

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-1120 (ND)/2018

In the matter of

**Corporation Bank
Corporate Banking Branch Office,
1, Faiz Road, Jhandewalan,
Delhi-110001**

...Operational Creditor

Vs.

**Clever Forgoing And Machining Pvt. Ltd
Office No. DTJ-701, Tower B, DLF Tower
Jasola, New Delhi-110044**

.... Corporate Debtor

Order delivered on-04.12.2018

SECTION: 9 of IBC, 2016

CORAM:

**SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SMT. DEEPA KRISHAN, HON'BLE MEMBER(T)**

ORDER
PER SMT. INA MALHOTRA, MEMBER (J)

The present petition has been filed under Section 7 of the Insolvency & Bankruptcy Code, 2016, (hereinafter referred to as the "Code"), praying for initiation of Corporate Insolvency Resolution Process of the Respondent/Corporate Debtor on grounds of their inability to liquidate the financial debt.

2. As per averments made in the petition, the Corporate Debtor availed a loan of Rs. 150 Crores from the Financial Creditor to facilitate its business of manufacture of forgoing machines and auto components at Aurangabad and Pune. At request of Corporate Debtor, the credit limits were enhanced in view of the increase in the cost of setting up the plants. The present outstanding Loan amount in default is about Rs. 75,12,58,499/-.

3. The Corporate Debtor availed the aforesaid limits. Besides execution of other documents they also entered into a Consortium Term Loan Agreement dated 27.08.2014 with the Financial Creditor and other consortium Banks.

4. As per the financial creditor, the Corporate Debtor failed to adhere to the repayment schedule. They have defaulted not only in respect of repayment of the principal amount, but also in remitting interest thereon. Their repeated defaults in payment of the principal amount resulted in classification of both the Loan Accounts as Non Performing Assets (NPA) on 26.12.2016.

5. It is further submitted by the Financial Creditor that a notice dated 14.05.2018 was served on the Corporate Debtor, recalling the Loan Amount and requiring them to liquidate the outstanding liability but the Corporate Debtor failed to take necessary steps. The Statement of Account maintained by the Financial Creditor in the normal course of its business as well as copies of the documents executed have been annexed along with petition.

6. Upon being served with the notice through their process of the Bench, the Corporate Debtor entered appearance through its Counsel and has admitted its default. It has also admitted its inability to liquidate its dues.



In the light of the categorical admission of the Corporate Debtor expressing its inability to repay the financial debt, the Petitioner's prayer merits consideration.

Accordingly, the petition is Admitted. A moratorium in terms of Section 14 of the Code is imposed forthwith in terms of the following, staying:-

“(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 an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

Further;

(2) Further , 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.”

7. The Financial Creditor has proposed name of Mr. Rohit Mehra, an Insolvency Professional , registration no. IBBI/IPA-001/IP-P00799/2017-2018/11374. His consent & eligibility in the Form 2 have been placed on record. He is directed to take all steps as are statutorily required of him under the Code, specifically u/s 15, 17 & 18 and shall file his report before the Adjudicating Authority.

8. To come up for the report on 09.01.2019.


(Deepa Krishan)
Member (T)


(Ina Malhotra)
Member (J)