

IN THE NATIONAL COMPANY LAW TRIBUNAL

DELHI BENCH, COURT NO. IV

Company Petition No. IB-1526/ND/2019

SECTION: Under Section 7 of The Insolvency and Bankruptcy Code, 2016, read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules')

IN THE MATTER OF:

M/s. AMRITVANI EXIM

PRIVAVTE LIMITED

... Applicant/ Financial Creditor

VERSUS

M/s. AJANTA OFFSET AND

PACKAGING LIMITED

...Respondent/ Corporate Debtor

Pronounced on: 04.02.2020

CORAM:

Dr. DEEPTI MUKESH

HON'BLE MEMBER (Judicial)

SHRI HEMANT KUMAR SARANGI

HON'BLE MEMBER (Technical)

For the Applicant : Mr. Shashwat Anand, Adv.

For the Respondent : Mr. Arjun Asthana, Ms. Shreenita Gosh, Advocates

MEMO OF PARTIES

M/s. AMRITVANI EXIM PRIVATE LIMITED

Having its registered office at:

21-B, Gurusaday Road,
Kolkata-700019

...Applicant/Financial Creditor

VERSUS

M/s. AJANTA OFFSET AND PACKAGING LIMITED

Having its registered office at:

Mandi Hall 1,
Bahadur Shah Zafar Marg,
New Delhi- 110002

...Respondent/Corporate Debtor

ORDER

PER- SH. HEMANT KUMAR SARANGI, MEMBER (T)

1. The present application is filed under Section 7 of The Insolvency and Bankruptcy Code, 2016, read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by M/s Amritvani Exim Private Limited claiming to be 'financial creditor' (for brevity 'Applicant') has filed this application, through its

authorised representative Mr. Chandan Tripathi authorized by the board resolution dated 31.05.2019, with a prayer for initiation of Corporate Insolvency Resolution Process in respect of respondent company, M/s. Ajanta Offset Packaging Ltd. (for brevity 'Respondent').

2. The Applicant, M/s. Amritvani Exim Pvt. Ltd. was incorporated on 17.05.1989 as public limited company incorporated under the Companies Act, 1956, having CIN U17292WB1989PTC046896. The registered office of the applicant company is situated at 21-B, Gurusaday Road, Kolkata 700019.
3. The Corporate Debtor, namely M/s. Ajanta Offset and Packaging Limited, CIN L74950DL1969PLC005126, was incorporated on 25.09.1969, under the provisions of the Companies Act, 1956. The registered office of the Respondent company is situated at Madani Hall-1, Bahadur Shah Zafar Marg, New Delhi 110002. Its authorized share capital is Rs. 29,76,20,000/- and paid up capital is Rs. 29,58,17,000/- which is based on the details given in master data as reflected on the

official website of Registrar of Companies. Since the registered office of the corporate debtor is in Delhi, this Tribunal being Adjudicating Authority has territorial jurisdiction in respect of respondent corporate debtor as per the provisions of sub-section (1) of Section 60 of the Code.

4. The Applicant states that, it had disbursed an unsecured loan to the Corporate Debtor on 12.09.2017, for a period of 120 days at an interest of 15% p.a., the principal amount along with the interest was payable on maturity i.e., 10.01.2018. however, on 08.01.2018, the Corporate Debtor approached the Financial Creditor for extension of the maturity date up to 15.03.2018. the maturity date was accordingly extended. On 02.03.2018 the Corporate Debtor re-paid the part of principal amount, being Rs. 50,00,000/- to the Financial Creditor. The Applicant further states that, the Corporate Debtor failed to pay balance outstanding on the maturity date
5. The applicant further states that, in order to secure the loan facility. The applicant has placed on record the following documents in support of its claim of loan and credit facilities disbursed to the Corporate Debtor:

- a) Copy of RTGS request letter dated 12.09.2017 issued by the Financial Creditor to its banker, namely, Canara Bank for disbursement of Rs. 1,00,00,000/- (Rupees One Crore), to the Corporate Debtor's bank account.
- b) Copy of money receipt issued by the Corporate Debtor evidencing receipt of loan disbursement.
- c) Copy of letter dated 8.01.2018 sent by the Corporate Debtor to the Financial Creditor for renewal of the loan and extension of maturity date.
- d) Copy of letter dated 12.04.2019 sent by the Financial Creditor to the Corporate Debtor seeking confirmation of accounts for the period 2017-18 and 2018-19 in respect of the loan granted and the statement of account, duly confirmed by the Corporate Debtor along with the relevant delivery receipts and reports.

