

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-1221(ND)/2018

In the matter of

**Punjab & Sind Bank
Large Corporate Branch
P-18.90, Connaught
Circus, New Delhi-11001**

....Applicant

V/s

**M/s. Alpine Realtech Pvt. Ltd.
B-1/46, Lane No. 3
New Ashok Nagar,
Delhi-110096**

.....Respondent

SECTION: 7 of IBC, 2016

Order delivered on 12.03.2019

COARM:

**SMT. INA MALHOTRA, HON'BLE MEMBER (J)
DR. V.K. SUBBURAJ, HON'BLE MEMBER (T)**

Present:

**For the Petitioner: Mr. Sanjay Bajaj, Advocate
For the Respondent: Mr. Anurag Sharma, Advocate**

ORDER
PER SMT. INA MALHOTRA, MEMBER (J)

The applicant Bank, as a Financial Creditor, has filed this petition under Section 7 of the Code, 2016 (hereinafter referred to as the "Code"), praying for initiation of the Corporate Insolvency Resolution of the Respondent/Corporate Debtor for its inability to repay its loans.

2. As per averments, at request of the Corporate Debtor which is engaged in the business of Real Estate Development, the petitioner bank sanctioned two Term Loans in the limits of Rs. 40 crores & Rs. 25 crores. To avail the said limits, the Corporate Debtor executed documents on 06.08.2013 & 17.07.2014 respectively. It is the case of the Financial Creditor that the Corporate Debtor failed to adhere to the repayment schedule, thereby increasing the outstanding liability. Though the liability was duly acknowledged vide a balance confirmation dated 27.03.2016, no steps were taken to liquidate the same. Accordingly, the Corporate Debtor was declared NPA 31.08.2016.

3. The present petition has been filed in the required format and is duly annexed with the supporting documents. The principal outstanding liability is quantified at Rs. 95,45,07,640/- The said petition has been filed in the required format and the name of the proposed IRP, Ms. Anju

Agarwal, alongwith her written consent in Form-2 and her Certificate of Registration with the IBBI have been annexed.

4. In the reply filed by the Corporate Debtor, they seek rejection of the petition on grounds of technical defects and have questioned the authority who has signed, verified and instituted the present proceeding. The eligibility of Ms. Anju Agarwal as the proposed IRP has also been impugned on grounds of not making any statement under the disclosures in the form.

5. The factum of availing the loan is not denied by the Corporate Debtor nor is that of being in default in liquidating the dues or non-adherence to the in terms of the letter of sanction. The Petition is annexed with a letter of authority dated 24.08.2018 in favour of Shri Rajesh Chandan Pandey, AGM authorising him to institute the present proceedings. The said letter of authority has been issued by the DGM under delegation of powers vide resolution no. 6046 passed by the Board of Directors. The Certificate of the IRP is in order. There is no disqualification attached in appointing her as the IRP in this case.

6. The factum of being in default or inability to liquidate the outstanding dues is not disputed by the Corporate Debtor. In view of the resistance offered by the Corporate Debtor to the present petition being unsustainable, the petitioner's prayer merits consideration. The petition is accordingly Admitted, and a moratorium in terms of Section 14 of Code comes into effect forthwith, staying:

"(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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;

(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.

Further,

(2) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) 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. (4) The order of

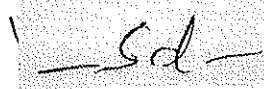
moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:


"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 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."

7. The Financial Creditor has proposed the name of Ms. Anju Agarwal, as the IRP. Her particulars are: Registration No. IBBI/IPA-001/IP-P00106/2017-18/10213, address: 73, National Park, Lajpat Nagar IV New Delhi-110024, email id: anju@ascgroup.in. Her consent and certificate of eligibility are on record. She is accordingly being confirmed as the IRP in this case. She is directed to take such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21 and shall file her report as per statutory requirements.

8. Copy of the order be communicated to both the parties as well as to the IRP.

9. To come up on for further consideration on 22nd April, 2019.


(V.K. Subburaj)
Member (T)


(Ina Malhotra)
Member (J)