

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C.P. NO. 720/I&BP/NCLT/MAH/2017

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

In the matter of under Section 7 of the Insolvency and Bankruptcy Code, 2016 and Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rule 2016)

1. Bank of India
Star House, C-5, "G" Block,
Bandra Kurla Complex
Bandra East
Mumbai – 400 051 ... Applicants/Financial Creditor
2. HDO Technologies Limited
Door-Oliver House
Link Road
Chakala
Andheri East
Mumbai – 400 099. ... Corporate Debtor

Counsel for the Financial Creditor: Mr. Himanshu Vidhani, Advocate i/b
Khaitan & Co.

Counsel for the Corporate Debtor: Mr. Raj Mehta, Advocate, i/b RKM Legal
Services.

ORDER

(Heard & Pronounced on 28-04-2017)

Per V Nallasenapathy, Member (Technical)

This is an insolvency and bankruptcy Petition for initiation of insolvency resolution process by a financial creditor Bank of India, Andheri Large Corporate Branch, Mumbai - 51 against the corporate debtor HDO Technologies Limited on the ground that the corporate debtor has defaulted in making payment for the various credit facilities sanctioned by the bank to the extent of Rs.162,31,99,387 as on 31-03-2017.

2. The financial creditor has stated that on 06-08-2014 it has sanctioned credit facilities to the extent of Rs.147.44 crores, the break up being working capital term loan Rs.41.56 crores, Funded Interest Term Loan (FITL) on Working Capital Term Loan (WCTL) 2.08 crores, cash credit 30 crores, LC 24 crores and bank guarantee 49.80 crores. The sanction letter indicates that the working capital term loan is repayable in 24 quarterly instalments after the Moratorium period of 12 months from cut-off date i.e. 12 months from 31-12-2012. The total tenure of the loan is 7 years i.e. one year Moratorium and 6 years of repayment and accordingly the instalment starts from the quarter March 2014 and ending in quarter December 2019. It further provides that the FITL shall be repayable in 10 equal quarterly instalments after moratorium period of 12 months from cut off date i.e. 12 months from 31-12-2012, thus commencing from quarter March 2014 and ending quarter June 2016. The statement of account produced by the financial creditor reveals that the account of corporate debtor was classified as non-performing asset on 31-12-2014. The financial creditor has sent a letter dated 11-04-2017 addressed to the corporate debtor disclosing the position of account as on 31-03-2017 and sought for the acknowledgement of balance wherein the corporate debtor has confirmed the position of account as on 31-03-2017.

3. The financial creditor on 03-04-2017 sent a letter to the corporate debtor stating the position of the account as on 31-03-2017 disclosing the sanctioned limit, principal outstanding as on 31-03-2017 and interest up to 31-12-2014, uncharged interest from 01-01-2015 to 31-03-2017 and the total outstanding indicating that the account is classified as non-performing asset since 01-10-2013. Further, it discloses various assets that were given as principal security and collateral security in favour of the financial creditor. The said letter was acknowledged and confirmed by the corporate debtor.

4. The counsel appearing on behalf of the corporate debtor states that his client concedes initiation of the Insolvency Resolution Process.

5. As to the Petition filed by the Financial Creditor, this Bench, on perusal of this documents filed by the Creditor, observed that the Corporate Debtor defaulted in making payments and the Financial Creditor placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional, having this Bench noticed that default has occurred and there is no disciplinary proceedings pending against the proposed resolution professional, therefore the Application under sub-section (2) of section 7 is taken as complete, accordingly this Bench hereby admits this Application declaring Moratorium with the directions as mentioned below:

- (a) 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 Securitization 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.
- (b) 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.
- (c) 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.
- (d) That the order of moratorium shall have effect from 28.04.2017 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.

- (e) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (f) That this Bench hereby appoints Mr. Amit Gupta, A/701, Gundecha Symphony, Veera Desai Road, Andheri West, Mumbai – 400 053, email: caamith.gupta@gmail.com, Registration No. IBBI/IPA-001/IP-P00016/2016-17/10040 as interim resolution professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

6. Accordingly, this Application is admitted.

7. The Registry is hereby directed to communicate this order to the Financial Creditor and the Corporate Debtor.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

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