

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI

IB-2340/(ND)/2019

Section: Under Section 7 of the Insolvency and Bankruptcy Code, 2016 and Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

In the matter of:

POOJA FINELEASE LIMITED

Having its Registered office at:-
70/A-32, Rama Road,
Industrial Area,
Najafgarh Road,
New Delhi-110015

...Applicant

Versus

AUTO NEEDS (INDIA) LIMITED

Having its Registered office at:-
E-1/4, Pandav Nagar,
Patparganj,
(Opposite Mother Dairy)
Delhi-110092

...Respondent



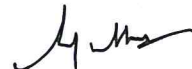
Coram:

SHRI ABNI RANJAN KUMAR SINHA
Hon'ble Member (Judicial)

DR. V.K. SUBBURAJ
Hon'ble Member (Technical)

Counsel for Applicant: Mr. Arvind Kr. Jadon

Counsel for Respondent: Mr. Vivek Sibal, Mr. Rahil Sharma, Mr. Sushant
Tomar



ORDER

Per Dr. V. K. Subburaj (Member Technical)

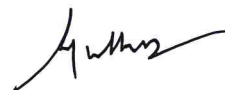
Date:20.12.2019

1. This is an application filed by the Applicant M/s. M/s Pooja Finelease Limited seeking to initiate corporate insolvency resolution process (“CIRP”) of the Respondent M/s. Auto Needs (India) Private Limited under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“the Code”) for the alleged default on the part of the Respondent in settling an amount of Rs. 66,76,565/- towards the loan given by the Applicant for the business development of the Respondent. The details of the transactions leading to the filing of the application as averred by the Applicant are as follows:

- i. The respondent herein, through its directors Mr. Vivek Goel and Mrs. Anju Goel, approached the Applicant to seek financial assistance of Rs.40,00,000/- vide loan agreement dated 29.06.2018 and of further Rs.40,00,000/- vide loan agreement dated 11.02.2019 for business use. The Respondent held out and assured that the repayment will be made strictly in accordance with the sanction letter within the time frame provided for.



- ii. The Respondent failed to maintain financial discipline and contrary to the representations made the Respondent failed to service the account within the time agreed in terms of both the loan agreements.
 - iii. The total amount outstanding in both the loan account as per statement of account dated 07.06.2019 is Rs. 66,76,565/-. All the efforts for the recovery of the amount in terms of personal meetings and discussion with regard to the payment have failed.
2. In the reply, the Respondent has objected to the contents of the application as follows:
- i. The Applicant has no grounds to commence the insolvency proceedings against the Respondent in as much as the Respondent is a solvent company, fully functional and a running concern.
 - ii. Since availing the financial assistance from the Applicant, the debtor has continuously been paying installments on time. Subsequently, seeing the performance the Applicant sanctioned finance in February 2019, however due to the huge loss in the business, the Respondent could not maintain the regular repayment.



iii. The Applicant herein, violated the agreed terms and conditions and did not pay heed to the continuous representations of the Respondent to settle the account. The present application should be dismissed on the very fact that the claims of the Respondent are subject matter of arbitration and the claims can be adjudicated by arbitration.

3. We heard the arguments of both the counsels and perused the documents filed by both the parties. The Respondent expressed its intention to pay the amount in installments due to the slump in the auto business. However, the Applicant has established the existence of debt and default on the part of the Respondent. The Respondent has expressed its inability to settle the matter due to the slump in the business and this amounts to admission of the debt and default. In view of the above reasons this Tribunal initiates CIRP on the Respondent with immediate effect.

4. A moratorium in terms of Section 14 of the Code is imposed forthwith in following terms:

“(a) the institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent in respect of its property including any action under the Securitization 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 Respondent.

(2) The supply of essential goods or services to the Respondent 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.”

5. The interim resolution professional (“IRP”) proposed by the Applicant is Mr. Vinay Kumar Jairath, (Email – vinayjairath916@gmail.com) and is being confirmed by this Bench. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report within 30 days before this Bench.

- 2 d -

(Dr. V.K. SUBBURAJ)
MEMBER (TECHNICAL)

Deepak

- 2 d -

(ABNI RANJAN KUMAR SINHA)
MEMBER (JUDICIAL)

Note: In terms of Rule 151 of NCLT Rules, 2016 this order is being pronounced on behalf of Bench – VI by Hon’ble Member (Technical) Dr. V. K. Subburaj.

Prabhat
20.12.19
court officer

[Signature]