

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 118
CP(IB) 5 of 2018

Order under Section 7 IBC

IN THE MATTER OF:

Phoenix ARC Pvt Ltd (Trustee of Phonix Trust FY 14-9)

.....Applicant

V/s

Nagaur Water Supply Company Pvt Ltd

.....Respondent

Order delivered on 17.08.2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant : Mr. Ashish Doshi, PCS

For the IRP/RP :

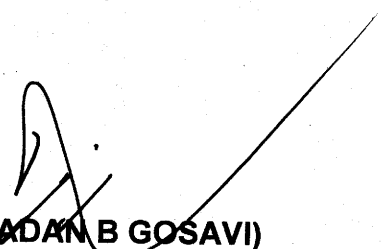
For the Respondent : Mr. Shashvata Shukla, Adv.

ORDER

Heard Learned PCS for the Financial Creditor and Learned Counsel for Corporate Debtor. Perused the order passed by Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No.690 of 2020 dated 01.04.2021. Order is passed by separate sheet..


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)

*Prakash


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**-IN THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 1**

CP (IB) No.05/7/NCLT/AHM/2018

An application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016

In the matter of :

Phoenix ARC Private Limited
(Trustee of Phoenix ARC Private Limited)
Registered office at
Dani Corporate Park,
5th Floor, 158, C.S.T. Road,
Kalina, Santacruz,
Mumbai-400098

... Financial Creditor

Versus

M/s. Nagaur Water Supply Company Private Limited
CIN:U41000GJ2008PTC053373
Registered Office at:
Building No.9, Sigma Corporate,
Behind Rajpath Club, Off S.G. Road,
Bodakdev, Ahmedabad-380054

.... Corporate Debtor

Date of Hearing: 17.08.2021

Date of Pronouncement of Order 17.08.2021

**Coram: MADAN B. GOSAVI, MEMBER(J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance :

Learned PCS Mr. Ashish Doshi for the Financial Creditor.

Learned Counsel Mr. Shasvata Shulka for the Corporate Debtor.

ORDER

[Per: VIRENDRA KUMAR GUPTA, MEMBER (T)]

1. Application filed under Section 7 of IBC, 2016, in this matter, had earlier been dismissed by this Adjudicating Authority on the ground that it was barred by limitation. However, Hon'ble NCLAT vide its order dated 01.04.2021 set aside the said order and directed this Adjudicating Authority to admit the application and issue further directions as required under the provisions of IBC, 2016 in case of parties fails to settle the matter. Accordingly, this matter was fixed for hearing today. Both Learned PCS for Financial Creditor and Learned Counsel for Corporate Debtor submitted that they were unable to reach to settlement, hence, order of admission of the Corporate Debtor into CIRP may be passed in compliance of said order of the Hon'ble NCLAT.
2. Financial Creditor has proposed the name of IRP who at the relevant point of time was in the list of IBBI and his consent is also on record. It is also noted that nothing further has been brought on record to show that he has now not eligible to be appointed as IRP for any reason whatsoever. Accordingly, We appoint Mr. Parag Sheth, having Registration No. IBBI/IPA-002-IP-N00142/2017-2018/10381, Email: pksheth@hotmail.com as Interim Resolution Professional. The application is otherwise complete and defect free. Hence, we admit the Corporate Debtor in CIRP and pass following order:

ORDER

1. Corporate Debtor M/s Nagaur Water Supply Company Private Limited is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.
2. We appoint one Mr. Mr. Parag Sheth, having Registration No. IBBI/IPA-002-IP-N00142/2017-2018/10381, Email:

pksheth@hotmail.com under Section 12(1)(c) of the IB Code as IRP.

3. That the Moratorium under Section 14 of the Code shall come to effect from 17.08.2021 till the completion of 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.
4. That the Bench hereby prohibits the institution of suits or continuation of pending suit 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(s), transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; 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 SARFAESI Act, 2002 the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
5. Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to pronouncement of this order such proceedings are expected to be dealt with in accordance with law r.w. Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.
6. That the supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the Moratorium, period. The Corporate Debtor

to provide effective assistance to the IRP as and when he takes charge of the Corporate Debtor.

7. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.
8. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
9. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
10. We direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. 2,00,000/- (Rs. Two Lakh) as advance against fees & expenses till the COC decides about his fees / expenses.
11. The Registry is directed to communicate a copy of this order to the Petitioner-Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within

three working days and upload the same on website immediately after pronouncement of the order.

12. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.
13. CP(IB) No. 05/7/NCLT/AHM/2018 is allowed and stands disposed of.



(Virendra Kumar Gupta)]
Member (Technical)



(Madan Gosavi)
Member (Judicial)

Prakash