

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH - II
IB-1721/ND/2018

IN THE MATTER OF:

**SRLK Enterprises LLP,
A-6/5, Basement Floor,
Paschim Vihar,
Delhi – 110063.**

...Applicant

VERSUS

**Jalan Transolutions (India) Ltd.,
206 Anjara Bhawan,
D-Block Market Vivek Vihar,
New Delhi – 110095.**

...Respondent

Order Delivered on:02.04.2019

CORAM:

MS. INA MALHOTRA, MEMBER(JUDICIAL)

DR. V. K. SUBBURAJ, MEMBER (TECHNICAL)

PRESENT – Rakesh Kumar, Chetan Bisht, Advocates for the Applicant

Ranjana Roy Gawai, Vasudha Sen, Vivek Kumar, Advocates for the
Respondent



ORDER

Per Dr. V. K. Subburaj (Member Technical)

1. This is an application filed by SRLK Enterprises LLP ("Applicant") invoking the provision of Section 7 of Insolvency and Bankruptcy Code, 2016 ("the Code") against Jalan Transolutions (India) Ltd. ("Respondent") for initiating Corporate Insolvency Resolution Process ("CIRP") against the Respondent for a claim of Rs.75,82,214/-.

2. The Applicant has averred as follows:

a. The Applicant had rendered a loan to the Respondent through three transactions. The loan was rendered on the mutual understanding that the interest at the rate of 21% p.a. would be charged on monthly basis. The details of the three transactions are as follows:

S. No.	Details of RTGS and Bank	Date	Amount
1.	AXISF16232026430	19.08.2016	Rs. 25,00,000
2.	UTIBH16233043956	20.08.2016	Rs.19,00,000/-
3.	UTIBH16236009832	23.08.2016	Rs.6,00,000/-
			Rs.50,00,000/-



- b. The agreement was executed between the parties on 23.08.2016 confirming the terms of the loan – Rs.50,00,000/- loaned for two years at an interest of 21% on monthly basis.
 - c. The Applicant issued a notice on 22.09.2018 recalling the loan and claiming principal amount of unsecured loan of Rs.50,00,000/- with due interest of Rs.25,82,214/- up to 23.08.2017 that comes to Rs.75,82,214/-. No objections or dispute have been raised by the Respondent in its reply to the notice but it stated that the Respondent needs more time to repay the loan.
 - d. Since no payment has been made by the Respondent till date, the present application has been filed.
3. The Respondent has objected to the claim on the following grounds:
- a. In July 2016 one S.R. Arora approached the Respondent and expressed his desire to enter into the logistics business and purchase 30 old trucks from JTIL at an agreed price of Rs.8.50 lakhs each.
 - b. An advance payment of Rs.50 lakhs was made by S. R. Arora to the Respondent on 19.08.2016, 20.08.2016 and 23.08.2016 through Luv Kush Technologies Pvt. Ltd. The balance amount was decided



to be paid at the time of delivery of the said trucks or within a period of three months thereafter.

- c. Even after expiry of 3 months after payment of token amount the buyer did not turn up and continued to use delaying tactics stating that due to demonetization, he was facing shortage of funds and further assured that he would be shortly arranging the balance amount. After waiting for 8 months, the Respondent sold the 30 trucks to other buyers while suffering a loss of Rs.67,25,000/- due to depreciation.
- d. The agreement dated 23.08.2016 is forged, fabricated and concocted document. Moreover, the reply dated 09.11.2018 issued by the Respondent in response to the recall notice of the Applicant was an inadvertent error on part of the lawyer of the Respondent who had misunderstood the direction from the Respondent while replying to the recall notice sent by the Applicant. After the Respondent came to know that the reply to the recall notice has been wrongly sent to the Applicant, the same was enquired by the lawyer who had sent the said reply. The lawyer admitted that while answering the query of the Respondent there was a misunderstanding and error on part of the lawyer in comprehending the instructions from the



Respondent due to which the lawyer had sent an incorrect reply to the recall notice.

4. The Applicant in its rejoinder has denied the objections of the Respondent and has contended that the Respondent has put forth a false and concocted story. The Applicant has also pointed out that the email conversation between the Respondent and his lawyer is dated 10.01.2019 whereas the copy of the present petition was served on the Respondent on 06.12.2018.
5. We have perused the pleadings and heard the arguments of both sides. In light of the agreement dated 23.08.2016 signed by the Respondent and the acceptance of the liability in the reply dated 09.11.2018 it is not difficult to conclude that the Applicant is the financial creditor of the Respondent. The Respondent has objected by saying that the agreement and the signature on it are forged and fabricated. However, this claim of the Respondent is unsupported in any other way and thus, it is difficult for this Tribunal to place reliance on such a superficial claim. Further, the Respondent contends that the reply dated 09.11.2018 was issued erroneously. However, it is difficult to believe that neither Respondent nor the Respondent's lawyer reviewed the reply before issuing it to the Applicant and such a supposedly glaring error went unnoticed until the initiation of the present proceedings. Further, it is surprising that when



the application with all the annexures had been served in the beginning of December on the Respondent, it took the Respondent almost a month to notice that such a big mistake had been made by the lawyer. These objections raised by the Respondent come across as excuses to avoid the present proceedings and do not inspire confidence in this Tribunal. The Tribunal concludes that this is a fit case to be admitted and initiates CIRP of the Respondent.

6. A moratorium in terms of Section 14 of the Code is imposed forthwith in following terms:

“(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.*
- (2) The supply of essential goods or 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 not apply to such
transactions 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
such order till the completion of the corporate insolvency
resolution process.”*

7. The interim resolution professional (“IRP”) proposed by the Applicant is Mr. Rakesh Kumar Gupta (Email – rkg.delhi.ca@gmail.com) being confirmed by this Bench. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report within 30 days before this Bench.



9. Renotify this case for report of the IRP on 29.04.2019.



Dr. V.K. SUBBURAJ

Member (TECHNICAL)



INA MALHOTRA

Member (JUDICIAL)

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