

**IN THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT 2**

CP (IB) No.276/7/NCLT/AHM/2020

In the matter of :

KKR India Financial Services Limited
2nd Floor, Piramal Towers,
Peninsula Corporation Park,
G.K. Marg, Lower Parel (West)
Mumbai-400013

... Financial Creditor

Versus

M/s Sintex BAPL Limited
CIN:U25199GJ2007PLC051364
Registered Office at:
7th Floor, AbhijeetOI,
Mithakhali Six Roads,
Ellisbridge,
Ahmedabad-380006

.... Corporate Debtor

Date of Hearing: 06.07.2021

Date of Pronouncement of Order 19.07.2021

**Coram: MADAN B. GOSAVI, MEMBER(J)
CHOCKALINGAM THIRUNAVUKKARASU, MEMBER(T)**

Appearance :

Learned Senior Counsel Mr. Neeraj Kishan Kaul for the Financial Creditor.

ORDER

[Per: Madan B. Gosavi, Member (Judicial)]

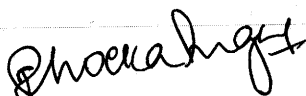
1. This application has been filed under Section 7 of IBC, 2016 by KKR India Financial Services Limited against the Corporate Debtor M/s.

Chockalingam

[Signature]

Sintex BAPL Limited to initiate CIRP of the Corporate Debtor on the ground that Corporate Debtor committed default in paying the financial debt of Rs.245 crores in aggregate. The date of default stated to be 14.03.2019 (as per demand notice Annexure-R),

2. Notice of this application has been duly served on the Corporate Debtor. The Corporate Debtor appeared through Learned Counsel Mr. Vishal Dave. Learned Counsel Mr. Dave sought time to file affidavit in reply. In spite of repeated adjournments, the Corporate Debtor did not file affidavit in reply to contest his claim. Ultimately on 06.07.2021, Learned Senior Counsel Mr. Neeraj Kishan Kaul appeared on behalf of the Financial Creditor. We heard his argument at length. On that day, no one appeared for Corporate Debtor and matter was reserved for order.
3. We have gone through the evidence and material on record. The Financial Creditor is NBFC. It has granted and disbursed in favour of the Corporate Debtor various term loans. Loan Sanctioned letter dated 12.12.2017 is on record (Annexure-G). Since the Corporate Debtor did not repay the loan / instalments as agreed, on 14.02.2019, the Financial Creditor served on the Corporate Debtor notice recalling the loan facilities and further called upon the Corporate Debtor to pay sum of Rs.245 crores (in aggregate) within 30 days from the receipt of the notice. On 25.02.2019, the Corporate Debtor sent notice reply admitting the debt but could not pay the debt, hence this application is filed to initiate CIRP against the Corporate Debtor.
4. As noted above, the Corporate Debtor did not contest the claim, hence evidence as laid by the Financial Creditor is unchallenged on record.
5. In inquiry of the application under Section 7 of IBC, 2016, this Adjudicating Authority has only to see whether Financial Creditor proves that there is a debt due and payable by the Corporate Debtor is





more than Rs. 1 lakh (now Rupees one crore as per Section 4 of IBC, 2016) and whether Corporate Debtor committed default in paying the same? In this case, considering the evidence on record, we conclude that Corporate Debtor has committed the default in paying Rs.245 crores to the Financial Creditor. The Financial Creditor succinctly proved that there is a debt due and payable by the Corporate Debtor more than sum of Rs.1 crore and Corporate Debtor has committed default in paying the same. The claim is not time barred.

6. The Financial Creditor suggested the name of one Mr. Ashish Chhawchharia, having Registration No. IBBI/IPA-001-IP-P00294/2017-2018/10538, Email: ashish.chhawchharia@IN.GT.COM for appointment as Interim Resolution Professional against whom, no disciplinary proceeding is pending. The applications are defect free. Hence, we admit the Corporate Debtors in CIRP by following order:

ORDER

1. Corporate Debtor M/s Sintex BAPL Limited is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.
2. We appoint one Mr. Ashish Chhawchharia, having Registration No. IBBI/IPA-001-IP-P00294/2017-2018/10538,, Email: ashish.chhawchharia@IN.GT.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 19.07.2021 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.

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3 | Page

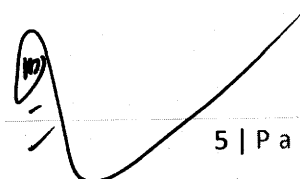
4. That the Bench hereby prohibits the institution of suits or continuation of pending suit or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any Court of law. Tribunal, Arbitration Panel or other Authority(s), transferring, encumbering, alienating or 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.

Shankar Singh

[Signature]


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. 1,00,000/- (Rs. One Lakh) as fees & expenses till the COC decides about his fees / expenses.
11. Since we issued moratorium under Section 14 of IBC, 2016, IA 766 of 2020 filed by Financial Creditor for interim moratorium stands disposed of.
12. 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.





CP (IB) No.276/7/NCLT/AHM/2020 a.w IA 766 of 2020

13. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.
14. CP(IB) No. 276/7/NCLT/AHM/2020 is allowed and stands disposed of.



**(Chockalingam Thirunavukkarasu)
Member (Technical)**



**(Madan Gosavi)
Member (Judicial)**

Prakash