

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

TCP/233 (IB)/CB/2017

Under Section 7 of the Insolvency And Bankruptcy Code
2016 R/W Rule 4 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016

In the matter of

M/s. L&T Finance Limited

Vs

M/s. C.T. Ramanathan Infrastructure Pvt. Ltd.

Order delivered on 21st of November, 2017

CORAM :

CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For Financial Creditor(s) : Counsel, Mr. R. Umashankar
For Corporate Debtor(s) : Counsel, Mr. S. Srinivasu


ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)


1. Under consideration is the Petition that came to be filed before Hon'ble High Court of Madras on 23.07.2013 under Sections 433 (e) & (f), 434 (i) (a) and 439 (i) & (b) of the Companies Act 1956 for winding up of the Respondent Company. After the enforcement of

the Insolvency and Bankruptcy Code, 2016 (I&B Code, 2016, for short), the same has been transferred to this Bench and renumbered as TCP/233/(IB)/CB/2017 and treated under Section 7 of the I& B Code, 2016 r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP) under the Insolvency and Bankruptcy Code, 2016 (I&B Code).

2. We have heard the Counsels for Financial Creditor and the Corporate Debtor, and perused the record.


3. The brief facts of the case are that the Financial Creditor has extended loan facility to the Corporate Debtor in the month of January, 2012 for the business purposes. The Financial Creditor has further extended loan facility to the Corporate Debtor in the month of 

February, 2012, for purchase of machinery and vehicles. After availing the above facilities, the Corporate Debtor failed to settle the outstanding amount as per the agreements. The Financial Creditor has sent statutory notice to the Corporate Debtor on 12.03.2013 giving the details of agreement, and the amount due. The Financial Creditor has also resorted to the clause provided for resolution of the disputes in the agreements by filing claims before the Arbitral Tribunal. The Arbitral Tribunal on 20.05.013 and 21.05.2013 passed Awards in both the matters in favour of the Financial Creditor. The Counsel for the Financial Creditor submitted that the total outstanding debt as on date is Rs.3,03,92,383/-.

4. The Corporate Debtor caused appearance in the matter before this Bench and submitted that they are ready and willing to pay the outstanding debt and prayed for time as reflected from the Order dated 08.11.2017. Further, a Memo has been filed by the Corporate Debtor on 17.11.2017 stating therein that 


they are negotiating with the Financial Creditor for settlement and intend to settle the dues towards the financial debt. The admission made by the Corporate Debtor by way of filing the Memo is also supporting the claim made by the Financial Creditor.

5. We have perused the Application along with the record placed on file. From the submissions made by the Counsels for the Financial Creditor and the Corporate Debtor, we have ascertained that the Corporate Debtor has defaulted in making payment of the outstanding debt.

6. Thus, the Financial Creditor has fulfilled all the requirements of law and has also proposed the name of IRP after obtaining the written consent in Form-2. We are satisfied that Corporate Debtor has committed default in making payment of the outstanding debt to the Financial Creditor. Therefore, TCP/233/(IB)/CB/2017 is admitted and we order the commencement of the Corporate Insolvency Resolution 

Process which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

7. We appoint Mr. Dhiren Shantilal Shah, as IRP as proposed by the Financial Creditor. There is no disciplinary proceedings pending against the IRP as evidenced from Form-2 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.

8. We 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. We 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.

9. 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.

10. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor is expected 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.

11. The Financial Creditor and the Registry are 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.

12. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor. The address details of the IRP are as follows: 

Mr. Dhiren Shantilal Shah,
Regn No: (IBBI/IPA-001/IP-P00220/2017-18/10419)
B-102, Bhagirathi Niwas,
Near Natraj Studio, Sir M. V. Road,
Andheri – East, Mumbai – 400 069.
Email: dss@dsshah.in
Mobile No: 9820073090.

S. Vijayaraghavan.

S. VIJAYARAGHAVAN
MEMBER (Technical)

PAM

CH. MOHD SHARIEF TARIQ

CH. MOHD SHARIEF TARIQ
MEMBER (Judicial)