

35

**BEFORE THE AJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B) No. 138/7/NCLT/AHM/2017

Coram: **Hon'ble Mr. BIKKI RAVEENDRA BABU, MEMBER JUDICIAL**
Hon'ble Ms. MANORAMA KUMARI, MEMBER JUDICIAL

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 30.11.2017**

Name of the Company: L & T Finance Ltd.
V/s.
Logix Express Pvt Ltd.

Section of the Companies Act: Section 7 of the Insolvency and Bankruptcy
Code

S.NO. NAME (CAPITAL LETTERS) DESIGNATION REPRESENTATION SIGNATURE

1.

2.


ORDER

None present for Financial Creditor/Petitioner. None present for Respondent.

Order pronounced in open court. Vide separate Sheets.


MANORAMA KUMARI
MEMBER JUDICIAL

Dated this the 30th day of November, 2017.


BIKKI RAVEENDRA BABU
MEMBER JUDICIAL

**BEFORE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH**

C.P. No.(IB) 138/7/NCLT/AHM/2017

In the matter of:

L&T Finance Limited
Registered Office at
Technopolis, 7th Floor,
A-Wing, Plot No.4,
Block-BP, Sector-V,
Salt Lake,
Kolkata-700091
West Bengal

: Petitioner.
[Financial Creditor]

Versus

Logix Express Private Limited
Registered Office at
B-10, Karmajyot Co-op Housing
Society, Revati Nagar,
B/h. Satellite Police Station,
Ahmedabad-380015, Gujarat.

: Respondent.
[Corporate Debtor].

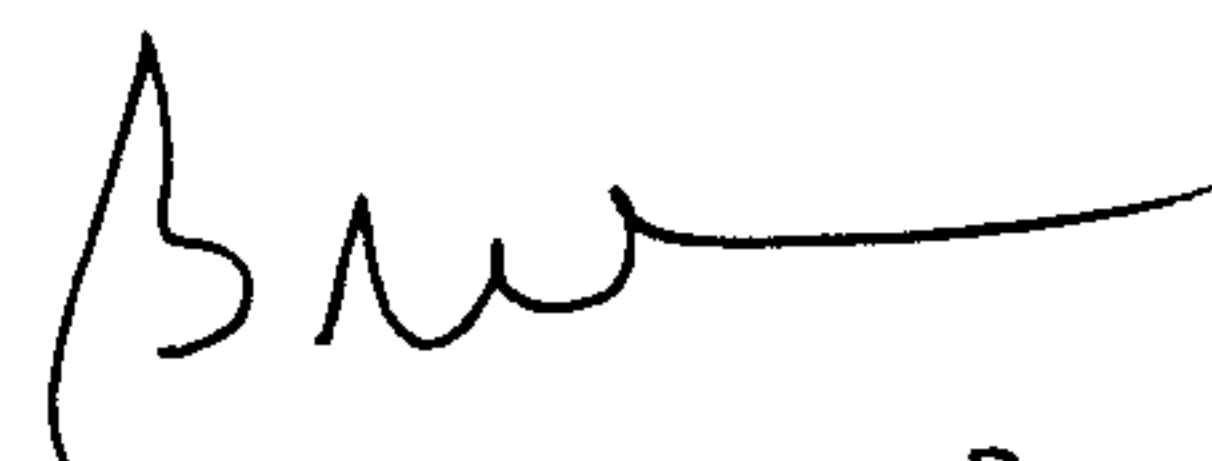
Order delivered on 30th November, 2017.

**Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J) – And
Hon'ble Ms. Manorama Kumari, Member (J).**

Appearance:

Mr. Tarak Damani, on behalf of Mr. BK Damani, learned Advocate
for the Petitioner.
None present for Respondent.