6. In Part-IV of the Application, the Financial Creditor has given the details of the total amount of the financial debt and the transactions on account of which the debt fell due.

PARTICULARS OF FINANCIAL DEBT	
1. TOTAL AMOUNT OF DEBT GRANTED AND DATE (S) OF DISBURSEMENT	Total Amount of Debt is Rs. 1,00,00,000/- (Rupees One Crore) Date of Disbursement 12.09.2017
2. AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURED	Amount Claimed Rs. 53,81,180/- (Rupees Fifty Three Lakhs Eighty One Thousand One Hundred Eighty), As Principal Default Plus Rs. 3,81,180/- (Rupees Three Lakhs Eighty One Thousand One Hundred Eighty), as interest due and tax deducted but not credited to the financial creditors by the Corporate Debtor. Default Occurred on 16.03.2018

7. The Financial Creditor also sent a letter seeking confirmation of accounts on 12.04.2019 to the Corporate Debtor which the

Corporate Debtor duly acknowledged but failed to repay the loan.

8. Facts which are material to the controversy raised may first be noted. The Applicant has provided a loan/ credit facility to the Corporate Debtor sanctioning credit facility of Rs. 1,00,00,000/- (Rupees One Crore) to the Corporate Debtor on 12.09.2017. As on 16.03.2018, a total sum of Rs. 53,81,180/- (Rupees Fifty Three Lakhs Eighty One Thousand One Hundred Eighty) became due and payable by the Corporate Debtor to the Applicant being the part principal loan amount, as interest due and tax deducted but not credited to the financial creditors by the Corporate Debtor.
9. The Corporate Debtor has filed its reply, in its reply it has raised technical objections, which hold no water in the present application. Also, as per the submissions made by the Ld counsel of the Corporate Debtor, already recorded in the order dated 13.12.2019, the Corporate Debtor has accepted its liability towards the Financial Creditor.
10. Having heard learned counsels for the parties we are of the considered view that the Financial Creditor has succeeded to

making out a case for triggering the Corporate Insolvency Resolution Process. The material on record clearly goes to show that the Corporate Debtor had availed the loan facility and has committed default in the payment of the said debt amount. The applicant 'financial creditor' has placed on record evidence in support of the claim as well as to prove the default. The Corporate Debtor by its own admission in reply acknowledges the existence of financial debt. There is no bar for Financial Creditor from proceeding under the provisions of Code. There is no document placed on record by Corporate Debtor to show that payment of debt, as claimed by the applicant, is made or is not due and payable.

11. Under sub-section (5)(a) of section 7 of the code, the application filed by the applicant financial creditor has to be admitted on satisfaction that:

- (i) Default has occurred;
- (ii) Application is complete, and
- (iii) No disciplinary proceeding against the proposed IRP is pending.

12. It is evident from the record that the application has been filed on the proforma prescribed under Rule 4 (2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 read with Section 7 of the Code. We are satisfied that a default has occurred and debt has remained unpaid. Thus, the application warrants admission as it is complete in all respects and is admitted initiating CIRP as prescribed under the Code.
13. The 'Financial Creditor'- applicant has proposed the name of Insolvency Resolution Professional, Mr. Satya Narayana Guddeti, address at Plot No. 23, 1st Floor, Durganagar Colony, Punjagutta, West Marredpally, Telangana- 500082, and having registration No. IBBI/IPA-001/IP- P00632/2017-18/11086, and email id gsnhyd@rediffmail.com and mobile No. 9246341705. A written communication sent by him in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 has also been placed on record. There is a declaration made by him that no disciplinary proceedings are pending against him in Insolvency and Bankruptcy Board of India or ICAI. In addition, further

necessary disclosures have been made by Mr. Satya Narayana Guddeti as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of Section 7 (3) (b) of the Code.

14. In pursuance of Section 13 (2) of the Code, we direct the Interim Resolution Professional to make public announcement immediately with regard to admission of this application under Section 7 of the Code. The expression 'immediately' means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
15. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) shall follow in relation to the Respondent prohibiting the respondent as per proviso (a) to (d) of section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come in force.
16. We direct the Financial Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional to meet out the

expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Financial Creditor. The amount however be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

17. The registry is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCR, New Delhi at the earliest but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified.

Sd/-

(HEMANT KUMAR SARANGI)

MEMBER (TECHNICAL)

Sd/-

(DR. DEEPTI MUKESH)

MEMBER (JUDICIAL)