

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP. No. 1063/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.

Shree Radhe Industries Ltd.
114, Link Road, Opp : C.M.D. College
Ballaspur C.T. - 492001
.... Respondent

Order delivered on: 04.12.2017

Coram:

Hon'ble Mr. B.S.V. Prakash Kumar, Member (J)

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

For the Petitioner: Mr. Pankaj Vijayan, 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 Shree Radhe Industries Ltd. (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default on 30.9.2007 in repayment of ₹132,84,93,035/- (INR One hundred Thirty Two crores Eighty Four lakhs Ninety three thousand and Thirty five only), 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 5.6.2017, listed on 9.6.2017, the Petitioner advertised the notice of Petition in English Daily in Lokmat Times and Marathi Daily Lokmat both on 23.6.2017 stating that the Petition was fixed for hearing on 7.7.2017, subsequently the Petition was listed on 7.7.2017, 11.07.2017, 21.7.2017, and 26.7.2017, when the Corporate Debtor did not appear despite substituted 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. The Petition reveals that the Corporate Debtor initially obtained Cash Credit facility for ₹120 lakhs and Term Loan facility of ₹550 lakhs in the year 2001, from the Petitioner. Subsequently, on the request of the Corporate Debtor, Additional Term Loan facility were granted from time to time and as on 20.5.2005 the Corporate Debtor granted Term Loan limit of ₹442 lakhs, Cash Credit limit of ₹927 lakhs and non-fund based guarantee limit of ₹20 lakhs. The Corporate Debtor has executed various security documents for obtaining the facilities. The Corporate Debtor as well as the Guarantor executed Guarantee Agreements in favour of the Petitioner for securing the loan.

4. The Corporate Debtor and the Petitioner signed Balance and Security Confirmation letter on 31.5.2007 confirming the balance due in respect of various facilities enjoyed by the Corporate Debtor. On

12.8.2005 and 14.2.2006, the Corporate Debtor issued Letter of Continuity stating that the equitable mortgage created earlier by deposit of Title Deeds shall continue to be held by the Bank as Additional security for further liability of the Corporate Debtor due from time to time in respect of the enhanced limits. The Petitioner on 22.12.2007 issued SARFAESI notice against the Corporate Debtor demanding a sum of ₹46,74,27,942/- (INR Forty-six crore Seventy Four lakhs Twenty Seven thousand Nine hundred and forty two). The Petitioner has also filed an Application under section 19 of the Recovery of Debt due to Bank and Financial Institution Act, 1993 against the Corporate Debtor and its Directors seeking injunction not to sell, transfer, alienate or part with the possession of their mortgaged/other properties or collecting or receiving for themselves the proceeds thereof, stating that, the Corporate Debtor has stopped its activities and operation of Account since April, 2007 and the accounts are classified as NPA, the Corporate Debtor has diverted the funds of the Corporate Debtor. The Petitioner on 2.3.2017 issued demand notice calling upon the Corporate Debtor to pay a sum of ₹132,84,93,035/-, due as on 31.1.2017, along with further interest, charges and cost failing which, proceedings will be initiated for resolution/liquidation before NCLT under Insolvency and Bankruptcy Code, 2016.

5. 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 being no disciplinary proceedings pending against the proposed resolution professional, 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 04.12.2017 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. Dushyant C. Dave, 1101, Dalamal Tower, Nariman Point, Mumbai, having Registration No.IBBI/ IPA-003/ IP-N00043/ 2016-17/1343, email ID dushyantcdave@gmail.com and mobile No.9820028560 as interim resolution professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.
10. Accordingly, this Petition is admitted.
11. The Registry is hereby directed to communicate a copy of this order to both parties.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

B. S.V. PRAKASHKUMAR
Member (Judicial)