ORDER**[Per: Hon'ble Ms. Manorama Kumari, Member (J)].**

1. L&T Finance Limited, through Ms. Supriya Shetty, Manager, Legal, filed this Application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ["IB Code" for short] read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, ("IB Rules" for short) against M/s. Logix Express Private Limited, with a request to initiate Corporate Insolvency Resolution Process treating it as 'Corporate Debtor'.
2. The Deputy General Manager of the Petitioner Company authorised Ms. Supriya Shetty, Manager, Legal, by way of Power of Attorney dated 25th February, 2015, executed in her favour to file and institute civil suits at the appropriate court/s and/or initiate, institute and file any other legal proceedings etc., before any court or legal, judicial and/or quasi judicial fora, including before the Supreme Court of India.
3. The Respondent Corporate Debtor is a Private Limited Company having its Registered Office in Ahmedabad, Gujarat. Its Authorised Capital is Rs. 1,00,000/- and Paid-up Capital is Rs. 1,00,000/-.
4. It is the case of the Petitioner Financial Creditor that the Petitioner had granted a loan of Rs. 58,36,000 vide Sanction Letter dated 27th May, 2013 and the sanctioned loan amount was disbursed on 31st May, 2013 to the Respondent Corporate Debtor. It is the further case of the Financial Creditor that the Corporate Debtor had committed default in repayment of the loan amount and interest thereon. The details of outstanding amount as on 16.8.2017 are as under;

Total Principal Outstanding
as on 16.8.2017

Rs. 41,13,901.22

Manu

B Page 2 | 7

Default/Penal Interest at the Rate of 36% p.a.	Rs. 41,51,447.99
Total Amount payable	Rs. 82,65,349.21

The Petitioner claims the total outstanding amount of Rs. 82,65,349.21 along with further interest at the rate of 36% per annum till the date of payment. The loan amount was secured by the Deed of Hypothecation dated 24th May, 2013 executed by and between the parties whereby certain goods of the Corporate Debtor are hypothecated in favour of the Financial Creditor. The loan amount was guaranteed by a Guarantor, by name, Shri Ajay Dwarkadas Thakkar and a Deed of Guarantee was executed 27th May, 2013 in favour of the Financial Creditor. The Loan Agreement dated 27.5.2013 was also executed by and between the parties as per terms and conditions thereof.

5. The Petitioner had also referred the dispute before the Sole Arbitrator, which was numbered as Arbitration Proceedings No. L&T/LOT-14/LOS/BU1/CVF/ARB/10723 of 2015. The learned Sole Arbitrator passed the Award dated 19.9.2016 holding that the Respondents are liable to pay a sum of Rs. 41,13,901 inclusive of interest and other charges with further interest at 18% per annum on the said amount to be computed from 25.11.2014 till the date of payment/realization.

6. The Petitioner issued Notices dated 14.3.2014; 10.11.2014; 2.12.2014; and 2.1.2015; to the Respondent calling upon them to make repayment of the due amount. Petitioner also got issued legal notices dated 22nd June, 2015 and 26th July, 2017 on the Respondent to make repayment of the amounts due and payable by them to the Financial Creditor.

7. The Petitioner has filed the following documents along with the Application;





- (a) Copy of Deed of Hypothecation;
- (b) Copy of the Arbitral Award;
- (c) Copy of the Loan Agreement;
- (d) Copy of the CIBIL Report;
- (e) Copy of the Sanction Letter;
- (f) Copy of the Demand Promissory Note;
- (g) Copy of the Guarantee Deed;
- (h) Copies of Notices addressed by the Financial Creditor to the Corporate Debtor;
- (i) Copies of Legal Demand Notices addressed on behalf of Financial Creditor through their advocates to Corporate Debtor;
- (j) Statement of Accounts as on 16th August, 2017.

8. The Petitioner proposed the name of Interim Resolution Professional and filed his Written Communication.

9. This Petition was listed for the first time on 25.10.2017 when the Petitioner was directed to serve notice of date of hearing along with copy of order and file proof of service. On 3.11.2017 when the matter was heard it was noticed that proof of service of notice was served on the Respondent and the Respondent was directed to file their objection if any. When the matter was taken up for hearing on 15.11.2017, as the Respondent did not file objection, the matter was again listed on 22.11.2017. Since the Respondent has not filed objections, it is treated that the Respondent has no objections.

10. Heard arguments of learned Counsel for the Petitioner. None appeared on behalf of the Respondent although notice of date of hearing was served on the Respondent. The material on record clearly go to show that Respondent Company committed default in making payment of financial debt.

[Handwritten signature]

[Handwritten signature]

11. The Hon'ble Supreme Court, in the Judgment delivered in the matter between **M/s. Innoventive Industries Ltd. Vs. ICICI Bank & Anr.**, in Civil Appeal Nos. 8337-8338 of 2017, in Para No. 30 has clearly held as follows;

"30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise."

In the case on hand, the documents produced by the Financial Creditor clearly establish the 'debt'. The Notices issued by the Financial Creditor and the Notices got issued by the Financial Creditor on the Respondent Corporate Debtor clearly indicate that entire debt was recalled. There is a default on the part of the Corporate Debtor in payment of the 'financial debt'.

