

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2**

C.P.(I.B) No. 184/NCLT/AHM/2018

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 01.09.2020**

Name of the Company: Indian Overseas Bank
V/s.
AMW Motors Ltd.

Section : 7 of the Insolvency and Bankruptcy Code, 2016

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
--------------	-------------------------------	--------------------	-----------------------	------------------

1.

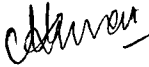
2.

ORDER

Advocate, Mr. Amit Laddha appeared on behalf of the Petitioner. Advocate, Mr. Raheel Patel appeared on behalf of the Respondent.

The order is pronounced in the open court vide separate sheet.


**CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL**


**MANORAMA KUMARI
MEMBER JUDICIAL**

Dated this the 1st day of September, 2020

**BEFORE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**

C.P.(IB) No. 184/NCLT/AHM/2018

In the matter of:

INDIAN OVERSEAS BANK

Registered Office at:

762/763, Anna Salai,
Chennai-600 002

....Petitioner
(Corporate Applicant)

Versus

AMW MOTORS LTD.

Registered Office at:

Bachau Road, Near Village Kanaiyabe,
Bhuj Kachchh, Gujarat – 370020, India

.... Respondent
(Corporate Debtor)

Order delivered on 1/09/2020

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

Appearance:

Mr. Navin Pahwa, Learned Senior Counsel, appeared for the Petitioner.
Mr. Raheel Patel, Learned Lawyer, appeared for the Respondent.

ORDER

[Per se: Mr. Chockalingam Thirunavukkarasu, Member (T)]

1. Shri. Shubhendu Kumar Verma, Deputy General Manager of Indian Overseas Bank, on behalf of the Petitioner/Financial Creditor has filed this Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the IB Code"] read with Rule 4 of the Insolvency and Bankruptcy Application to Adjudicating Authority Rules, 2016 (hereinafter referred to as "the Rules") for the purpose of initiating corporate insolvency resolution process

Chockalingam

Manorama

[hereinafter referred to as "CIRP") against AMW Motors Limited, the Respondent company/Corporate Debtor.

2. AMW Motors Limited, the Respondent, a company incorporated on 19.09.2011, under the provisions of the Companies Act, 1956 having its Registered Office at Bachau Road, Near Village Kanaiyabe, Bhuj Kachchh, Gujarat- 370020, India. The Company is engaged in manufacturing & sale of automobile components.
3. The Authorised Share Capital of the Respondent Company, is Rs.120,00,00,000/- (Rupees One Hundred Twenty Crores only). The Paid-Up Share Capital of the Respondent Company is Rs. 108,32,21,330/- (One Hundred Eight Crores Thirty-Two Lakhs Twenty-One Thousands Three Hundred Thirty Only). The Respondent is having its CIN: U35204GJ2011PLC067190.
4. As per Part IV of the application, the total amount of debt sanctioned by Indian Overseas Bank, the Financial Creditor amounted to Rs. 401,37,84,666/- (Rupees Four Hundred One Crores Thirty-Seven Lakhs Eighty-Four Thousand Six Hundred Sixty-Six only) in the form of term loans and cash credit. It is further stated that the total amount of default as on 26.10.2015 amounted to Rs. 515,34,27,169.91/- (Rupees Five Hundred Fifteen Crores Thirty-Four Lakhs Twenty-Seven Thousands One Hundred Sixty-Nine and Ninety-One paisa only). The date of default is 26.10.2015.
5. It is stated by the Petitioner Bank that aforesaid Credit Facilities were secured by Equitable mortgage of immovable property and the hypothecation of Movable Assets and Current Assets of the Corporate Debtor and attached the copy of documents in support of the same.
6. The Petitioner submitted the following documents in support of his claim against the Corporate Debtor.

- Bank Account Statements.





