

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP. No. 1135/I&BP/NCLT/MAH/2017

Under section 10 of IBC, 2016

In the matter of

Mehadia Sales Trade Corporation Private Limited

.... Corporate Debtor/Applicant

Order delivered on 06.07.2017

Coram:

Hon'ble Mr. B.S.V. Prakash Kumar, Member (J)

Hon'ble Mr. V. Nallasenapathy, Member (T)

For the Petitioner(s):..... Mr. Nitin Lalwani, Advocate i/b
Chirag Channai

ORDER

Per V. Nallasenapathy, Member (Technical)

This Company Petition is filed by Mehadia Sales Trade Corporation Private Limited., under Section 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.

2. The Corporate Debtor says that its registered office is at 128, Lendra Park, Ramdaspath, Nagpur - 440010, incorporated on 29.6.2012 vide CIN U51101MH2012PTC232763 on the file of Registrar of Companies Maharashtra, having Authorised share capital of Rs.12.50crores and paid up share capital of Rs.12.00 crores.

3. The Board of Directors of the Corporate Debtor in their meeting held on 10.6.2017 authorised Mr. Pankaj Agrawal, Managing Director of the Company, to file necessary application under the Code. The Board also proposed Mr. Charudatta Marathe, Gomed, 915, Khare Town, Dharampeth, Nagpur – 440 010, Email Id: acharudattm@yahoo.co.in, Registration No. IBBI/IPA-001/IP-00605/2016-17/2104, 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 a sum of Rs.136,64,69,073/- is due to Financial Creditors and a sum of Rs.15,71,70,941/- is due to Operational Creditors. The Corporate Debtor says that the total debt of Rs.152,36,40,014/- is in default.

5. The Corporate Debtor enclosed the following sanction letters from the Financial Institutions:

- a) Letter dated 16.09.2013 issued by Oriental Bank of Commerce sanctioning Rs.15 crores as Cash Credit limit and Rs.20 crores as Inland Letter of Credit along with terms and conditions, etc.
- b) Letter dated 26.03.2015 renewing the above said facilities.
- c) Letter dated 21.03.2017 issued by State Bank of India renewing fund-based facility for Rs.40 crores and Letter of Credit facility for Rs.10 crores.

The Corporate Debtor has also enclosed certificate of registration of charges and modification of charge in favour of Oriental Bank of Commerce and State Bank of India. The State Bank of India vide letter dated 24.04.2017 addressed to the Corporate Debtor stated that the Company defaulted for one bill drawn under the Letter of Credit for Rs. 96,42,188/- and also stated that on account of default in payment of the said Letter of Credit there is an irregularity of Rs. 36,67,64,992/- in the Cash Credit account. Subsequently,

the State Bank of India has written many letters to the Corporate Debtor to regularize the account and also informed that if the account is not regularized before 17.06.2017 the bank will initiate appropriate legal action including initiation of corporate Insolvency Resolution under IB Code, 2016. The Oriental Bank of Commerce by letter dated 09.05.2017, referring the irregularity in the account of State Bank of India, required the Corporate Debtor to comply with their requirement to avoid slippage of account into NPA category.

6. One of the unsecured creditors M/s. Religare Finvest Ltd. which has sanctioned a loan of Rs.48 lakhs on 20.4.2015 issued a default notice on 15.6.2017 calling upon the Corporate Debtor to pay a sum of Rs.1,74,738/- towards overdue equated monthly instalments.

7. The above discussion clearly reveals that the Corporate debtor defaulted in making payments to the creditors.

8. The Corporate Debtor has enclosed the audited financial statements for the year ended 31.03.2016 & 31.03.2017, and the provisional financial statement for the period up to 10.06.2017. A list of assets and liabilities of the Corporate Debtor as on 10.06.2017 is also enclosed with the application. The Corporate Debtor also enclosed the list of financial creditors and operational creditors as on 10.06.2017. The Corporate Debtor has disclosed the particulars of debts owed by or to the Corporate Debtor to or by persons connected with it. The details of corporate and personal guarantees given in relation to the debts of the Corporate Debtor, the name and address of the members with details of respective shareholdings and an affidavit in support of the petition were also enclosed with the petition.

9. 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 06.07.2017 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. Charudatta Marathe, Gomed, 915, Khare Town, Dharampeth, Nagpur - 440 010, Email Id: acharudattm@yahoo.co.in, Registration No. IBBI/IPA-001/IP-00605/2016-

17/2104, as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

10. Accordingly, this Petition is admitted.

Sd/-

V. NALLASENAPATHY
Member (T)

Sd/-

B. S.V. PRAKASH KUMAR
Member (J)