

**In the National Company Law Tribunal
Mumbai Bench, Mumbai.**

CP No. 1140/I&BP/NCLT/MB/MAH/2017

Coram: Hon'ble M.K. SHRAWAT, Member (Judicial)

Under Section 7 of the Insolvency & Bankruptcy Code 2016

In the matter of

Reliance Commercial Finance Limited
(formerly known as Reliance Capital Limited)
Registered Office at:
Reliance Centre, 6th floor,
South Wing, Near Prabhat Colony,
Santacruz (East)
Mumbai – 400 055.

: Financial Creditor

Vs.

Maharashtra Vidyut Nigam Pvt. Ltd.,
Registered Office at:
4th Floor, Gupta Tower,
Temple Road,
Civil Lines,
Nagpur -440001.

: Corporate Debtor

Date of Order : 04th August, 2017

1. The Petitioner is a "Financial Creditor" hence submitted Form No.1 on 28th of June 2017 in respect of an outstanding financial Debt of ₹10,50,00,000 and also claiming interest thereon. As per the details available on the requisite Form the Financial Debtor is Maharashtra Vidyut Nigam Pvt. Ltd., Temple Road, Civil Line, Nagpur.
2. There was a requirement of additional fund to be used as working capital for purchase of bio-fuel in bulk for the power plant in Wardha by the Debtor. The Creditor had, therefore, issued a "Letter of Intent" dated 1st September 2014 for providing the working capital demand loan facility of ₹10.50 crore.
- 2.1 A Working Capital Demand Loan Facility Agreement was executed on 29.09.2014. The Financial Creditor had agreed to make available to the Corporate Financial Debtor a Working Capital Demand Loan up to an aggregate amount of ₹10.50 crores. The disbursement details, date-wise, are as under:-

Date	Disbursement Amount (Rs.)
30-Sept-14	9,62,25,000
1-Nov-14	14,60,000
1-Dec-14	13,85,000
31-Dec-14	14,55,000
31-Jan-15	14,75,000
10-Feb-15	30,00,000
Total	10,50,00,000

2.2 As per the terms of the Agreement the tenure of the WCDL facility was 12 months from the date of the first disbursement. It was agreed upon that irrespective of any demand raised by the Financial Creditor, the Corporate Debtor was under obligation to repay the amount within the period as agreed upon. It was also agreed upon that interest was payable on the first business day of each month. Records of the case have demonstrated that the WCDL had fallen due on 1st October 2015. It is informed that till date the Debtor had failed to make the payment. According to the calculation annexed, the Corporate Debtor was liable to make the payment as on 1st June 2017 of an amount of ₹12,43,33,291. The Corporate Debtor was stated to be also liable to pay default interest as agreed upon in the said Agreement. According to the Petitioner, the default interest was ₹1,06,33,946.

2.3 There is a personal guarantor viz. Mr. Padmesh Gupta as per the execution of a personal guarantee dated 29.09.2014. Due to the said admitted factual position the Financial Creditor has demanded repayment of loan either jointly or severally by the Debtor or the Guarantor. A notice was issued under section 433(1)(e) of Companies Act, 1956. In response, it was contested that the Financial Assistance was granted to one Gupta Corporation Pvt. Ltd. and not to the Respondent.

3. FINDINGS:-

Prima facie the requirement of section 7 of the Code appears to have been fulfilled. The nature of the Debt is undisputedly qualified as "Financial Debt" as defined under section 5(8)(a) of the Definitions under I&B Code.

3.1 Records of the case have also established that there was a "Default" of non-payment of Debt as defined under section 3(12) of the Definitions under the Code.

3.2 The Creditor has also given sufficient opportunity by issuing notices and by demanding the repayment as per the evidences on record such as Tracking Detail of the Consignment affirming the delivery of the consignment. On 28.06.2017 by Speed Post a notice was issued and a copy of the Petition was annexed which was delivered on 30.06.2017 as per the Tracking Record of the consignment issued by the Postal Department. Even on service of notices and

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even on repeated reminders, as explained by Learned Counsel, the Debt remained unpaid by the Financial Debtor.

- 3.3 Considering the totality of the facts and circumstances *inter alia* this Petition now under consideration deserves to be "Admitted".
- 3.4 The Petitioner has proposed the name of the Interim Resolution Professional Mr. Javadshah Vasa, CA, M N J and Associates, Registration Number: IBBI/IPA-001/IP-00570.2016-2017/1455, Tel: 9820777577 / 26189956 / 26189976, email: jkvasaco@gmail.com. The appointed IRP shall perform the duties as defined under section 18 of the Code. He shall also submit the resolution plan for approval as prescribed under section 31 of the Code.
- 3.5 Since the Petition is Admitted, hence the Moratorium shall commence as prescribed under section 14 of the I&B Code as under :-
 - I (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(SARFAESI Act);
 - (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.
 - (II) That supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
 - (III) That the provisions of sub-section (1) Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
 - (IV) That the order of Moratorium shall have effect from the date of this order till 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.
 - (V) That the public announcement of the corporate insolvency resolution process shall be acted upon immediately as specified under section 13 of the Code.
4. That this Bench hereby appoints, Mr. Javadshah Vasa, CA, M N J and Associates, Registration Number: IBBI/IPA-001/IP-00570.2016-2017/1455,

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Tel: 9820777577 / 26189956 / 26189976, email: jkvasaco@gmail.com as Interim Resolution Professional to carry out the functions as mentioned under Insolvency & Bankruptcy Code.

5. Accordingly, **this CP 1140/I & BP/NCLT/MAH/2017 stood admitted.**
6. The Corporate Insolvency Resolution Process is commenced from the date of this order.

sd/-

M.K. SHRAWAT
Member (Judicial)

Date : 04.08.2017.