12. A perusal of the Application goes to show that it is complete in all respects. The material on record clearly establish that the 'financial debt' is due from the Corporate Debtor to the Financial Creditor.

13. In view of the above said findings and discussion, this Petition deserves to be admitted and it is accordingly admitted under Section 7(5) of the Code.

14. This Adjudicating Authority hereby appoint Shri Dhiren Shantilal Shah, as 'Interim Resolution Professional' having address at B-102, Bhagirathi Niwas, Near Natraj Studio, Sir M.V. Road, Andheri-East, Mumbai-400069, and having Registration No.

Shri

B Page 5 | 7

IBBI/IPA-001/IP-P00220/2017-18/10419 under Section 13 (1) (c) of the Code.

15. The Interim Insolvency Resolution Professional is hereby directed to cause public announcement of the initiation of 'Corporate Insolvency Resolution Process' and call for submission of claims under Section 13(1)(b) read with Section 15 of the Code and Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

16. This Adjudicating Authority hereby order moratorium under Section 13(1)(a) of the IB Code prohibiting the following as referred to in Section 14 of the Code;

- (a) 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;
- (b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
- (c) 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 (54 of 2002);
- (d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

Harun


Bw Page 6 | 7

- (i) However, there shall not be any termination, suspension or interruption in respect of supply of essential goods or services to Corporate Debtor.
- (ii) The order of moratorium is not applicable to the transactions that may be notified by the Central Government in consultation with any financial sector regulator.
- (iii) The order of moratorium comes into force from the date of the order till the completion of Corporate Insolvency Resolution Process subject to the Proviso under sub-section (4) of Section 14.

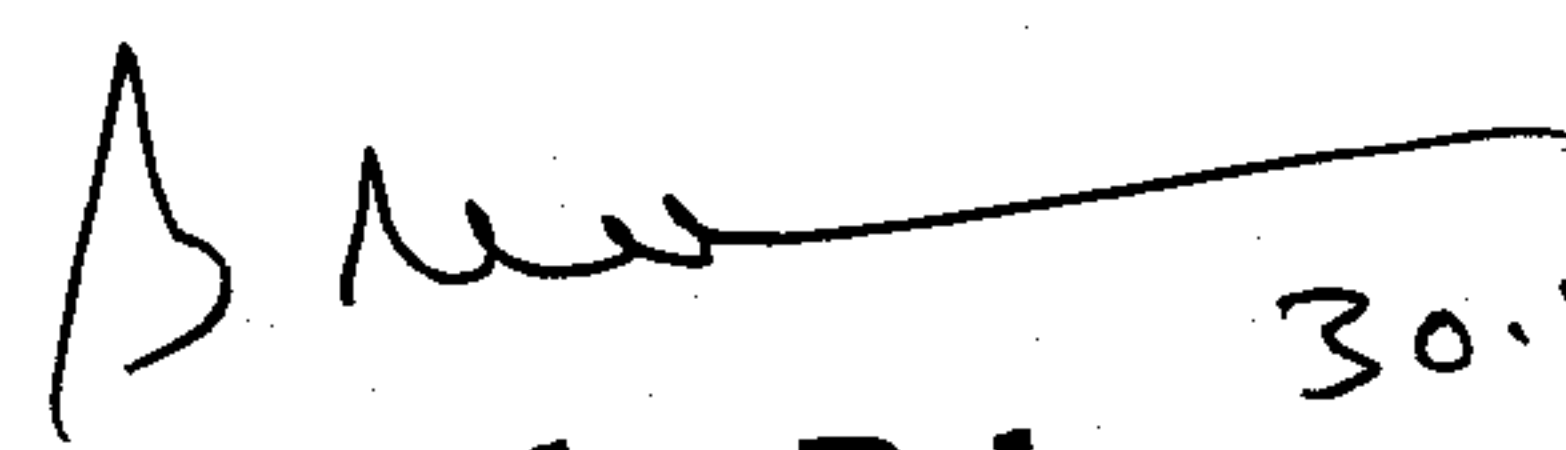
17. This Application stands disposed of accordingly. No order as to costs.

18. Communicate a copy of this order to the Petitioner Financial Creditor, and to the Respondent Corporate Debtor and to the Interim Insolvency Resolution Professional.

Signature:


Ms. Manorama Kumar,
Member (J).
Adjudicating Authority

Signature:


Sri Bikki Raveendra Babu,
Member (J).
Adjudicating Authority.

30.11.17