

**In the National Company Law Tribunal  
Single Bench, Chennai**

**CP/568/(IB)/CB/2017**

Under Section 7 of the IBC, 2016

**In the matter of**

M/s. Vinitha Associates Limited

V/s

M/s. Vasavi Housing Infrastructure Private Limited

Order delivered on: 27.09.2017

For the Petitioner/OC: Ms. Aruna Ganesh, Advocate

**Per: K. ANANTHA PADMANABHA SWAMY, MEMBER (J)**

**ORDER**

1. Under Consideration is a Company Petition filed by M/s. Vinitha Associates Limited (in short, '**Petitioner/Financial Creditor**') against M/s. Vasavi Housing Infrastructure Private Limited (in short, '**Respondent/Corporate Debtor**') under section 7 of the Insolvency and Bankruptcy Code 2016 (In short, '**IB Code 2016**') r/w Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, '**IB Rules 2016**').
2. Before proceeding with this matter, it would be appropriate to make a note of background facts for the purpose of determination of this petition.
3. The Petitioner/OC is a company incorporated under the Companies Act 1956 and carrying on business under the name

and style of M/s. Vinitha Associates Limited whereas the Respondent/Cd is a Limited Liability Company incorporated under the provisions of the Companies Act 1956 and having its registered office at No. 8A, Kandasamy Street, R.A. Puram, Chennai- 28.

4. Ms. Aruna Ganesh, the learned counsel appearing on behalf of the petitioners/FC submitted that the Respondent had approached the petitioner in the 3<sup>rd</sup> week of May, 2014 for a loan of Rs. 40,00,000/- to meet its business exigencies and promised to discharge the same on demand with interest @ 18% as stipulated by the petitioner. Accordingly, the petitioner advanced a sum of Rs. 40,00,000/- as loan payable on demand by of cheques details of which are mentioned in the petition.
5. It is further submitted that the respondent having received the credit facility, acknowledged the same by and under receipt dated 19.05.2014 forwarding the Promissory Note executed on 19.05.2014 by the Directors of the respondent company. It is further submitted that on demand of the petitioner for repayment of monies advanced, three cheques favouring petitioner for the sum of Rs. 10,00,000/- each were executed by the Directors of the respondent company. Also, on the instruction and with the consent of respondent, the petitioner presented the aforesaid cheques for collection with City Union

Bank, T. Nagar Branch on 01.03.2016 but to shock of the petitioner, the aforesaid cheques have been returned by the Bank for the reason of “Funds Insufficient”. Thereafter, the petitioner intimated to the respondent by way of statutory notice dated 08.03.2016 as required under section 138 of the Negotiable Instruments Act 1881 and called upon to pay the monies within 15 days of receipt of the said notice.

6. It is also submitted that the respondent even thereafter defaulted in payments, hence the petitioner filed the C.C. No. 2547 of 2016 which is pending on the file of III FTC at Saidapet, Chennai. It is submitted that the petitioner also caused a statutory notice dated 10.04.2016 upon the respondent under section 434 of the Companies Act 1956 calling for repayment of the monies due. The respondent also replied to the said statutory notice on 07.10.2016 and admitted the liability and stated that due to financial difficulties, they require additional time to clear the dues and proposed to settle the matter by the end of November 2016.
7. The learned counsel also placed his reliance on a recent judgement passed by the Hon'ble Supreme Court in ***Innoventive Industries Ltd. Vs ICICI Bank & Anr.*** Wherein their lordships were of the opinion that *in the case of corporate debtor who commits a default of a financial debt, the*

*adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy that a default has occurred.*

8. The learned counsel finally submitted that when the Corporate Debtor was unable to pay its Financial Debt despite of several reminders, then petitioner, having been left with no other option approached this Adjudicating Authority claiming the payment of Rs. 63,38,457/- including interest towards the Corporate Debtor in capacity of a Financial Creditor under the provisions of the IB Code 2016 and prayed to initiate Corporate Insolvency Resolution Process against the Respondent/CD.
9. It is also pertinent to mention herein that the respondent neither filed any counter nor caused appearance despite of several notices. The leaned counsel for the petitioner also stated that she was unable to trace the company as per the address available with the RoC.
10. As per the submission of the counsel for the petitioner, the Petitioners have complied with all the requirements as stipulated under the provisions of the IB Code, 2016 and the rules formed thereunder.
11. After hearing submissions of the counsel for the petitioner and having perused the record, this Adjudicating authority is

satisfied that the petitioner has proved by placing overwhelming evidence viz. Cheques alongwith memo, statutory notice, Criminal case etc. that the respondent defaulted payment dues on various occasion to the petitioner. I am of the opinion that the petitioner has established clearly that the amount in default is genuine and is supported by the documentary evidence placed before this Adjudicating authority. In the circumstances, I am inclined to admit the instant application.

12. Therefore, the instant petition is admitted and I order the commencement of the Corporate Insolvency Resolution Process which shall ordinarily get completed within 180 days, reckoning from the day this order is passed.

13. I appoint Shri S. Sridhar as Interim Resolution Professional (IRP) proposed by the Financial Creditor. There is no disciplinary proceedings pending against the IRP and his name is reflected in IBBI website. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

**14.** I declare the moratorium which shall have effect from the date of this Order till the completion of corporate insolvency resolution process for the purposes referred to in Section 14 of the I&B Code, 2016. I order to prohibit all of the following, namely :

- (a) 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;*
- (b) Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*
- (c) 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 (54 of 2002);*
- (d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

**15.** The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

16. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016. Accordingly, the application is admitted.

17. The Petitioner/FC as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

18. The Registry is also directed to communicate this Order to the Financial Creditor and the Corporate Debtor.

19. The address details of the IRP are as follows: -

Shri S. Sridhar  
Regn. No: (IBBI/IPA-001/IP-00381/2017-2018/10638)  
New No. 9, Old No. 4, 1<sup>st</sup> Floor, Rajamannar Street  
T. Nagar, Chennai- 600017



**K. ANANTHA PADMANABHA SWAMY**  
**Member (J)**

RLS