

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH

Company Petition (IB)No.356/ALD/2019

(Under Section 7 of Insolvency and Bankruptcy Code,2016 read with Rule 4 of
the Insolvency and Bankruptcy (Application to Adjudicating Authority)
Rule,2016)

IN THE MATTER OF

Shriyank Wadhawa

.....Applicant/Financial Creditor

VERSUS

Chaudhary Ingots Pvt. Ltd.

.....Respondent/Corporate Debtor

ORDER RESERVED ON : 27.11.2019
ORDER DELIVERED ON :03.01.2020

CORAM:

Hon'ble Mr. Justice (Retd.) Rajesh Dayal Khare, Member, Judicial

For the Applicant/ Operational Creditor: Sh. Shahid Kazmi ,Advocate

For the Respondent/ Corporate Debtor: Sh. Faizan Siddique,Advocate

Per se: Mr. Justice (Retd.) Rajesh Dayal Khare, Member (Judicial)

Order

1. The present petition has been filed under Section 7 of the Insolvency & Bankruptcy Code,2016, (hereinafter referred to as the "Code"), praying for initiation of Corporate Insolvency Resolution Process of the Corporate debtor on grounds of its inability to liquidate its financial debt.
2. As per averments made in the petition, the Corporate Debtor and the applicant had entered into a loan facility Agreement dated 01.11.2018, whereby a loan amount of Rs.63,00,000 was disbursed by the applicant to the corporate debtor and the Corporate debtor was under obligation to pay the entire amount on or before 30.04.2019 along with interest @ 15%p.a. compounded annually and penal interest @ 2% p.a. on the defaulted amount was payable. However, the corporate debtor defaulted in making payment of the entire amount and demand was raised by the financial creditor vide its letter dated 04.05.2019 for which reply was received on vide letter dated 08.05.2019 whereby the

— sd —

ii.)Whether there is default in payment by the corporate debtor.

iii.)Whether the documents attached with the application shows that there is default in payment of debt and name of resolution professional is proposed to act as IRP and no disciplinary proceedings are pending against the proposed resolution professional.

7. Hence, the application filed on behalf of financial creditor/Applicant under Section 7 of IBC is found complete. The present petition being filed in August,2019 is well within limitation, being within three years from the date of the cause of action. It is seen that the amount in default is in excess of Rs. 1,00,000/- being the minimum threshold limit fixed under IBC to trigger off providing under Section 7 of the IBC.

8. Further the default of the debt has been admitted by the corporate debtor in the reply filed by them and applicant has annexed sufficient evidence to show the default on behalf of the corporate debtor. Considering these circumstances this adjudicating Authority is inclined to admit this petition and initiate CIRP of the Respondent Company. Accordingly, this petition is admitted.

9. A moratorium in terms of Section 14 of the Insolvency & Bankruptcy Code, 2016 shall come into effect forthwith stating:-

(i) Subject to provisions of sub-sections (2) and (3), on the insolvency Commencement date, the Adjudicating Authority shall by order declare a moratorium on prohibiting all of the following, 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;

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