

In the National Company Law Tribunal
Mumbai Bench.

CP No.1170/I&BP/NCLT/MB/MAH/2017

Under Section 7 of the Insolvency & Bankruptcy Code 2016

In the matter of

M/s. Punjab National Bank & Anr. ... Petitioner/Financial Creditors

V/s

M/s. Vindhya Vasini Industries Ltd. ... Respondent/Corporate Debtor

Order delivered on 29.08.2017

Coram:

Hon'ble Shri M.K. Shrawat, Member (Judicial)

Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial).

Present : Mr. Prakash Shinde, Advocate along with Ms. Kushboo Shah and Ms. Aditi G.

Per M.K. Shrawat, Member (Judicial).

ORDER

1. The Petitioner has moved this Petition under section 7 of the I&B Code 2016 under Rule 4 of the I&B (Application to Adjudicating Authority) 2016 on 04-07-2017 against the Corporate Financial Debtor M/s. Vindhya Vasini Industries Ltd, Raipur, Chhattisgarh. Vide an order of the Hon'ble High Court of Chhattisgarh, Bilaspur dated 05-01-2017, by referring Companies (Transfer of Pending proceedings) Rules, 2016 notification dated 17-12-2016 issued by Ministry of Corporate Affairs, Government of India since the notices have not been issued hence transferred to the jurisdictional Bench of NCLT designated under section 408 of Companies Act, 2013.
2. At the outset, it is worth to mention that, initially in the Petition, the amount of Debt to be in default was as under:-

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<i>Punjab National Bank</i>	<i>Rs.1883.73 Lakhs</i>
<i>Central Bank of India</i>	<i>Rs.1046.00 Lakhs</i>
<i>Plus Interest & Other Charges</i>	<i>Rs.1208.00 Lakhs</i>
<i>Total</i>	<i>Rs.4137.73 Lakhs</i>

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- 2.1 During the course of hearing, the Petitioner was asked to confirm the said outstanding Debt through the Statement of Accounts of the Debtor, however, on noticing mismatch, time was granted to the Bank (Petitioner) to correct the figure of the outstanding Debt for the purpose of Insolvency Process. Compliance has been made and the corrected amount under the Head "Particulars of Financial Debt" in Part –IV of the Form is now as under :-

" "

<i>PARTICULARS OF FINANCIAL DEBT</i>			
1	<i>TOTAL AMOUNT OF DEBT GRANTED DATE 950 OF DISBURSEMENT</i>		
		<i>Punjab National Bank</i>	
		<i>Credit Facilities</i>	<i>Amount (Rs. In Lakhs)</i>
		<i>Cash Credit facility</i>	<i>1450/-</i>
		<i>Term Loan-I</i>	<i>430.20/- (being run down balance of all the terms loans)</i>
		<i>Term Loan-II</i>	
		<i>Term Loan-III</i>	
		<i>Term Loan-IV</i>	
		<i>Total</i>	<i>1,880.20/- (Rupees Eighteen Crores Eighty Lakhs Twenty Thousand Only).</i>

"

- 2.2 The Punjab National Bank is a Bank incorporated under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 having one of its Branch at Raipur, Chhattisgarh. On transfer of the old Petition which was filed before the Hon'ble High Court, the territorial jurisdiction now lies with NCLT, Mumbai Bench.
- 2.3 As per the evidences on record, there was an original sanction letter dated 19.11.2009 according to which under consortium arrangement, the following facility was granted :-

	EXISTING	PROPOSED	TOTAL	PNB	CBI
CC	1050.00	NIL	1050.00	1050.00	NIL
EPC + Adhoc Rs.42.50**	350.00 42.50	400	750.00	400.00	350.00
TL	543.91 (O/s)	250.00	793.91	543.91 (O/s)	250.00

