

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

IBA/258/2019

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

In the matter of M/s. Excel Glasses Limited

M/s. Boon Investment and Trading Company Private Limited

---Financial Creditor

V/s

M/s. Excel Glasses Limited

---Corporate Debtor

Order delivered on: 26.03.2019

Coram:

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

S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor: *Shri. Raj Jhabakh, Advocate*
Ms. Preeti Mohan, Advocate
For J & M Legal

For the Corporate Debtor : *Shri. Pawan Jhabakh, Advocate*

ORDER

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

Heard and Pronounced on: 26.03.2019

It is a Company Petition filed u/s 7 of the Insolvency & Bankruptcy Code, 2016 ("the Code") by the Financial Creditor (the Creditor) against the Corporate Debtor (the Debtor) seeking initiation

of Corporate Insolvency Resolution Process (CIRP) against the Debtor on the ground that it has defaulted repaying loan amount (principal along with interest) of ₹9,77,99,949 as on 05.02.2019.

2. Looking at the facts of the case, we are given to understand that the Financial Creditor sanctioned a loan of Inter Corporate Deposit of ₹5, 00, 00, 000 @ 12% interest per annum repayable within one year, accordingly the creditor disbursed it to the Debtor on 04.04.2012. The Debtor also acknowledged the disbursement of the loan amount through RTGS on 05.04.2012, then on 25.02.2013 when the Debtor expressed its inability to repay the aforesaid loan amount, the Creditor granted the same by noting its approval on the same letter. Again when the debtor asked another extension on 05.03.2014 for one more year, again it was also granted. On 04.03.2015, when the Debtor sought for additional extension of three years to repay the aforesaid loan amount, the creditor on 06.03.2015 granted extension of two years instead of three years as sought by the Debtor. When no repayment has come even after extension of two years from 06.03.2015, the

Financial Creditor has sent another letter on 10.04.2017 calling upon the Debtor to make immediate payment of ₹6,62,00,000 (principal amount plus interest) plus penal interest @ 6% per annum amounting to ₹1,50,00,000. Likewise, the Creditor has sent two letters dated 23.10.2017 and 05.04.2018 demanding the Debtor to repay the principal along with interest. As the loan was not repaid despite the creditor calling upon the debtor to repay the same, the credit period extended has come to end. On seeing repayment has not been done, finally the Creditor initiated these proceedings against the Debtor.

2. As against the claim made by the Creditor, the Debtor counsel having admitted the factual aspects that has been mentioned by the creditor side, this Bench, looking at the material furnished and the consent letter given by the IRP Mr. Ravindra Chaturvedi for being appointed as RP in this case, being satisfied of the material disclosing existence of debt and default, we hereby admit this Company Petition with the directions as follows:

- 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 26.03.2019 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 the debtor u/s 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 **Mr. Ravindra Chaturvedi**, having Registration Number [IBBI/IPA-001/IP-P00792/2017-2018/10936], BKC Centre, 31-E, Laxmi Industrial Estate, New Link Road, Andheri (West), Mumbai-400053, Email: ravinchaturvedi@hotmail.com, 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.

3. Accordingly, this Petition is **admitted**.

4. 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.

-SD

(S. VIJAYARAGHAVAN)
MEMBER (Technical)

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(B. S.V. PRAKASH KUMAR)
MEMBER (Judicial)

vs