

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C. P. NO. 1045/I & BP/NCLT/MAH/2017

**Coram: B.S.V. Prakash Kumar, Member (Judicial) &
V. Nallasenapathy, Member (Technical)**

In the matter of under Section 10 of Insolvency and Bankruptcy Code, 2016 and Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules 2016)

And

Vandanaa Udhyog Ltd.

Corporate Applicant.

Applicants' Counsel: Mr. Nilesh Sharma a/w Ashish Pyasi, Advocates for the Applicant i/b. Dhir & Dhir Associates.

ORDER

(Heard on 16.06.2017)

(Pronounced on 21.06.2017)

Per V. Nallasenapathy, Member (Technical)

This Company Petition is filed by Vandanaa Udhyog Ltd., u/s 10 of Insolvency and Bankruptcy Code 2016 ("the Code") read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 for initiation of Corporate Insolvency Resolution Process. Previously this Debtor Company was before BIFR bearing Case No.98/2016. This Petition was filed by the Company on 29.5.2017.

2. The Corporate Debtor says that its registered office is at Plot No. 281, Sector-C, Urla Industrial Area, Raipur, Chhattisgarh – 492 001, incorporated on 25-10-1989, vide CIN – U27106CT1989PLC005557 on the file of Registrar of Companies Maharashtra, having Authorised share capital of Rs. 3 crores and paid up share capital of Rs. 2 crores.

3. The Board of Directors of the Corporate Debtor in their meeting held on 08.05.2017 authorised Mr. Harish Singhania, Director of the Company and

Mr. Shekhar Kumar Mahobia, Director of the Company, to jointly or severally file necessary application for initiation of Corporate Insolvency process in terms of Section 10 of the Code. Accordingly, Mr. Harish Singhania has filed this Application. The Board also proposed, Mr. Adesh Kumar Mehta, 10/63, Old Rajinder Nagar, New Delhi – 110 060, Email Id: Mehta_adesh@yahoo.com, Registration No. IBBI/IPA-002/IP-00046/2016-17/1264, as Interim Resolution Professional, who has given his consent with a declaration that no disciplinary proceedings are pending against him.

4. The Corporate Debtor has disclosed that its indebtedness is Rs.189.53 crores and the same is in default due to non-payment.

5. The Corporate Debtor has enclosed the in principle sanction letter dated 16.10.2011 issued by IL&FS Financial Services Ltd. for providing a term loan of up to Rs. 1,000 million. The IL&FS disbursed Rs. 20 crores on 24.01.2012, Rs. 20 crores on 03.02.2012, Rs. 20 crores on 03.03.2012 and the balance of Rs. 40 crores on 17.01.2013 after deducting interest and management fees. The Corporate Debtor enclosed another sanction letter issued by Reliance Capital Ltd. providing Rs. 2,47,00,000/- as loan against commercial property.

6. The Corporate Debtor has enclosed the notice dated 12.02.2014 issued by IL&FS Financial Services Ltd. under section 434(1) of the Companies Act, 1956 stating that the total payment overdue is Rs. 9,67,38,565/- and called upon to pay a sum of Rs. 3,99,04,110/- being part of the total dues. Further, the Corporate Debtor has enclosed another legal notice dated 05.05.2017 issued on behalf of Reliance Capital Ltd. demanding a sum of Rs. 2,24,65,306/-.

7. The Corporate Debtor has enclosed the audited financial statements for the year ended 31.03.2015 & 31.03.2016 and the provisional financial

statement up to 20.05.2017. A list of assets and liabilities of the Corporate Debtor as on 20.05.2017 is also enclosed with the application. The Corporate Debtor also enclosed the list of financial creditors and operational creditor as on 20.05.2017. The Corporate Debtor has disclosed the particulars of debt owed by the Corporate Debtor to or by persons connected with it, the name and the address of the members of the Corporate Debtor with the details of their shareholdings, details of personal guarantees and the affidavit in support of the petition.

8. On reading the petition and the supporting documents annexed with the petition, this Bench is of the view that the corporate debtor has committed default and the petition contains the particulars as required u/s 10 of the Code. Hence, this Bench hereby admits this petition, declaring moratorium with consequential directions as mentioned below:

(i) 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.

(ii) 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.

(iii) 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.

(iv) That the order of moratorium shall have effect from 21.6.2017 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.

(v) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.

(vi) That this Bench hereby appoints, Mr. Adesh Kumar Mehta, 10/63, Old Rajinder Nagar, New Delhi – 110 060, Email Id: mehta_adesh@yahoo.com, Registration No. IBBI/IPA-002/IP-00046/2016-17/1264, as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

9. Accordingly, this Petition is admitted.

Sd/-
V. NALLASENAPATHY
Member (Technical)

Sd/-
B.S.V. PRAKASH KUMAR
Member (Judicial)