- Record of default report dated 18.05.2020, from Information Utility, National E-Governance Services Limited.
7. It is submitted by the Corporate Debtor that they are one of the leading automobile component manufacturers and due to slowdown in the industry between 2012 and 2014, they had liquidity constraints and unable to pay the debts. They had discussed with the bankers for restructuring of the loans and part of the debt was converted into equity by the bankers. The Corporate Debtor has proposed for one-time settlement scheme, which was also approved by the Joint Lenders Forum on 24.12.2019 and in terms of OTS the Corporate Debtor has to complete the payments to the lenders by 31.03.2020.
 8. The Corporate Debtor has entered into an agreement with Weichai Group of China on 03.03.2020 and Weichai Group and China has agreed to invest USD 154 Million. But, due to global disruption caused by COVID 19 and the prolonged lockdown in India and China, uncertainty over the future prospects of the business and prevailing global conditions, the Weichai Group of China has suspended the agreement for now. Hence, the Corporate Debtor is unable to meet the timelines of OTS.
 9. It is further submitted by the Respondent that in the event of CIRP is initiated, considering the current market conditions, there is a good chance that the optimum value of the assets may not be realized and the timelines could be significantly delayed. This would be against the spirit of the IBC considering the potential investment in the Respondent Company and in the light of the greater realization of investment value. Hence, Respondent has prayed for the dismissal of the application.
 10. It is noted that the default has occurred on 26.10.2015 and the petition is filed on 12.04.2018. Sufficient opportunities have been given to the Petitioner from August 2018 on the ground of settlement. Hence, the objections by the Respondent are not sustainable.
 11. Gone through the application filed and documents submitted by the Petitioner Bank. As per Section 7 of IBC, in an application preferred by the Financial Creditor for initiation of Corporate Insolvency Resolution Process, the Adjudicating Authority is required to see the existence of




3

financial debt and ascertain the existence of default. As per the documents submitted by the Petitioner that there is a financial debt in the form of loans availed by the Corporate Debtor. The date of default is on 26.10.2015. The last date of transaction from the statement of accounts furnished is on 22.06.2017. The application is filed on 12.04.2018, hence the application is filed well within the period of limitation. The application is filed by Shri Shubhendu Kumar Verma, Deputy General Manager of the Petitioner's Bank with authorization papers.

12. The Petitioner has proposed the name of Mr. Avil Menezes having Registration No. IBBI/IPA-001/IP-P00017/2016-17/10041 to act as IRP under Section 13(1)(b) of the IB Code and written communication in Form-2 of IBBI has been submitted by the proposed IRP.
13. From the documents placed on record, this Adjudicating Authority is satisfied that default has been committed by the Corporate Debtor in repayment of loan amount to the Bank. The petition is complete. As a consequence, the instant petition is admitted in terms of Section 7 of the IB Code and the moratorium as envisaged under the provisions of Section 14(1) of IB Code and extracted hereunder shall follow in relation to the Respondent Corporate Debtor.

(1) Subject to provisions of sub-Section (2) and (3), on the Insolvency Commencement date, the Adjudicating Authority herein declares moratorium for prohibiting all of the following viz;-


- (i) 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.
- (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor, any of its assets or any legal right or beneficial interest therein;
- (iii) 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

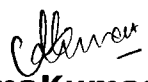
Shubhendu Kumar Verma

Shubhendu Kumar Verma 4

and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(54 of 2002);

- (iv) the recovery of any property by an owner as lessor where such property is occupied by or in the possession of the Corporate Debtor.
- (2) The supply of goods and essential services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- (3) The provisions of sub-section (1) shall, however, not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.
- (4) The order of moratorium shall have effect from the date of receipt of authenticated copy of this order 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.
14. This Adjudicating Authority hereby appoints Mr. Avil Menezes having Registration No. IBBI/IPA-001/IP-P00017/2016-17/10041 to act as "Interim Insolvency Resolution Professional" under Section 13(1)(b) of the IB Code.
15. The petition stand disposed of accordingly with no order as to costs.
16. Communicate a copy of this order to the Petitioner, Respondent and to the Interim Insolvency Resolution Professional.


Chockalingam Thirunavukkarasu
Adjudicating Authority &
Member (Technical)


Manorama Kumari
Adjudicating Authority &
Member (Judicial)