

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C. P. NO. 23/I & BP/NCLT/MAH/2017

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

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

And

Chhaparia Industries Pvt. Ltd.

.... Corporate Debtor/
Corporate Applicant.

Applicants' Counsel: Ms. Jyoti Singh, Ms. Smiti Verma, Advocates for the Applicant.

ORDER

(Heard & Pronounced on 24.02.2017)

The Petitioner filed corporate debtor petition under section 10 of the Insolvency Bankruptcy Code, stating that debtor company committed default in repaying debt amounting to Rs.38,35,31,000/- as on 03.02.2015. The company being unable to discharge its debts, it has sought for declaration of moratorium with consequential directions under this Code.

1. The Petitioner has submitted that financial creditor of the company that is J & K Bank sanctioned a loan facility for an amount of ₹41.50 crores under different heads with sanctioning / renewal of facilities vide letter dated 15.06.2013. As the company failed to discharge this liability, the financial creditor, on 3.2.2015, issued a notice u/s 13(2) of the SARFAESI Act stating that the debtor company is unable to discharge its liability, this liability, the Petitioner has shown.

2. In lieu of the losses mounting upon the company and unable to get along, the petitioner company initiated proceedings before BIFR for referring it as sick company, in pursuance of it, BIFR declared the petitioner as sick company by reference no 48/2015. Since, the company failed to discharge

loan facility given by J & K Bank, the financial creditor assigned this loan to Asset Care and Reconstruction Enterprises Ltd. for ₹19 crores by transferring the loan and rights of J & K Bank over the assets of the company to ARC Ltd. on execution of deed of assignment on 02.02.2017, which was to put to the acknowledgement of the company on 03.02.2017.

3. In compliance of the requirements under section 10 of this Code, the Petitioner mentioned the financial creditors details and operational creditors details along with addresses, other correspondence and also the details of the debt raised and the amount in default. To prove that charge has been registered before the ROC, this debtor company filed a copy of registration of charge dated 25.09.2013 issued by ROC, Mumbai.

4. Besides this, the debtor company filed the list of assets and liabilities with estimated values thereof and also details of the security created against the loans provided to the company.

5. The Petitioner has given the name of the interim insolvency resolution professional with the consent letter of him disclosing that no disciplinary proceedings are pending against him.

6. The Petitioner has also filed Balance Sheets prepared as on 31.01.2017 which discloses liabilities are more than assets.

7. In view of the same this Bench hereby declares moratorium with consequential directions as follows:

(i) That this Bench, subject to provisions of sub sections (2) & (3) of section 14 of the Code, 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 and 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) 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 24.02.2017 till the completion of the corporate insolvency resolution process as prescribed under section 12 of the Code.
- (v) That this Bench hereby directs to cause public announcement of the corporate insolvency resolution process immediately as specified under section 15 of the Code.
- (vi) That this Bench hereby appoints Mr. Vikram Bajaj, Chartered Accountants with registration no. IBBI/IPA-002/IP-N00003/2016-17/10003 having address at 313A, Vardhaman Northex Plaza, Plot No. H-4, Netaji Subhash Place, Pitampura, Delhi – 110034; also at Flat 12, Vasudha Apartments, Plot NO.41, Sec 9, Rohini, Delhi - 110085, email – bajaj.vikram@gmail.com, as Proposed Interim Resolution

Professional to carry the functions as mentioned under the Insolvency and Bankruptcy Code.

5. Accordingly, this Petition is admitted.

Sd/-

B. S.V. PRAKASHKUMAR
Member (Judicial)

Sd/-

V. NALLASENAPATHY
Member (Technical)