

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C. P. NO. 15/I & BP/NCLT/MAH/2017

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

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

Shree Rajeshwar Weaving Mills Pvt. Ltd. Corporate Debtor/
Corporate Applicant.

Applicants' Counsel: Mr. Sinha Shrey, Mr. Ranit Basu, Advocates for the Applicant.

ORDER

(Heard & Pronounced on 02.03.2017)

The Corporate Debtor filed this Company Petition u/s. 10 of the Insolvency and Bankruptcy Code mentioning that committed default in discharging its debts expressing its inability to repay the debt incurred by the company as mentioned in the Application Form filed by the Corporate Debtor herein.

2. On perusal of the Company Petition it is evident that Bank of India, Santacruz (W) Branch, Mumbai issued a notice on 06.04.2016 calling upon the debtor company to repay the outstanding amount of ₹158,26,037.75 to the Bank which is due and payable by the Debtor Company in respect to the cash credit facility plus further interest on the outstanding dues at contractual rate at the rate of 13.2% p.a. plus penal interest at 2% p.a. with effect from 01.04.2016 with monthly rests within seven days of receipt of the notice failing which the Bank stated they would take legal action and proceedings against the Debtor Company.
3. As the company failed to repay the amount in default, the Petitioner filed this application stating that the Company committed default on

01.04.2016 by not repaying a sum of ₹158,26,037.75 payable to the Bank of India. The Petitioner further submits that the properties namely 701, Building – 24b, 7th Floor, Ashok Nagar, Kalyan Road, Opp. Jain Temple, Bhiwandi, Thane, Maharashtra - 421302 valued at ₹31,71,000 and another property at 206, Building – 24b, 2nd Floor, Ashok Nagar, Kalyan Road, Opp. Jain Temple, Bhiwandi, Thane, Maharashtra - 421302 valued at ₹20,59,000 have been given as security. Apart from this, the Petitioner has filed certificate of charge of registration dated 12.08.2014. The Petitioner has also filed Book of accounts of the Company evidencing default to the Creditor lying in the account bearing no.025130110000001 showing default of ₹49,99,923.74 as on 01.04.2016 and another account bearing no. 00400110000027 showing default of ₹15,32,60,114.61 as on 31.03.2016, total coming to ₹15,82,60,037.75. The Petitioner has also filed auditor's statement of the Corporate Debtor for the last two years i.e. F.Y. 2014-2015 and 2015-2016 and the provisional financial statement of the Debtor Company for the Financial Year made up to date not earlier than 14 days from the date of filing Application i.e. 14.02.2017.

4. The Petitioner filed a list of Corporate Debtor's assets and liabilities with estimated value assigned to each categories shown in the list with valuation date 13.02.2017 which is within 14 days from the date of filing of the Petition. The Petitioner has given the name and address of Financial Creditor namely Bank of India, Santacruz (W) Branch and Bank of India, Bhiwandi. The company has also given details of the Corporate Debtor company, its Directors, its constitutional documents including Memorandum of Association.
5. The Petitioner has given the details of Proposed Interim Resolution Professional namely Mr. Hemant Sharma with a consent letter of him showing that no disciplinary proceedings are pending against him.

6. By looking at all these documents this Bench is satisfied that the Petitioner has provided all the documents that are requisite to file Form under the Insolvency and Bankruptcy Code Rules. It seems that the Petitioner has already defaulted in making repayment to Financial Creditor since 01.04.2016. The Petitioner has given details of Proposed Interim Resolution Professional with a consent letter of him showing that no disciplinary proceedings are pending against him, therefore this Bench hereby, for the purposes referred to in section 14 of the Code, declares moratorium over the debtor company 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 02.03.2017 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. Hemant Sharma, Chartered Accountants with registration no. IBBI/IPA-002/IP-N00015/2016-17/10019 having address at 2/263, Subhash Nagar, New Delhi- 110 027, as Proposed Interim Resolution Professional to carry the functions as mentioned under the Insolvency and Bankruptcy Code.

7. Accordingly, this Petition is admitted.

Sd/-

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