

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP (IB) -4348/I&BP/MB/2018

Under Section 7 of the I&B Code, 2016

In the matter of

Dena Bank,
Dena Corporate Centre, C-10, G- Block,
Bandra - Kurla Complex, Bandra (East),
Mumbai - 400051

.... Petitioner

Vs.

Man Tubinox Ltd. (Formerly Known as
Man Steel & Power Ltd)
102, Man House, 2nd Floor, S.V. Road,
Ville Parle (West), Mumbai-400056

.... Respondent

Order delivered on:12.06.2019

Coram:

Hon'ble Bhaskara Pantula Mohan, Member (J)
Hon'ble V.Nallasenapathy, Member (T)

For the Petitioner: Shri Manoj Mishra, Advocate

For the Respondent: Shri Aakash Joshi, Advocate, i/b MAG Legal

Per: Bhaskara Pantula Mohan, Member (J)

ORDER

1. Dena Bank (hereinafter called 'Petitioner') has sought the Corporate Insolvency Resolution Process of Man Tubinox Ltd. (hereinafter called the 'Corporate Debtor') on the ground, that the Corporate Debtor committed default on 30.05.2018 in repayment of facility granted to the Corporate Debtor to the extent of Rs. 25,34,52,203/- 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 brief facts of the case are that the Petitioner has granted/sanctioned the various credit facilities to the Corporate Debtor from time to time. The petition further reveals that on 20.01.2015, the existing non fund based facility of Rs. 15 Crores was enhanced by the Petitioner to Rs. 23 Crores.

3. The Petitioner enclosed the following security documents along with the Petition in respect of sanctioning/renewal of credit facilities to the Corporate Debtor:-
- i. Letter of continuity dated 25.04.2013 and 10.03.2014.
 - ii. Application for renewal of working capital limit dated 20.01.2015.
 - iii. Declaration cum undertaking cum indemnity for creating equitable mortgage against 1/3rd undivided share in favour of bank dated 25.04.2013.
 - iv. Cash Credit hypothecation of stock/book debts.
 - v. Memorandum of modification of hypothecation agreement from Corporate Debtor dated 10.03.2014.
 - vi. Demand Promissory Note dated 10.03.2014.
 - vii. Letter of Guarantees dated 25.04.2013 and 10.03.2014.
4. The Petitioner has enclosed the Statement of Account for the facilities granted to the Corporate Debtor which shows that the amount claimed in the Petition is in consonance with the Statement of Account.
5. The Petitioner has sent various letters/ reminders to the Corporate Debtor recalling the entire amount due, but they failed to repay the said amount as a result of which the accounts of the Corporate Debtor were classified as Non Performing Assets (NPA) with effect from 27.08.2018 as per Reserve Bank of India Prudential Norms.
6. The Petitioner further issued Recall Notice dated 27.10.2018 recalling the entire outstanding dues from the Corporate Debtor. The Corporate Debtor replied to the said recall notice and submits that currently they are facing financial difficulty.
7. The Petitioner has annexed the certificate dated 10.10.2018 under Section 2A(a) of Banker's Books Evidence Act, 1891 to the Petition.
8. The Corporate Debtor filed reply to the petition wherein it was stated they could not start the project till date due to the delay in disbursement of loan. The Corporate Debtor further submitted that due to Demonetisation in the year, 2016, the trading business badly affected. The Corporate Debtor is trying to settle with the Petitioner and is taking steps in that regard and had requested for further time and they also submit a OTS proposal vide letter dated 10.01.2019, which was rejected by the Petitioner without giving any reasonable opportunity to the Corporate Debtor. The Corporate Debtor further submitted

that the Hon'ble High Court has held that the parallel proceedings in NCLT and DRT are not allowed. The Corporate Debtor has neither disputed the liability nor the default.

9. During the course of arguments, the learned counsel appearing on behalf of the Corporate Debtor also candidly admitted the debt and default and in fact expressed his no objection for admission of this Petition.

10. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the loan availed 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 12.06.2019 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. Vikas Prakash Gupta, 3rd floor, Plot No. 16B, Padhmanabh Apartment, Tilak Nagar, Nagpur -440010, Email:-vikas.gupta@bngca.com, having Registration No. IBBI/IPA-007/IP-P00501/2017-18/10889 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

10. Accordingly, this Petition is admitted.

11. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional immediately.

Sd/-

V. NALLASENAPATHY
Member (T)
/Rohit/

Sd/-

BHASKARA PANTULA MOHAN
Member (J)