

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH

CP (IB) - 4135/I&B/MB/2018

Under Section 7 of the I&B Code, 2016

In the matter of

USV Pvt. Ltd.

BSD Marg, Station Road, Govandi, Mumbai-  
400088

.... Petitioner

Vs.

Lok Housing and Constructions Limited

Shop No. 4, Lok Bhavan, Lok Bharati  
Complex, Marol Maroshi Road, Marol,  
Andheri (East), Mumbai – 400 059

.... Corporate Debtor

Order delivered on: 03.06.2019

Coram:

Hon'ble Shri Bhaskara Pantula Mohan, Member (Judicial)

Hon'ble Shri V. Nallasenapathy, Member (Technical)

For the Petitioner: Ms. Dipali Sheth, Advocate, i/b. Eternity Legal.

For the Respondent: Ms. Kajal Solanki, Advocate, i/b. Divya Shah Associates.

*Per V. Nallasenapathy, Member (Technical)*

ORDER

1. M/s. USV Pvt. Ltd. (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process of Lok Housing and Construction Limited (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default on 19.12.2017 in making payment to the extent of Rs.1,33,24,514.50/- including interest, under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereafter called the 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The Petitioner states that on 19.12.2017, the City Civil Court at Mumbai has passed a Decree in Summary Suit No. 7306 of 2001 against the Corporate Debtor for a sum of Rs. 52,07,403/- together with interest @ 9% p.a. from the date of suit till the realization. A copy of the said Decree has been enclosed, which clearly shows that the Corporate Debtor liable to pay the due as claimed in the Petition. Since



the Corporate Debtor failed to make payment as per the Decree, the Petitioner preferred this Petition under Section 7 of the Code.

3. The Petitioner submitted that the debt is arising out of a Financial transaction wherein the Corporate Debtor borrowed money from the petitioner for repayment of loan taken by the Corporate Debtor from a third party namely Vipal Healthcare Pvt. Ltd. Hence the debt is a financial debt within the meaning of Section 5(8) of the Code and the petitioner is a financial creditor as provided under Section 5(7) of the Code.
4. This Petition was listed on 20.11.2018, 11.12.2018 and 10.01.2019 wherein the Corporate Debtor failed to appear. On 24.01.2019, one Mr. G.S. Sethi, Advocate had undertaken to file vakalat on behalf of the Corporate Debtor and he was directed to file reply on or before 30.01.2019. When the matter was listed on 30.01.2019 both sides took time on the ground that the matter is likely to be settled. On 25.03.2019 it was reported that the property offered by the corporate debtor towards the settlement of the claim is not acceptable to the Petitioner and hence the Corporate Debtor was directed to file the reply on or before 03.04.2019, with a direction to list the matter on 08.04.2019. On 08.04.2019, at the request of the both parties, the case was posted to 15.04.2019. On 15.04.2019 there was no representation on the side of the Corporate Debtor and an order was passed to the effect that if the Corporate Debtor fails to appear on the next date of hearing i.e. 01.05.2019, the right to file reply will be forfeited. On 01.05.2019 the Counsel for the Corporate Debtor was present but no reply has been filed and right to file reply was forfeited.
5. This Adjudicating Authority, heard the Petitioner and on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in making payment and also placed the name of the Insolvency Resolution Professional to act as Interim Resolution Professional and there being no disciplinary proceedings pending against the proposed resolution professional, therefore the Application under sub-section (2) of section 7 is taken as complete, accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:
  - I. (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 (SARFAESI Act);



- (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 the 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 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 03.06.2019 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of Corporate Debtor under section 33, 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 the Code.
- VI. That this Bench hereby appoints Mr. Hemant J. Mehta, B-4, Panchsheel, Nath Pai Nagar, Ghatkopar (E), Mumbai- 400 077, Email:- hemant@apmh.in, having Registration No. IBBI/IPA-001/IP-P00027/2016-17/10060as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.
6. Accordingly, this Petition is admitted.
7. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional immediately.

SD/-  
V. Nallasenapathy  
Member (Technical)

SD/-  
Bhaskara Pantula Mohan  
Member (Judicial)



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2010-07-19

Assistant Registrar  
National Company Law Tribunal Mumbai Bench