

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI**

CP/1174/IB/2018

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

In the matter of M/s. Bhareth Formulations Private Limited

M/s. Bank of India

---Financial Creditor

V/s

M/s. Bhareth Formulations Private Limited

---Corporate Debtor

Order delivered on: 20.03.2019

Coram:

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

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor: *Mr. S. Sathiyamarayanan, Advocate*

For the Corporate Debtor : *Non-Present* on the date of hearing

ORDER

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

Order pronounced on: 20.03.2019

It is a Company Petition filed by the Financial Creditor (Bank of India – “the creditor”) u/s 7 of the Insolvency & Bankruptcy Code, 2016 (“the Code”) against the Corporate Debtor (“the debtor”) stating that the debtor defaulted in repaying ₹23,32,93,675.78 against the various facilities sanctioned by the creditor and renewed from time to

time to the debtor, therefore sought for initiation of Corporate Insolvency Resolution Process (CIRP) against the debtor.

2. As to the factual matrix, the creditor on 15.07.2013 sanctioned credit facilities to the tune of ₹1515.81lacs to the Debtor, in pursuance thereof, the debtor executed from 01.08.2013 to 14.08.2013 various loan and security documents as consideration to the credit facilities sanctioned by the Creditor Bank. These credit facilities were renewed on 27.01.2014 and 10.03.2015. Thereafter, when this loan account has become irregular, the loan account of the debtor was classified as NPA on 01.06.2015 in accordance with RBI Guidelines. Subsequent thereto, the Creditor Bank on 10.02.2016 issued a notice to the Debtor demanding repayment of outstanding balance, as the loan was not paid out, the Creditor Bank initiated DRT proceedings through O.A.

246 of 2016 against the debtor, basing on it, the Hon'ble DRT-II, Chennai vide its Order dated 01.03.2018 ordered for recovery of ₹17.98 crores from the debtor. In furtherance of it, on 07.05.2018, DRT-II, Chennai issued Debt Recovery Certificate (DRC No. 190/2018) u/s 19 of the Recovery of Debts due to the Banks and Financial Institutions

Act, 1993 for an amount ₹22 Crores realizable from the debtor but whereas this debtor, in spite of issuance of DRC, has not paid the amount reflected in the DRC to the creditor.

3. In support of the Claim Application, the Creditor Bank filed sanction letter dated 15.07.2013, 27.01.2014, 10.03.2015, Demand Promissory Note for a sum of ₹950 Lakhs dated 01.08.2013, Declaration dated 01.08.2013, and Letter of Undertaking dated 01.08.2013, Demand Promissory Note dated 01.08.2013 for a sum of ₹18.75 Lakhs, Instalment Letter dated 01.08.2013, Letter of Authority dated 01.08.2013, Declaration dated 01.08.2013, Demand Promissory Note dated 01.08.2013 for a sum of R. 97.06 Lakhs, Form of Guarantee dated 01.08.2013 for LC 450 Lakhs, Hypothecation-cum-Loan Agreement dated 01.08.2013 for ₹1515.81 Lakhs, Hypothecation-cum-Loan Agreement dated 24.03.2014 for ₹1515.81 Lakhs, Memorandum of Deposit of Title Deeds Document No. 3040/2013 dated 13.08.2013, Memorandum of Deposit of Title Deeds Document No.1875/2013 dated 14.08.2013, Deed of Guarantee dated 01.08.2013 and Demand Notice dated 10.02.2016.

4. Apart from the above documents, the Creditor Bank has also filed final order of DRT-II dated 02.03.2018, DRC issued by DRT-II on 07.05.2018, Certificate under Bankers Book Evidence Act dated 06.08.2018 and the Statement of Account reflecting that the debt and the default are in existence against the debtor as on the date of filing this Company Petition.
5. The Creditor Bank has also filed written communication given by the proposed Interim Resolution Professional, namely, Ms. Sridharan Revathi reflecting her consent to be appointed as IRP in this case.
6. On hearing the submissions and on the material placed before this Bench, for this Bench having noticed that debt and default are in existence against the debtor as stated by the Creditor Bank, and the Creditor having also filed consent letter of the proposed IRP, we hereby hold that it is a fit case to be admitted u/s 7 of the Code, therefore we hereby issue following directions:

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 20.03.2019 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.

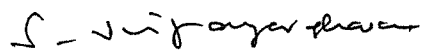
V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of IBC.

VI. That this Bench hereby appoints Mrs. Sridharan Revathi, Reg. No: [IBBI/IPA-002/IP-N00231/2017-18/10682], S1, A Block-Kgeyes Apoorvaa Apts., No. 2, Nolambur Main Road, Gangaiamma Nagar Extn, Nolambur, Chennai-6000107, E-Mail: revisri@yahoo.co.uk, Mobile No: 9840966464 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/VS