

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH- COURT II**

**CP (IB) 937/MB/C-II/2020**

Under section 10 of the Insolvency and Bankruptcy Code, 2016 r.w. Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

*In the matter of*

**Warasgaon Power Supply Limited**  
Subsidiary of Lavasa Corporation Limited (LCL)  
**[CIN : U40101MH2010PLC200845]**  
Hincon Home, L.B.S Marg, Vikhroli (West), Mumbai-400093.  
...Corporate Debtor

Through its Resolution Professional,

**Mr. Shailesh Verma**  
**Resolution Professional of**  
**Lavasa Corporation Limited (LCL)**  
E 1004, Vijaya Apartments, Mall Road, Ahinsa Khand 2, Near Shanti Gopal Hospital, Indirapuram, Ghaziabad, Uttar Pradesh, 201014.

...Corporate Applicant

**Order Delivered on 08.02.2021**

***Coram:***

Mr. H. P. Chaturvedi	:	Hon'ble Member (Judicial)
Mr. Ravikumar Duraisamy	:	Hon'ble Member (Technical)

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***Appearances:***

For the Corporate Applicant : Mr. Ravi Kadam, Senior Counsel, a/w Mr. Ameya Gokhale, Ms. Salonee Kulkarni, Ms. Kirti Kalyani i/b Shardul Amarchand Mangaldas & Co.

For the Financial Creditor : Mr. Rugved More, Advocate.

**ORDER**

***Per: Mr. H. P. Chaturvedi, Member Judicial***

1. This Company Petition is filed by Warasgaon Power Supply Limited (hereinafter called “Corporate Debtor”), through Resolution Professional of Lavasa Corporation Limited (LCL). Corporate Debtor is a wholly owned subsidiary of Lavasa Corporation Limited (LCL), Mr. Shailesh Verma (hereinafter called “Corporate Applicant”), IBBI registration no.: IBBI.IPA-002/IP-N00070/2017-18/10148 under Section 10 of Insolvency and Bankruptcy Code 2016 (“the Code”) read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, for initiation of Corporate Insolvency Resolution process.
2. The Corporate Applicant submits that Corporate Debtor’s registered office is situated at Hincon Home, L.B.S Marg, Vikhroli (West), Mumbai-400093 incorporated on 12.03.2010 vide CIN U40101MH2010PLC200845 on the file of Registrar of

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Companies, having nominal share capital of Rs.20,00,000/- and Equity Share Capital Rs.10,00,000/-.

3. The Corporate Applicant is the Resolution Professional of the Lavasa Corporation Limited (LCL) appointed by this Adjudicating Authority vide an order dated 15.10.2018 passed in C.P. No. 1765 of 2018. LCL is currently undergoing CIRP which was initiated on 30.08.2018, when the petition being C. P. No.1765 of 2018, filed by the Operational Creditor against LCL was admitted.
4. The Corporate Applicant submits that presently, two other wholly owned subsidiaries, viz. Dasve Convention Centre Ltd. (“**DCCL**”) and Warasgaon Asset Management Ltd. (“**WAML**”) are also undergoing CIRP before this Adjudicating Authority in C.P. No. 574 of 2019 and C.P. No. 1757 of 2018 respectively. Further, the Corporate Applicant Submits that in MA 3664/2019 in C.P.(IB)- 1765, 1757 & 574/MB/2018 in Lavasa Corporation Limited and Warasgaon Assets Maintenance Limited and Dasve Convention Centre Limited under section 60(5) of the Insolvency and Bankruptcy Code, 2016 this Adjudicating Authority has passed an order to allow consolidation of the CIRP of LCL, with that of its two subsidiaries, i.e. DCCL and WAML placed as Annexure VII A at page 467-483 Vol. 2 of the Petition.

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5. The Corporate Applicant submits that the primary rationale for consolidating the CIRP is that the creditors of the parent company and its subsidiaries are common, it would be expedient and in the interest of the creditors to resolve their debt in a single consolidated process. The said Consolidation Order dated 26.02.2020 states that the Corporate Debtor is also wholly owned subsidiary of LCL, owes debts to creditors who are also the Financial Creditors of the parent company. It has been recognized in the Consolidation Order with respect to the Corporate Debtor that: -

*“14. Warasgaon Power Supply Limited (WPSL) is a wholly owned subsidiary of LCL, though not undergoing CIRP, has only one Financial Creditor i.e. L&T Infrastructure Finance Co. which is also among the Financial Creditors of LCL. The entire financial Debt of WPSL has been admitted as Financial Debt of LCL pursuant to the Corporate Guarantee and security provided by LCL to the Lender of WPSL. Further, WPSL is a 100% subsidiary of LCL and its business is to develop, operate and maintain the power and infrastructure of Lavasa Project. The Infrastructure of WPSL is owned by LCL. The contract under which the infrastructure is managed of WPSL would cease to have any force after LCL’s Resolution / Liquidation and thus leaving WPSL as an entity with no business or revenue stream. It would be interesting to note here that L&T, the sole Financial Creditor of WPSL who is also the Financial Creditor of LCL has confirmed that it would prefer its financial debt in WPSL to be resolved as part of the Consolidated Resolution Plan for LCL.”*

*“23(II) “Warasgaon Power Supply Limited and Dasve Retail Limited are also 100% Subsidiaries and have L&T Infrastructure*

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*Finance Company Limited and Central Bank of India respectively as the sole Financial Creditors who have agreed to resolve its Debt as part of the Consolidated Resolution Plan of LCL. However, since Warasgaon Power Supply Limited and Dasve Retail Limited are not undergoing CIRP, therefore, the Consolidated CoC of LCL, WAML and DCCL may take an informed decision regarding resolution of debt of Warasgaon Power Supply Limited (WPSL) and Dasve Retail Limited (DRL)”*

