

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

Coram : Shri Jinan K.R.,
Hon'ble Member(J)
&
Shri Madan B. Gosavi
Hon'ble Member(J)

C.P. (I.B.) No.756/KB/2017

In the matter of:

The Insolvency and Bankruptcy Code, 2016;

-And-

In the matter of:

An application under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

Asset Reconstruction Co. (India) Limited, company registered under the Companies act, 1956 and having its registered office at The Ruby, 10th Floor, 29, Senapati Bapat Marg, Dadar (West), City and District Mumbai-400028, Maharashtra and regional office at Room No A-11, 8th Floor, Chatterjee International Centre, 33 A, Jawaharlal Nehru Road, Kolkata-700 071 within the jurisdiction aforesaid;

...**Applicant/Financial Creditor**

-And-

In the matter of:

M/s. Ramsarup Vyapaar Limited, a company incorporated under the Companies Act, 1956 and having its Registered office at 7C, Kiran Shankar Roy Road, Hastings Chamber, Kolkata-700001, West Bengal;

...**Respondent/Corporate Debtor**

Counsels on Record:

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|-----------------------------------|------------------------------|
| 1. Mr. Vikram Wadehra, Advocate |] For the Financial Creditor |
| 2. Ms. Vidushi Chokhani, Advocate |] |

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Date of Pronouncing the order: 17th May, 2018

ORDER

Per Shri Jinan K.R., Member(J):

The Applicant/Financial Creditor, Asset Reconstruction Company (India) Limited has filed this petition under section 7 of Insolvency & Bankruptcy Code,2016 (hereinafter to be referred as the I.B. Code), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiation of Corporate Insolvency Resolution Process against the Respondent/Corporate Debtor, M/s Ramsarup Vyapar Limited. The Financial Creditor has stated that the Corporate Debtor has committed default in making payment of Rs.113,52,81,457/- (Rupees one thirteen crores fifty two lakhs eighty one thousand four hundred fifty seven) only as on 15.10.2017.

2. The Financial Creditor, Asset Reconstruction Company India Ltd., was incorporated on 11th February, 2002 and having its registered office situated at The Ruby, 10th Floor, 29, Senapati Bapat Marg, Dadar (West) Mumbai-400028, Maharashtra, India. The Identification Number of the Financial Creditor is U65999MH2002PLC134994.

3. The Corporate Debtor, M/s. Ramsarup Vyapaar Limited, having Identification No. U51109WB1992PLC055382 is a company incorporated on 8th May, 1992. The registered office of the Company is situated at 7C, Kiran Shankar Roy Road, Hasting Chamber, Kolkata- 700 001. The authorized share capital of the company is Rs.2,35,00,000/- and paid up share capital of the company is Rs.2,21,00,000/-. Both the figures are as on 31st March, 2015.

4. Brief facts arising out of the petition are stated below.

(i) On 1st June, 2015, an assignment agreement of debt for immovable property was entered upon between the State Bank of India as Assignor

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and Asset Reconstruction Company (India) Limited (also in its capacity as Trustee of the "Arcil-CPS-001-VII Trust") as the Assignee.

(ii) The applicant in course of its business of lending had extended financial assistance of Rs.40,60,00,000 (forty crore) in the form of loan to the Corporate Debtor on executing Loan-cum Hypothecation Agreement dated 23.09.2009. Complete details of the loan sanctioned in different accounts and date of disbursement of loan is given in **Annexure 'H' at page 160 to 178** of the petition.

(iii) According to the petition filed by the applicant, there is a total outstanding exposure (with the principal amounts, accrued interest and penal interest), which is given in the Computation sheet. The Corporate Debtor has committed total default of Rs.113,52,81,457/- including interest as on 15th October 2017. Details of total outstanding amount and accrued interest are mentioned at page 49 in **Annexure 'D'**.

(iv) The petition filed by the applicant shows that the Corporate Debtor has been declared as NPA with effect from 28th January, 2012.

5. The applicant in support of its claim has filed copy of statement of account showing interest calculation of the cash credit relating to the aforesaid loan of corporate Debtor for period from 31st December 2014 (**Annexure 'N'**), annexed Loan cum Hypothecation agreement dated 23rd September 2009 in **Annexure 'H' (page 160-178)**; Copy of the Deed of Guarantee for overall limit dated 23rd September, 2009 for Rs. 40,60,00,000 in **Annexure 'I' (page 179-192)**; a copy of the Consent Letter executed by the Borrower dated 23rd September, 2009 marked as **Annexure 'J'**; Statement of Account dated 31st December 2014 as **Annexure 'N' (page 202-204)** and Certificate under IT Act, 2000 marked as **Annexure-'O'**.

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6. The applicant has also filed the copies of Charge by way of Equitable Mortgage created on 24th September, 2009 on some assets, i.e., First Charge on the entire fixed assets, charge by way of Hypothecation created on 23rd September, 2009 on the entire current assets of the company, copy of personal guarantor, Mr. Ashish Jhunjhunwala, Corporate Guarantor M/s. Naresh Engineers Limited and also a copy of the Certificate of Registration of Charge issued by the Registrar of Companies marked as **Annexure "E"** to the petition.

7. The Financial Creditor has proposed the name of the interim resolution professional as Mr. Jitendra Lohia, an Insolvency Professional registered with the Indian Institute of Insolvency Professionals of ICAI having Registration No. IBBI/IPA-001/P00170/2017-2018/10339 of 2, Lal Bazar Street, 2nd floor, Room No.204 and 205, Kolkata- 700001, E-mail: jitulohia@knjainco.com. A written communication dated 4th December, 2017 in terms of Rule 9(1) of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and consent in Form 2 have been filed before this Tribunal along with the petition and annexed as **Annexure "A" at pages 14 to 17**. A declaration has also been made to the effect that no disciplinary proceedings is pending against him. Other disclosures and eligibility under rule 9(2) as required have also been made by him.

8. The Applicant has also affirmed in the petition that Mr. Adil Rashid, working in the capacity of Chief Manager Legal has been authorized, whose address is Room No. A-11, 8th floor, Chatterjee International Centre, 33A, J.L. Nehru Road, Kolkata-700 001. The applicant has also filed the Authorisation letter/ Power of attorney dated 8th December 2017 issued by the Asset Reconstruction Company (India) Limited showing that Mr. Adil Rashid is appointed as the lawful attorney for the initiation of the Corporate Insolvency Process before National Company Law Tribunal on behalf of the Asset

