

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH, MUMBAI**  
**C.P.NO.1211/I&BCP/NCLT/MB/MAH/2017**

(Under Section 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016).

**Bell Finvest (India) Limited,**  
1107, Maker Chambers V, Nariman Point  
Mumbai – 400 021

.... **Financial Creditor.**

**Versus**

**V-Tech Elastomers Private Limited,**  
Flat No. 03, Jai Raj Tower, Western Express  
Highway, Opp. Maharaja Hotel,  
Dahisar (East), Mumbai-400 068.

..... **Corporate Debtor.**

CORAM:

**SHRI M.K. SHRAWAT**  
MEMBER (JUDICIAL)

**SHRI BHASKARA PANTULA MOHAN**  
Member (Judicial)

**PRESENT ON BEHALF OF THE PARTIES**

Mr. Vinit J. Mehta Counsel for the Financial Creditor present.

**Per : SHRI M.K. SHRAWAT, MEMBER (JUDICIAL)**

**ORDER Dated : 22<sup>nd</sup> August 2017**

1. This is the Petition filed by the Financial Creditor invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code, 2016 on 14<sup>th</sup> July, 2017 against the Corporate Financial Debtor M/s. V-Tech Elastomers Private Limited having its Registered Office at Dahisar (East), Mumbai.
2. Under the Head "Particulars of Financial Debt" the details as per the Petition/Form No. 1 are as under :-

PARTICULARS OF FINANCIAL DEBT		
1.	TOTAL AMOUNT OF DEBT GRANTED DATES(S) OF DISBURSEMENT.	Rs. 5,00,000/- Rs. 3,88,500/- disbursed on 01.08.2016 Rs. 10,000/- towards processing charges. Rs. 1,500/- towards service tax Rs. 1,00,000/- Remitted towards the Advance interest in the Loan account of Corporate Debtor.
2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM	1) Rs. 5,72,000/- which was overdue as on 15.11.2016 as per Loan Recall Notice dated 15.11.2016. 2) Rs. 6,31,624/- which was overdue as on 30 <sup>th</sup> June, 2017.

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3. From the side of the Petitioner in brief the background of granting Financial Facility explained is that a Proposal Form and a Request Letter for Loan was moved by the Debtor on 02.07.2016. In this regard Board Resolution has also been passed by the Debtor Company on 6<sup>th</sup> of July 2016 authorizing Directors to borrow the money. The Financial Creditor has sanctioned the Loan on 6<sup>th</sup> July 2016 and thereupon a Loan Agreement was executed on 28<sup>th</sup> July, 2016 between the Financial Creditor as a "Non-Banking Financial Company", on one hand, and on the other hand the Borrower as a Financial Debtor. The term of the Loan was for a period of Ten Months. A Demand Promissory Note was also issued on 28<sup>th</sup> July 2016 wherein Receipt of Rupees Five Lakhs (Debt amount) was acknowledged on a flat rate of interest of 24% per annum. A Deed of Guarantee was also executed which was in the nature of Personal Guarantee by the Directors. On 28<sup>th</sup> July 2016 Loan was disbursed and in confirmation a Debit Voucher dated 01.08.2016 has also been signed by the Debtor. The documents annexed have List of PDCs issued by the Debtor of ₹ 50,000/- each starting w.e.f. 01.09.2016 upto 01.06.2017 in favour of the Financial Creditor, however these were admittedly not cleared by the Bank.
4. On 15.11.2016 a Recall Notice was issued by the Creditor, however, as per the statement of the Learned Counsel no Reply and no Repayment was made. Rather when the Post Dated Cheques were tendered but the same was not encashed with the remark "payment stopped by Drawer dated 02.11.2016.
5. According to the Learned Counsel of the Petitioner attempts have been made but the Debtor had not made the payment, therefore, ultimately this Petition has now been filed. He has drawn our attention on the Affidavit of Service affirming therein the Service of requisite Form on the Debtor. A Tracking Report of the Consignment issued by the India Post affirmed that that the Consignment was delivered on 11.07.2017 at Dahisar Office of V-Tech Elastomers.
6. The Petitioner has also proposed the name of the I.R.P. and in confirmation of the acceptance Form No. 2 signed by the IRP dated 14<sup>th</sup> June 2017 is also placed on record.
7. **FINDINGS :-**
  - (a) On due consideration of the submissions and the evidences placed on record the admitted factual position is that the Debt in question falls under the category of "Financial Debt" as defined under section 5(8) of The Code which prescribes that a Debt for consideration for the time value of money having component of Interest is to be classified as a "Financial Debt".





- (b) A Financial Creditor is to file an Application under section 7 of the Code for initiation of CIRP against the Corporate Debtor. The "Default" as defined under section 3(12) has also been established by the NBFC/Petitioner. Even the Debtor had not objected that there was a non-payment of Debt, rather remained silent throughout. The Petitioner has placed on record the Sanction Letter and other evidences to corroborate that the debt was duly acknowledged by the Respondent/Debtor. The Petitioner has also proposed the name of the IRP. As a result, prima facie the requirements of The Code appears to have been completed by the Petitioner.
- (c) On Admission of the Petition the provisions of Section 14 shall apply and the Moratorium shall commence henceforth w.e.f. the date of Order prohibiting institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods to the Debtor shall not be terminated during Moratorium Period. It shall be effective till completion of the Insolvency Resolution Process or till the approval of the Insolvency Resolution Plan under section 13 of The Code.
- (d) Mr. Devendra Padamchand Jain, Email ID :- [devendradjain@hotmail.com](mailto:devendradjain@hotmail.com), Address A-43, PRIMA PLAZA, OPP. DLA SCHOOL, BODAKDEV, AHMEDABAD, State-Gujarat is appointed IRP. The IRP so appointed shall take the step of Public Announcement as prescribed under section 13 of The Code.
8. That the IRP shall perform the duties as assigned under section 18 of The Code and inform the progress of the Resolution Plan as well a Compliance Report to this Bench within 30 days time.
9. The Petition is "Admitted". The commencement of the Corporate Insolvency Resolution Process is pronounced and effective from the date of this Order.

Sd/-

**Bhaskarā Pantula Mohan**  
**Member (Judicial)**  
**22.08.2017**

Sd/-

**M.K. Shrawat**  
**Member (Judicial)**