

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP. No. 1347/I&BP/2017

Under Section 7 of the I&B Code, 2016

In the matter of
Punjab National Bank,
Asset Recovery Management Branch,
PNB House, Kingsway,
Nagpur – 440001 Petitioner

Vs.

Vandana Energy & Steels Pvt. Ltd,
Village Chhuri/Khurd, Th. Katghora
Korba, CT 495 450, India
.... Respondent

Order delivered on: 20.10.2017

Coram:

Hon'ble Mr. M.K. Shrawat, Member (J)

Hon'ble Mr. V. Nallasenapathy, Member (T)

For the Petitioner: Mr. Prakash Shinde, a/w Aditi Galagali,
i/b MDP & Partners
Advocate for the Petitioner

For the Respondent: None Present.

ORDER

Per V. Nallasenapathy, Member (T)

1. Punjab National Bank (hereinafter called 'PNB') has sought the Corporate Insolvency Resolution Process of Vandana Energy & Steels Pvt. Ltd. (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default on 05.02.2015 in repayment of ₹132.98 Crores, under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereafter called the 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. This petition was filed on 01.09.2017, listed on 25.9.2017 & 5.10.2017 for want of effecting service upon the Corporate Debtor, finally on 13.10.2017, when the Corporate Debtor did not appear despite service effected against it, this Bench set the Corporate Debtor ex-parte for its non-appearance and decided the case basing on the facts available on record.

3. PNB in its Petition enclosed the following documents in proof of debt and default

(a) Letter dated 19.11.2008 sanctioning term loan of ₹60 Crores.

(b) Letter dated 28.08.2009 submitted by the corporate debtor extending the Equitable mortgage already created, for the above term loan.

(c) Letter dated 28.03.2012 sanctioning Fund based Working Capital limit of ₹.6.5 crores, Non- Fund based Working Capital limit of ₹4.31 crores and ballooning of instalment of above term loan within the overall repayment period

(d) Agreement of Guarantee's dated 28.03.2012 issued by certain individuals

(e) Agreement of Hypothecation of goods and book debts to secure cash credit facility

(f) Master Restructuring Agreement between the Corporate Debtor and the Petitioner and CDR lenders dated 30.3.2013.

- (g) Master Joint-lender Forum Agreement dated 24.3.2015.
- (h) Particulars of registration and modification of charges created by the Corporate Debtor in favour of Financial Creditors.
- (i) Copy of status classification report of the Corporate Debtor issued by the CIBIL dated 19.12.2016.
- (j) Certificate under the provisions of Bankers Books Evidence Act, 1891.
- (k) Balance and Security confirmation letter dated 1.2.2015 given by the Corporate Debtor.
- (l) Letter dated 14.8.2015 issued by the Petitioner stating that Term loan, FITL and WCTL account against security of equitable mortgage of land and building, plant and machinery and hypothecation of other movable assets, pointing out the accounts have become irregular, disclosing that a sum of ₹202,94,09,999/- is due to Punjab National Bank, UCO Bank and Bank of Baroda.
- (m) SARFAESI Notice dated 15.10.2015 demanding a sum of ₹228,71,11,517/- and also disclosing date of NPA.

4. The Petitioner has named Mr. Sanjay Gupta, E-10A Kailash Colony, Greater Kailash-01, New Delhi - 110048, email ID sanjay.gupta@aaacapitalservices.com, having registration No. IBBI/IPA-001/IPP00117/2017-18/10252 as Interim Resolution Professional (IRP) and

the said Insolvency Resolution Professional is also given Form-2 which is enclosed to the Petition.

5. This Adjudicating Authority, on perusal of the documents filed by the Creditor, it is evident that the Corporate Debtor defaulted in repaying the loan availed and also placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional, having this Bench noticed that default has occurred and there is no disciplinary proceedings pending against the proposed resolution professional, therefore the Application under sub-section (2) of section 7 is taken as complete, accordingly this Bench hereby admits this Application declaring Moratorium with the directions as mentioned below:

- a. That this Bench hereby prohibits 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; 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest 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.
- b. 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.
- c. 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.
- d. That the order of moratorium shall have effect from 20.10.2017 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.
- e. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- f. That this Bench hereby appoints, Mr. Sanjay Gupta, E-10A Kailash Colony, Greater Kailash-01, New Delhi – 110048, email ID sanjay.gupta@aaacapitalservices.com, having registration No. IBBI/IPA-001/IPP00117/2017-18/10252 as interim resolution professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

6. Accordingly, this Petition is admitted.
7. The Registry is hereby directed to communicate a copy of this order to both the parties.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
M. K. SHRAWAT
Member (Judicial)