

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH**

C.P. No.1973/I&BP/2018

Under section 7 of the IBC, 2016

In the matter of

The Yashwant Co-operative Bank Ltd.  
Dr. Babasaheb Ambedkar Chawk,  
Raviwar Peth, Phaltan, Dist.- Satara,  
Pin-415523

...Petitioner No. 1

and

The Chikhali Urban Cooperative Bank Ltd.,  
Dr. Shyamprasad Mukharji Marg,  
Shivaji Chowk, Chikhli,  
Buldana-443201

...Petitioner No. 2

v/s.

Simrut Foods and Hospitality Private Limited.  
2<sup>nd</sup> Floor, Silver Prestige, 1025,  
Shukrawar Peth, Pune- 411002

....Respondent

Order delivered on: 03.09.2018

Coram:

Hon'ble Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble V. Nallasenapathy, Member (Technical)

For the Petitioner: Adv. Sneha Phene.

For the Respondent: Adv. Heena Vichare i/b Adv. Prachi Wazalwar.

*Per: V. Nallasenapathy, Member (Technical)*

**ORDER**

1. This Company Petition is filed by The Yashwant Co-operative Bank Ltd. (hereinafter called "First Petitioner") and The Chikhali Urban Cooperative Bank Ltd. (hereinafter called "Second Petitioner") jointly, seeking to set in motion the Corporate Insolvency Resolution Process (CIRP) against Simrut Foods and Hospitality Private Limited (hereinafter called "Corporate Debtor") alleging that Corporate Debtor committed default on 30.06.2017 in making payment to the extent of Rs. 1,86,84,115/- by invoking the provisions of Sections 7 of I & B Code (hereinafter called "Code") read with Rule 4 of Insolvency & Bankruptcy (AAA) Rules, 2016.
2. The Petition reveals that on 18.10.2014 the First Petitioner sanctioned Rs. 50,00,000/- as Cash Credit Facility and on 12.02.2015 sanctioned a sum of Rs. 50,00,000/- as Term Loan to the Corporate Debtor. Further

it was disclosed that on 18.10.2014 the Second Petitioner sanctioned 1,00,00,000/- as Term Loan to the Corporate Debtor. It was submitted that the outstanding amount as on 30.03.2018 is Rs. 2,08,45,785/-.

3. On 20.10.2014 the Corporate Debtor, Mr. Nitin Chandrakant Naik, Mr. Nayan Vijay Khedekar, Mrs. Megha Nitin Naik and Mr. Sahil Nitin Naik executed Deed of Charge in favor of the Petitioners for the loan availed by the Corporate Debtor as well as the 4 individuals named above, from the Petitioners. The said Deed of Charge was registered with the Joint Sub-Registrar Class 2, Haveli - 22.
4. The Petitioners issued notice u/s 13(4) of the SARFAESI Act, 2002 to the Corporate Debtor and 4 others claiming a total sum of Rs. 6,23,62,201/- which is inclusive of the Corporate Debtor's liability for a sum of Rs. 2,04,20,992/- to the Petitioners.
5. The Counsel for the Corporate Debtor candidly accepted the debt and default committed by the Corporate Debtor and submitted that they have no objection for admission of this Petition.
6. This Adjudicating Authority, on perusal of the documents filed by the Petitioners, is of the view that the Corporate Debtor defaulted in repaying the loan availed and the Petitioners also placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional and there being no disciplinary proceedings pending against the proposed resolution professional, therefore the Petition under sub-section (2) of section 7 is taken as complete, accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:
  - (I) (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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act);

(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.

- (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 03.09.2018 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. Nagalingam Muthiah, Room No. 708, 7<sup>th</sup> floor, Shivlaya Buildings, A Block, Ethiraj Road, Egmore, Chennai - 600008, Email:- mnaga2050@gmail.com, having Registration No. IBBI/IPA-001/IP-P00774/2017-18/11347 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 both the parties within seven days from the date order is made available.

SD/-

V. NALLASENAPATHY  
Member (T)

SD/-

BHASKARA PANTULA MOHAN  
Member (J)