

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP. No. 1687/I&BP/NCLT/MAH/2017

Under section 10 of IBC, 2016

In the matter of

Lata Export Apparels Pvt. Ltd.

.... Corporate Debtor/Applicant

Order delivered on 8.1.2018

Coram:

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

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

For the Applicant: C S Rahul Sahasrabuddhe, Practising Company Secretary

Per V. Nallasenapathy, Member (Technical)

ORDER

This Company Petition is filed by Lata Export Apparels Pvt. Ltd., 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 B 201, B. T. Mills Compound, L. B. S. Marg, Bhandup (west), Mumbai – 400 007, incorporated on 29.11.1996 vide CIN U17200MH1996PTC104231 on the file of Registrar of Companies Maharashtra, having paid up share capital of Rs.50,00,000/- .

3. The Board of Directors of the Corporate Debtor in their meeting held on 10.11.2017 authorised Mr. C. V. Karthikeyan, Director of the Company, to file necessary application under the Code.
4. The Corporate Debtor has disclosed that a sum of Rs.10,57,92,791/- is due to Financial and Operational Creditors which is in default.
5. The Corporate Debtor enclosed the sanction letter dated 24.7.2014 issued by Corporation Bank, sanctioning the credit facilities to the Corporate Debtor, wherein overdraft for Rs.1,00,00,000, PCL cum FDBN for Rs.6,50,00,000, Import/Inland LC cum BG limit for Rs.1,25,00,000, CMOBI renewal for Rs.2,99,000, Forward Sales Contract (risk involved in Import of material) for Rs.1,25,00,000 and Forward Sales Contract (risk involved in Export) for Rs.6,50,00,000 were sanctioned. Further, sanction letter dated 26.6.2014 issued by Reliance Commercial Finance Ltd sanctioning a sum of Rs.1,72,50,000 as Loan Against Property (Commercial) repayable in 105 equated monthly instalments @ Rs.2,85,805 towards principal and interest, is also enclosed.
6. The Corporate Debtor has enclosed the SARFAESI notice dated 24.8.2017 issued by the Corporation Bank claiming a sum of Rs. 8,96,84,612.19 as balance outstanding as on 24.8.2017 payable by the Corporate Debtor to the Bank. The notice further discloses that the account of the Corporate Debtor was classified as Non-Performing Asset as on 29.6.2017.
7. The Corporate Debtor has enclosed a letter dated 17.11.2017 for prepayment of the loan sanctioned by Reliance Commercial Finance Ltd. wherein a sum of Rs.1,41,31,072 was demanded.
8. The Corporate Debtor has enclosed the audited financial statements for the years 2015-16 and 2016-17, the provisional financial statement for the period from 01.04.2017 to 21.11.2017, list of assets and liabilities of the

Corporate Debtor as on 21.11.2017, list of financial creditors and operational creditors as on 21.11.2017 and extract of charges registered with the Registrar of Companies taken from MCA portal. The Corporate Debtor disclosed the names and addresses of the members of the Company with details of their shareholding. The Corporate Debtor has stated that no guarantees were given in relation to the debts of the Corporate Debtor by other persons.

9. The professional appearing on behalf of the Corporate Debtor orally informed that the Corporation Bank issued notice of sale on 15.12.2017, under Rule 8(5) and 8(6) of the Security Interest Enforcement Rules 2002 r/w Section 13(4) of the SARFAESI Act, 2002, which discloses that the sale of mortgaged property of the Corporate Debtor through e-auction is fixed on 19.1.2018 at 11.45 a.m.

10. The Corporate Debtor proposed Mr. Rahul Kavathekar, 104 Shree Ganesh CHS Bhavani Shankar Road, Near Kabutarkhana, Dadar West, Mumbai – 400028, Registration No. IBBI/IPA-001/IP-P00040/2016-2017/10101, as interim resolution professional, who has given his consent with a declaration that no disciplinary proceedings are pending against him.

11. 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 8.1.2018 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. Rahul Kavathekar, 104 Shree Ganesh CHS Bhavani Shankar Road, Near Kabutarkhana, Dadar West, Mumbai – 400028, Registration No. IBBI/IPA-001/IP-P00040/2016-2017/10101, as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

12. Accordingly, this Petition is admitted.

13. The Registry is hereby directed to communicate this order to the Applicant.

Sd/-

V. NALLASENAPATHY
Member (Technical)

Sd/-

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