



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH (Court-I)  
KOLKATA**

**C.P (IB) No.279/KB/2024**

*An application under Section 7(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.*

And

**In the matter of:**

**Matribhumi Fincap (India) Limited (CIN:U65921AS1997PLC005032)**

*... Financial Creditor*

Versus

**In the matter of:**

**Positive Electronics Limited (CIN: L67120WB1981PLC033990)**

*... Corporate Debtor*

**Order Pronounced on : 17/10/2024**

**Coram:**

***Mrs. Bidisha Banerjee, Member (Judicial)***

***Mr. Balraj Joshi, Member (Technical)***

**Counsels appeared through Video Conference**

For Financial Creditor : Mr. Dripto Majumdar, Adv.  
Ms. Saket Suman, Adv.

For Corporate debtor : Mr. Rohit Kumar Keshri, Adv.  
: Mr. Ankit Chaurasia, Adv.



**ORDER**

**Per: Bidisha Banerjee, Member (Judicial)**

1. The Court is convened by video conference today.
2. This petition under 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 has been filed by **Matribhumi Fincap (India) Limited**, through its Director namely Surajit Dey, who claims to be a Financial Creditor (hereinafter referred to as the Financial Creditor), seeking initiation of corporate insolvency resolution process in respect of **Positive Electronics Limited** (hereinafter referred to as the Corporate Debtor).
3. The amount in default is claimed to be 1,14,11,366/- ( Rupees One Crore Fourteen Lacs Eleven Thousand Three Hundred and Sixty Six only) alongwith penal interest levied @9% p.a.
4. To substantiate its claim, the Financial Creditor has relied upon the following documents :-
  - i. **Copy of Loan agreement:** At pages 50 to 53 evincing an agreement entered on 4<sup>th</sup> January, 2024 by and between **Matribhumi Fincap (India) Limited**, the present Financial Creditor and the **Positive Electronics Limited**, the Corporate Debtor. The **Matribhumi Fincap (India) Limited** is lender and **Positive Electronics Limited** is the borrower. It establishes;
    - (a) That the borrower **Positive Electronics Limited** was financial distress due to liquidity crunch in the company and for the growth of the company, it approached the lender for loan /financial assistance for meeting the short term liquidity needs.
    - (b) The lender has agreed to grant financial assistance to the



borrower of total sum of Rs. 1,10,00,000/- to be disbursed in two instalments of Rs. 43,00,000/- on or before 10<sup>th</sup> January, 2024 and Rs.67,00,000/- on or before 20<sup>th</sup> January, 2024.

(c) In the event of default by the borrower, the lender would demand immediate repayment of the outstanding loan amount with accrued interest @ 9% p.a. with and additional penalty interest rate of 2% p.a over and above the agreed interest rate as in pages 51-52.

ii. Calculation of Principal and Interest overdue including penal interest, depicted in the form of chart as in page 54 of the application at Annexure -7, which is as under:-

Annexure-7  
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Calculation of Principal and Interest Overdue including Penal Interest:

Calculation Of Interest						
Date of loan taken	Due Date	Amount	No of days	Total days	Interest Rate	Interest Amount
08-01-2024	30-05-2024	43,00,000	143	366	9%	1,51,204.92
15-01-2024	30-05-2024	50,00,000	136	366	9%	1,67,213.11
15-01-2024	30-05-2024	17,00,000	136	366	9%	56,852.46
		1,10,00,000				3,75,270.49
Total Principal and Interest Overdue till May 2024						1,13,75,270.49
Penal Interest till May 2024						
31-03-2024	30-05-2024	1,10,00,000	60	366	2%	36,0656
Total Principal and Interest Overdue including Penal Interest						1,14,11,336.07

iii. The records also disclose an urgent **notice for loan repayment** along with interest, dated 12/03/2024 from Financial Creditor to the management of Corporate Debtor stating that first interest payment was due on 5<sup>th</sup> February, 2024, which the Corporate Debtor defaulted in paying as per terms of agreement dated 4<sup>th</sup> January, 2024 and thereafter and persistent unresponsiveness of the Corporate Debtor till the date of



notice.

- iv. A reminder dated 05/06/2024 with postal receipts showing the delivery.
- v. **Confirmation of accounts** from 1<sup>st</sup> April, 2023 to 31<sup>st</sup> March, 2024 by Corporate Debtor at Annexure-10 page 62.
- vi. The disbursal statement as in Annexure-11.
- vii. The audited financial statement of corporate debtor (Annexure-4) pages 21 onwards, page 42 whereof demonstrates that an amount of Rs. 111.92 lacs which shows as loan non-current against **Matribhumi Fincap (India) Limited**.

5. At hearing, Ld. Counsel Mr. Keshri appearing for the Corporate Debtor would almost admit default on the part of the Corporate Debtor in repayment of the loan amount on the ground that it suffered Agricultural loss. However, Mr. Keshri would seek a respite on the ground that the Corporate Debtor is a listed company and it was suffering a temporary financial crunch and would be able to turn around in the event of an extension of six months for repayment of both the outstanding Interest and Principal is granted.

6. To that effect our attention is letter dated 27/03/2024 as Annexure-R-1 of the reply affidavit.

7. We have heard Ld.Counsel on both sides and we are satisfied that there is debt and default and the petition is within the statutory period of limitation. The debt is in nature of a financial debt and therefore, the petition deserves to be admitted.

8. However, we note from the letter dated 27/03/2024 at R-1 that an extension of six months for repayment of both outstanding interest and Principal was sought for by **Positive Electronics Limited** which shows itself an acknowledgement of its liability to repay the debt.

9. The said six months period has already ended on 27<sup>th</sup> September, 2024 and on the date of hearing no assurance is forthcoming from the Corporate Debtors' side that



the repayment would be made. Accordingly, we have no hesitation to admit the petition and pass the following orders:-

### **ORDERS**

- i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor is hereby **admitted**.
- ii) We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
- iii) Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The I.R.P. shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:
  - 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 Securitization 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.
- v) The supply of essential goods or services rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.
- vi) 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.
- vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii) Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- ix) The Financial Creditor has proposed the name **Mr. Udit Agarwal** registered with Insolvency and Bankruptcy Board of India, having Registration No. **IBBI/PA-001/IP-P-02799/2023-2024/14290** Email [uditagarwal15@gmail.com](mailto:uditagarwal15@gmail.com), mobile no. 9681337160 is hereby appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan subject to production of written consent within one week from the date of receipt of this order.



- x) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.
- xi) The Financial Creditor/Applicant is directed to deposit **Rs. 3,00,000/- (Rupees Three Lacs Only)** with the IRP appointed hereinabove within **three** days from this order. IRP can claim the preliminary expenses and fees subject to the approval by the CoC and after constitution of CoC.
- xii) Registry is hereby directed to communicate the order to the Financial Creditor, the Corporate Debtor, the I.R.P. and the jurisdictional Registrar of Companies by Speed Post as well as through email.
- xiii) List the matter on 18/11/2024 for the filing of the progress report.
- xiv) Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

**(Balraj Joshi)**  
**Member (Technical)**

**(Bidisha Banerjee)**  
**Member (Judicial)**

Order signed on this, the 17<sup>th</sup> day of October , 2024

PJ