

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

CP(IB) No. 12/10/HDB/2017

Date: 10.02.2017

In the matter of:

VNR Infrastructure Limited

#8-2-310/17, Road No.14,

Banjara Hills,

Hyderabad

Telangana

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OF THE ORIGINAL**

.... Petitioner

Counsel for the Petitioner:

Sh.Rajesh Bohra and Sh. S.K.Goyal

CORAM

Hon'ble Mr. Rajeswara Rao Vittanala, Member (Judicial)



ORDER

(As per Rajeswara Rao Vittanala, Member (J))

1. The present Company Petition bearing number 12/10/HDB/2017, has been filed by VNR Infrastructures Ltd (hereinafter referred as the Company) under Section 10 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by seeking to initiate Corporate Insolvency Resolution Process in respect of VNR Infrastructures Limited.
2. Sh. Rajesh Bohra, Learned Counsel for the Petitioner, while reiterating the contents raised in Form No.6, further submits that VNR Infrastructure Limited, was incorporated on 18th October, 2005 and CIN changed upon formation of Telangana State and the new present CIN is

U45200TG2005PLC047812. It is engaged in manufacturing activities, purchase of Iron and Steel as Raw Materials and then converting into various items of Iron and Steel. The Nominal Share Capital of the Company is Rs.3000 lacs and the Paid up capital is Rs. 1987.49 lacs.

3. The Learned Counsel submits that the Company became sick, and filed a Reference on 17.03.2016 in BIFR under Section 15(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 and the aforesaid reference has been registered as Case No. 96/2016, as per order dated 02.06.2016, passed by the Hon'ble Chairman, BIFR.
4. The Learned Chairman of BIFR, vide Order dated 14.07.2016, after examining the material documents and pleadings, including the audited Balance Sheet dated 31.12.2015, filed by the Petitioner Company, was of considered view that the Reference filed by Appellant Company (Petitioner company herein), is worthy of Registration as a sick company, as its Net Worth has been eroded substantially.
5. The Learned Chairman of BIFR, has further passed an Order dated 10.11.2016, by way of summary record of proceedings of the hearing. It is stated therein that the Company was initially incorporated in the State of Tripura on 18.10.2005 and owned a factory located in South Tripura District. The Company had commenced commercial production on 01.02.2009 and was engaged in manufacture of Railway Bridge, Steel structure, spl. Steel Structure, which was a product listed in the First Schedule of IDR Act, 1951. The Company's ABS for financial year (FY) ended 31.12.2015 showed its net worth (NW) as Rs. 119.81 Crores consisting of paid-up share capital Rs.19.87 crores and free reserves of Rs. 99.94 crores. The entire net worth was claimed to have been fully eroded due to accumulated losses which stood at Rs. 125.42 crores. The



Company's investment in plant and machinery (P & M) was Rs. 45.43 crores. The Learned Chairman of BIFR, also passed Interim Orders.

6. The Learned Counsel, further submits that the summary proceedings passed on 10.11.2016, was last and not listed thereafter, as the BIFR was dissolved with the effect from 1st December, 2016.

Accordingly, he approached this Tribunal in prescribed format, duly complying the procedure mentioned in the said provisions.

7. The Learned counsel for the Petitioner submits that, as on 31.12.2016, total outstanding (amount in default) excluding the Principal not due with respect to the Secured Creditors (Banks and Financial Institutions)) is Rs. 763.03 Crores and that of Unsecured Creditors (Bank/FIs/NBFCs/Non Fund based outstanding i.e., LCs, BG, Bill discounting, etc.) is Rs. 339.75 crores, besides other private creditors.

8. The Learned Counsel, further submits that default is still continuing and it required in initiation of Corporate Insolvency Resolution Process in respect of the Company, by this Tribunal and thus filed Company Petition before this Tribunal under Section 10 of IBC, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

9. I have considered the entire material, and heard the arguments of the Learned Counsel for the Petitioner. It is not in dispute that BIFR has given a prima facie finding, that the Company is in default and the Net Worth was drastically eroded. I am also of considered view that the Company is in default and the net worth has drastically eroded and therefore, required adjudication of the Tribunal under the above Section.

10. The Learned Counsel further submits that the Company Board, in its Board Resolution dated 25th January, 2017, has chosen Mr. Devendra



Padamchand Jain as the Interim Resolution Professional. Accordingly, he was given an offer letter dated 25.01.2017 and Sh. Devendra Padamchand Jain has accepted the offer vide letter dated 25.01.2017.

11. I have perused the offer and acceptance and also the Certificate of Registration of Sh. Devendra Padamchand Jain. Sh. D.P. Jain, has clearly mentioned in the acceptance letter that he agreed to accept the appointment as the Interim Resolution Professional, if an order admitting the present application is passed and that he is currently not serving as an Interim Resolution Professional/resolution professional/liquidator. He further certifies that there are no disciplinary proceedings pending against him with the Board or Indian Institute of Insolvency Professionals of ICAI.

12. I find that Mr. Devendra Padamchand Jain is eligible to be appointed as Insolvency Professional for the Petitioner Company for initiating the Insolvency Proceedings in respect of VNR Infrastructures Limited.

13. The Insolvency and Bankruptcy Code, 2016 was enacted by Parliament in 67th year of Republic of India. The objective of the Insolvency and Bankruptcy Code is to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all stakeholders, including alteration in priority of payment of government dues and to establish an Insolvency and Bankruptcy Fund, and matters connected therewith or incidental thereto. An effective legal framework for timely resolution of insolvency and bankruptcy would support development of credit markets and encourage entrepreneurship. It would also improve Ease of doing Business, and facilitate more investments leading to higher economic growth and development.



14. I find that the present Petition/Application, (as referred under Section 10(2) and 10(3) of the IBC.2016), which has been filed by the Petitioner, has been complied with all the requirements as mentioned above and thus it is a fit case to admit the Petition/application.

15. By invoking the powers under Sections 10, 12, 13, 14, 15,16, 17, 18, 19, 20, 21,22 and 25 and other applicable provisions of the IBC, 2016, I, hereby, pass the following Orders:

a. I admit the present Company Petition/Application

b. I declare a moratorium by prohibiting the following actions:

1. 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;
2. Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
3. 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;
4. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

c. Direct to cause the public announcement of initiation of Corporate Insolvency Resolution Process of the Company as per the details given in sections 15(1) and 15(2), on www.ibbi.gov.in (designated website of Insolvency and Bankruptcy Board Of India, circulated vide IIBI/IP/PUBLIC ANN./221 dated 01.02.2017) in addition to other accepted modes of publication, immediately and call for submission of claims as per Section 15 of the IBC read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



- d. I appoint Mr. Devendra Padamchand Jain (Regd No: IBBI/IPA-001/IP-00224/2016-17/1511) as an Interim Resolution Professional.
- e. Direct the personnel of VNR Infrastructure Limited, to assist and cooperate with Interim Resolution Professional on collecting necessary information and management of the company.
- f. I direct the Interim Resolution Professional, to constitute a committee of creditors, after collation of all claims received against the corporate debtor and determination of financial position of corporate debtor, as per Section 21. The first meeting of the committee of creditors, shall be held within 7 days of the constitution of committee of creditors and their decision has to be communicated to the Tribunal as per Section 22.
- g. I direct the Interim Resolution Professional to follow all the applicable provisions of the Insolvency and Bankruptcy Code, 2016 and Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- h. Post the case to 13.03.2017

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Sd/-

Rajeswara Rao Vittanala

Member (J)

V. Annapoorna
V. ANNA POORNA
Asst. DIRECTOR
NCLT, HYDERABAD - 68