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- 2.4 The Cash Credit limit on hypothecation was ₹10,50,00,000/- on stock margin of 25% and booked at of 30% for a period of 270 days. The loan was duly documented. Before that a Working Capital and Term Loan Consortium Agreement was also executed on 25-02-2010 between the Corporate Debtor on one part, and Punjab National Bank and Central Bank of India on the Other Part. A charge was also created by uploading a requisite Form with the MCA.
- 2.5 A Demand Notice was served upon the borrower under section 13(2) of SARFAESI Act 2002 dated 05.06.2013. in the said Demand Notice the nature of the facility granted and other details such as limit of the facility, rate of interest and total due as on 28-02-2013 have been duly communicated. Thereafter, again a legal notice was issued on 12-01-2016 and at that point of time, the consortium of the secured creditors i.e. PNB and CBI have intimated that the Debtor was liable to make the repayment of the Credit Facility of ₹41,38,06,010/-. The Applicant has also furnished details of Securities to safeguard the Debt amount listed as under :-

"Description of the immovable properties:

1. *Equitable Mortgage of Free Hold Diverted Land in the name of Smt. Saroj Singhania situated at KH. NO.98/37, 78/3, 101/7, 101/47 PH No.103 At Tatibandh, Raipur, admeasuring 124172 Sq. ft.*
2. *Equitable Mortgage of Free Hold Commercial/Residential Diverted Land in the name of Smt. Saroj Singhania situated at Tatibandh, Raipur, PH No.103 KH. NO.98/3 & 98/12 (New), area 0.813 Hectare*
3. *Equitable Mortgage of Free Hold Commercial/Residential Diverted Land in the name of Smt. Saroj situated at Tatibandh, Raipur, PH No.103 KH. NO>98/3, 98/12, 98/32, area 89948 Sq. Ft.*
4. *Equitable Mortgage of Free Hold Diverted Land in the name of Smt. Saroj Singhania situated at Tatibandh, Raipur, PH No.103 KH.NO.98/3 & 98/12 Part (Old), area 43550 Sq. Ft."*

- 2.6 In spite of the repeated notices the Debt remained outstanding hence the Creditor has now moved this Petition. The Bank has categorised the loan as NPA on 31.03.2013.

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3. The occurrence of default is established by the Notice of Demand dated 13.02.2017 issued by the Punjab National Bank and their further legal Notice dated 12th January, 2016.

FINDINGS

4. In the light of the above discussion and on due perusal of the documents annexed, the Debt is to be qualified as "Financial Debt" defined under section 5(8) of Insolvency & Bankruptcy Code 2016. As a result, the Financial Creditor has filed this Application for initiating Corporate Insolvency Resolution Process against the Corporate Debtor.
5. Since this is a Petition of "Financial Creditor", therefore, the Insolvency Process shall commence as prescribed under Section 7 of IBC 2016. The occurrence of "default" is established. Even on service of Notices, the amount in question remained unpaid by the "Financial Debtor". The Petition under consideration deserves to be "admitted".
6. The Petitioner has proposed the name of the Interim Resolution Professional, Mr. Sanjay Gupta, E-10A, Kailash Colony, Greater Kailash-I, New Delhi – 100 048 Ph.- 011-4607 0000 (48 lines), Email Id.- sanjaygupta@aaainsolvency.com Registration No. IBBI/IPA-001/IP-P00117/2016-17/10252.
7. 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.
8. That this Bench hereby appoints, Mr. Sanjay Gupta as Interim Resolution Professional (IRP) to carry out the functions as mentioned under Insolvency & Bankruptcy Code. The so appointed IRP shall perform the duties as assigned under Section 18 and under section 15 of the Code and inform the progress of the Resolution Plan and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.
9. Accordingly, **this CP 1170/I & BP/NCLT/MAH/2017 stood admitted.**
10. The Corporate Insolvency Resolution Process is commenced from the date of this order.

Sd/-

BHASKARA PANTULA MOHAN

Member (Judicial)

Date : 29.08.2017

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Sd/-

M.K. SHRAWAT

Member (Judicial)