

IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

CP/1361/IB/2018

Under Section 7 r/w rule 4 of the IBC, 2016

In the matter of M/s. Hamsini Foundations Private Limited

M/s. Reliance Commercial Finance Limited

---Financial Creditor

V/s

M/s. Hamsini Foundations Private Limited

---Corporate Debtor

Order delivered on: 12.03.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor: *Shri. P. Vinod, Advocate*

Mrs. G. Anitha, Advocate

For India Law LLP

For the Corporate Debtor : **None-Present** on the date of hearing

ORDER

Per: B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)

Heard and Order pronounced on: 12.03.2019

It is a Company Petition filed u/s 7 of the Insolvency and Bankruptcy Code, 2016 ("the Code") by the Financial Creditor on the ground that the Corporate Debtor defaulted in repaying an amount of ₹16,20,91,564 as on 03.08.2018, henceforth sought for

initiation of Corporate Insolvency Resolution Process against the Corporate Debtor.

2. On perusal of this Company Petition, it is evident that on 30.03.2017, this Financial Creditor issued Sanction Letter to the Corporate Debtor for grant of loan amount of ₹12,75,00,000 towards the debtor working capital requirement for construction of a project namely **"P Dot G Flora"** situated at Nemilicherry, Poonamallee Taluk, Tiruvallur District.
3. In pursuance thereof, the Corporate Debtor executed the loan agreement on 11.04.2017 in favour of the Financial Creditor hypothecating the receivables of the aforesaid project as well as created charge on Escrow Account and all monies deposited therein and all investments in respect of the Project, charge on the transfer of development rights till the same is loaded on the project, charge on all rights, benefit, title, interest claims demands under the project documents of **"P Dot G Flora"**. Apart from this, the creditor also filed an Affidavit-cum-Undertaking given by this Corporate Debtor as well as a co-borrower namely **"M/s. P.G.**

Constructions Private Limited” reflecting both of them are liable to repay the same. Out of the loan amount, the Financial Creditor says that the Corporate Debtor paid ₹52,78,925 towards principal amount as on 01.09.2018, to support the same, the financial creditor has filed bank statement. Since the remaining balance was not paid and the account having become irregular, the outstanding dues payable by the Corporate Debtor as on 03.08.2018 has become ₹16,20,91,564.

4. The Financial Creditor counsel submits that this account has become irregular as on 03.08.2018 and since then the Corporate Debtor failed to repay as per the terms and conditions of the loan agreement.
5. This case was filed before this Bench on 18.09.2018, on receipt of which the Corporate Debtor started appearing before this Bench, in the process of appearing before this Bench, on 04.01.2019, the counsel appeared on behalf of the Corporate Debtor stated that the matter was likely to be settled, therefore, at his request, this matter was posted to 29.01.2019. On 29.01.2019 also, for no reporting from

either of the parties stating that settlement happened between them, this Bench gave a peremptory direction to both sides to report settlement or to argue the matter on 14.02.2019, that day the Corporate Debtor remained absent and today also the Corporate Debtor side has remained absent.

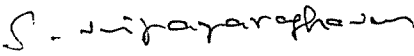
6. Looking at the documents filed by the Financial Creditor, we are of the view that the Financial Creditor filed all the requisite documents proving the existence of debt as well as existence of default committed by the Corporate Debtor, therefore, we hereby hold that this Company Petition is fit for admission, whereby, since the Financial Creditor has placed the consent letter of the Resolution Professional, this Bench hereby gives directions as follows:

- I. That Moratorium is hereby declared prohibiting all of the following actions, 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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.
- II. That 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 of IBC 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 12.03.2019 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 of IBC or

passes an order for liquidation of corporate debtor under section 33 of IBC, 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 IBC.
- VI. That this Bench hereby appoints Mr. Arumugam Arumugam, having Registration Number [IBBI/IPA-003/IP-N00094/2017-18/10936] No. 1/56, Market Road (Devi Stores Upstairs), Kelambakkam, Chennai – 603 103, Email: armuru2008@gmail.com, Mobile No: 80152040147 as Interim Resolution Professional to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.
7. Accordingly, this Petition is **admitted**.
8. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by way of email or whatsapp.


(S. VIJAYARAGHAVAN)
MEMBER (Technical)


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

TJS/SR