6. The Corporate Applicant submits that pursuant to the passing of the Consolidation Order, a meeting of the consolidated Committee of Creditors (“CoC”) of LCL was held on 03.03.2020, wherein the consolidated CoC has passed a resolution enabling the Corporate Applicant, as the Resolution Professional of LCL, to file the present petition under Section 10 of the Code, for the initiation of CIRP in respect of present Corporate Debtor.
7. The Corporate Applicant submits that the Corporate Debtor has no directors or employees at present. Further, the Corporate Debtor has negligible revenue stream, currently.
8. The Corporate Debtor availed a Term loan facility from L&T Infrastructure Finance Company Limited. The following documents are annexed to the Petition:
  - i. Sanction letter dated 18.09.2012 placed as Annexure I at page 17 of Vol 1 of the Petition and Facility Agreement dated 25.09.2012 placed as Annexure I at page 75 Vol 1 of

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the Petition, whereby a loan of Rs.125 crores was disbursed to the Corporate Debtor.

- ii. Sanction letter dated 02.08.2013 placed as Annexure I at page 62 Vol 1 of the Petition) and Facility Agreement dated 22.08.2013 placed as Annexure I at page 118 Vol 1 of the Petition), whereby a loan of Rs.150 crores was disbursed to the Corporate Debtor against mortgage of movable property.
9. The Corporate Applicant submits LCL being the parent company furnished Corporate Guarantees dated 25.09.2012 and 23.08.2013 in favour of the Corporate Debtor placed at page 444 and 455 in Vol. 2 of the Petition on basis which L&T Infrastructure Finance Company Limited has also filed a claim in the CIRP of LCL. Further the Corporate Applicant submits that an inter-corporate deposit was advanced by LCL to the Corporate Debtor to the tune of Rs.59,53,28,017 (Rupees Fifty-Nine crores fifty-three lakhs twenty-eight thousand and seventeen) only.
10. The Petition reveals that the Corporate Debtor has defaulted in the repayment of the aforesaid amount, to the tune of Rs. 379.27 Crores (Rs. 259.19 crores along with interest amounting to Rs. 120.08 crores only as on 29.02.2020). The record of default supported by relevant documents is provided in a detailed manner.

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11. The Corporate Debtor further has also defaulted on the deposit which was advanced by LCL to the tune of Rs.59,53,28,017 (Rupees Fifty-Nine crores fifty-three lakhs twenty-eight thousand and seventeen only).
  
12. Thus, the Corporate Debtor has defaulted totally to the tune of Rs. 438,80,28,017 (Rupees Four hundred and thirty-eight crores eighty lakhs twenty-eight thousand and seventeen only) towards financial creditors, i.e. L&T Infrastructure Finance Company Limited and LCL. Further, the Corporate Debtor owes an amount of Rs. 19,04,46,808/- (Rupees Nineteen crores four lakhs forty-six thousand eight hundred and eight only) to its operational creditors. The Corporate Debtor has an unpaid TDS liability for the month of July, 2014 to September, 2018 of Rs. 6,85,82,188 (Rupees six crores eighty five lakhs eight two thousand one hundred and eighty-eight only) and an outstanding WCT liability of Rs. 5,40,497 (Rupees five lakhs forty thousand four hundred and ninety-seven only) for the month of July, 2014 and March, 2016.
  
13. We have gone through the contents of the present IB petition and perused the documents annexed herewith having heard learned Senior Counsel for the Corporate Applicant we find that Corporate Debtor is liable to make payment to financial and operational creditors, of its debts and the default has occurred in making payments thereof.

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14. Therefore, this adjudicating authority find the Petition contains all the requisite particulars as required u/s 10 of the IB Code. Hence, its filing is in order and it is found complete as per the IB Code 2016 and Rules and Regulations made thereunder. Hence the present IB Petition deserves Admission and CIRP to be triggered in respect of the Corporate Debtor.
  
15. Therefore, this adjudicating authority hereby Admit the present Petition declaring the Moratorium in respect of Corporate Debtor u/s 14 of the IB Code with the following consequential directions:
  - (a) That this Adjudicating Authority hereby prohibits 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 as per Section 14(1)(a) of the Code;
  - (b) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein as per Section 14(1)(b) of the Code;
  - (c) any action to foreclose, recover or enforce any security



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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 (SARFAESI) Act, 2002 as per Section 14(1)(c) of the Code;

- (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 as per Section 14(1)(d) of the Code;
- (e) 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.
- (f) 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.
- (g) That the order of moratorium shall have effect from this date till the completion of the corporate insolvency resolution process or until this Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 of the Code or passes an order for liquidation of Corporate Debtor under Section 33 of the Code, as the case may be.
- (h) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.

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- (i) That this Bench hereby appoints **Mr. Shailesh Verma**, (Registration No. BBI.IPA-002/IP-N00070/2017-18/10148, having address at E1004, Vijaya Apartments, Mall Road, Ahinsa Khand 2, Near Shanti Gopal Hospital, Indirapuram, Ghaziabad, Uttar Pradesh, 201014) as Interim Resolution Professional to carry out the functions as mentioned under the Code.

16. Accordingly, this Petition is admitted.

17. The Registry is hereby directed to communicate a copy of this order to the Applicant and the Interim Resolution Professional at the earliest.

**Sd/-**

**RAVIKUMAR DURAISAMY**

**Member (Technical)**

**08.02.2021**

SAM

**Sd/-**

**H.P. CHATURVEDI**

**Member (Judicial)**