

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, MUMBAI
C. P. NO. 249/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

Swift Shipping and Freight Logistics Pvt. Ltd.

.... Corporate Debtor /
Corporate Applicant.

Applicants' Counsel: Ms. Shraddha Jha a/w. Utkarsh Srivastava i/b. Bharucha & Patners, Advocates for the Applicant.

ORDER

(Heard & Pronounced on 19.04.2017)

Per V. Nallasenapathy, Member (Technical)

This Company Petition is filed by M/s Swift Shipping and Freight Logistics Private Ltd (Corporate debtor) U/s 10 of the I.B Code 2016 saying that the corporate debtor has committed default in discharging its liabilities. The Board of Directors of the corporate debtor in the meeting held on 18-1-17 resolved to initiate proceedings under IB Code. The shareholders of the company in the AGM held on 18-1-17 given their consent for initiating insolvency resolution process by the corporate debtor.

2. The Corporate debtor disclosed that the payables work out to Rs.5,42,36,093 and receivables is Rs.92,11,106. The addresses of the creditors and debtors were disclosed in the petition. The audited financial statements for the years ending on 31-3-14, 31-3-15, 31-3-16 and the provisional financial statements as on 23-3-17 were enclosed to the petition. The Balance Sheet as on 31-3-2016 discloses an accumulated loss of around Rs.14 crores. Mere reading of the financials clearly reveals that the corporate debtor cannot meet

its liabilities which are far excess of the assets. The financial statements also reveal that there are no operations in the company for the past two years. The financial statements disclosed in the petition leads to a clear conclusion that the corporate debtor committed default in paying its liabilities, as contended by the corporate debtor.

3. The corporate debtor has disclosed Mr. Uday Vinodchandra Shah, 4th Floor, Deepak Building, R. B. Mehta Road, next to Canara Bank, Ghatkopar East, Mumbai -77 Registration Number: IBBI/IPA-001/IP-00088/2016-17/1138, as Interim Resolution Professional who has given his consent in form no.2 and also stated that there are no disciplinary proceedings against him

4. 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 I&B Code 2016, 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) 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 19.04.2017 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.

(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. Uday Vinodchandra Shah, 4th Floor, Deepak Building, R. B. Mehta Road, next to Canara Bank, Ghatkopar East, Mumbai-77, Registration Number: IBBI/IPA-001/IP-00088/2016-17/1138, as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

5. Accordingly, this Petition is admitted.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

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