because it is towards penal interest, expenses incurred, and the difference of amount paid by the Corporate Debtor which was not properly adjusted against the claim amount. On perusal of the submissions made by the Resolution Professional, it appears penal interest of @3% can be charged only on excess drawing/Temporary Overdraft Limit, but whereas this applicant being an assignee, it cannot charge penal interest when no excess drawing/temporary overdraft limit after loan was assigned to it, therefore no occasion arose to this applicant to charge penal interest against the corporate debtor. Therefore, ₹ 4,20,42,594/- shown as penal interest is rightly rejected. As to pre acquisition expenses of ₹ 23,27,156/- it is rejected on the basis of RBI

guidelines and directions (The Securitization Companies & Reconstruction Companies (Reserve Bank) Guidelines & Directions, 2003). The amount paid by the corporate debtor to this Asset Reconstruction Company not being fully adjusted, the difference amount of ₹ 1,89,22,428/- has also been deducted from this claim amount, we are of the view that RP has correctly admitted the claim of this applicant.

List this application for clarification as to second issue is concerned.

List on 16.03.2020.

Sd/-

(B.S.V PRAKASH KUMAR)
ACTG. PRESIDENT

Sd/-

(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)

04.03.2020
Ritu Sharma