

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**  
**COURT-IV**

**Company Petition No. (IB)- 193 (ND) 2024**

*Under Section 10 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016*

**IN THE MATTER OF:**

M/S TECHNICOLOUR DREAM PANTS PRIVATE LIMITED

CIN: U74999DL2015PTC279333

....Corporate Applicant/Corporate Debtor

**Order Delivered on: 13.08.2024**

**CORAM:**

**SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,**  
**HON'BLE MEMBER (JUDICIAL)**

**DR. SANJEEV RANJAN,**  
**HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

**For the Applicant : Adv. Utkarsh Joshi**  
**For the Respondent : Adv. Aditya Singh**


**ORDER**

**PER: DR. SANJEEV RANJAN, MEMBER (TECHNICAL)**


1. The instant application has been filed by M/s Technicolour Dream Pants Private Limited ('Corporate Applicant') on 20.03.2024 under Section 10 of the Insolvency and Bankruptcy Code, 2016 with a prayer to initiate the Corporate Insolvency Resolution Process as the Corporate Debtor being the Corporate Applicant itself. The Corporate Applicant has committed the default in paying the debt as mentioned in the Part -III of the Application is of Rs. 3,22,06,856/- financial debt and Rs. 2,60,78,216/- operational debt.

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2. The Corporate Applicant is a private limited company incorporated on 21.04.2015 under the provisions of the Companies Act, 2013 having CIN: U74999DL2015PTC279333 and registered office situated at 31, Ground Floor, Sadhna Enclave, New Delhi-110017.
3. The averments made by the Corporate Applicant in the application, which are necessary for adjudicating the matter are summarized as under: -
- i. The Corporate Debtor commenced operations under the brand names 'Alaya' and 'Stage 3'. The aspiration for the business was to become a partner to the young and fashion-conscious demographic.
  - ii. In 2019 due to the increase in the growth rate of the business, the business raised funding from various investors. This led to investors funding the startup to allow it to 'scale' the business faster. However, in the following year 2020, the Covid-19 pandemic struck the blooming business. The demand to hire expensive clothes for weddings and events and slowed down due to the pandemic.
  - iii. By December 2022, the Corporate Applicant business faced reduction in sales costing them huge financial loss and they suffered to grow their business without any financial aid.
  - iv. By April 2023, the Corporate Applicant had to sell its brand to generate funds and settle with a secured creditor who had invoked a pledge over its inventory. This decision was prompted by the need to meet obligations of the secured creditor, resulting






in a significant financial loss for the company, as the creditor accepted a reduction of more than 55% on the owed amount.

- v. Therefore, the Corporate Applicant vide its board resolution dated 04.12.2023, a board of directors resolved to file application under Section 10 of the Insolvency and Bankruptcy Code, 2016 and authorized the Applicant/director to sign the petition for initiating the Corporate Insolvency Resolution Process against itself under Section 10 of the IBC, 2016. Further, in Extra Ordinary General Meeting held on 26.12.2023 with 81.47% approved the filing of present application under Section 10 of IBC, 2016. The relevant Extract of the Board Resolution is reproduced below:


***“RESOLVED THAT*** the consent of the members of Company be and is hereby accorded to make an application to the National Company Law Tribunal to initiate the process of Corporate Insolvency Proceedings as per Section 10 of the Insolvency and Bankruptcy Code, 2016.”

- vi. The Corporate Applicant submits the below mentioned documents to prove the existence of default of the debt: -
- List of names of the 210 Operational Creditors along with their respective addresses and amounts outstanding.
  - List of names of the one Financial Creditor along with their respective addresses and amount outstanding.
  - Copy of the audited Financial Statements for the financial years March 2021-2022, 2022-2023 and 12.03.2024.
  - Copy of email(s) from creditor(s) along with ledgers and invoices to clear outstanding debt.



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4. This Adjudicating Authority has issued notice to the Creditors/Respondent on 24.04.2024. The Ld. Counsel for the Corporate Applicant has issued a paper publication vide order dated 22.05.2024. In pursuant to notice and paper publication it is noted that no objection has been received from any creditor.
5. We have heard Ld. Counsel for the Corporate Applicant and have perused the documents produced on record. Considering the submissions made and documents placed on record, we find that the debt is due and payable by the Corporate Applicant to various Financial and Operational Creditors as specified in Part-III of the Form 6 and the Corporate Applicant is unable to pay the same.
6. As per Section 10 of Insolvency and Bankruptcy Code, 2106 a Corporate Applicant can file an application before the Adjudicating Authority, seeking initiation of Corporate Insolvency Resolution Process of the Corporate Debtor that has committed a default, for initiating Corporate Insolvency Resolution Process with the Adjudicating Authority, in a prescribed form by enclosing the following:
- The information relating to its books of account and such other documents for such period as may be specified;*
  - The information relating to the resolution professional proposed to be appointed as an interim resolution professional; and*
  - The Special resolution passed by shareholders of the Corporate Debtor or the resolution passed by at least three-fourth of the total number of partners of the Corporate Debtor, as the case may be, approving filing of the application.*
- As per 10(4) the Adjudicating Authority can admit an application if the same is complete and no disciplinary proceedings are pending against the proposed Resolution Professional.*





7. It is observed that in the instant case there was a debt due and there was a default of the same. It is also observed that the Corporate Applicant was not earning sufficient profits to repay its debts. The Corporate Applicant, vide its Board resolution dated 26.12.2023, had resolved to file application under Section 10 of the Code, 2016. The members of the Corporate Applicant after due discussions and deliberation had resolved by way of Special Resolution to file an application under Section 10 of the Code, 2016 in their General Meeting dated 22.11.2022. The certified true copy of the Board Resolution dated 31.10.2022 and Special Resolution dated 22.11.2022 is annexed in the Company Application.

8. This is seen from the audited financial statements for the financial years 2021-2022, 2022-2023 and 12.03.2024 that the Corporate Applicant was having substantial Losses.

9. The Corporate Applicant, vide its Board resolution dated 04.12.2023, had resolved to file application under Section 10 of the Code, 2016. The members of the Corporate Applicant after due discussions and deliberation had resolved by way of Special Resolution to file an application under Section 10 of the Code, 2016 in their General Meeting dated 26.12.2023. The certified true copy of the Board Resolution dated 04.12.2023 and Special Resolution dated 26.12.2023 is annexed in the Company Application.

10. At this juncture, it will be advantageous to consider what are the requirements for admitting an application under section 10 of the Code, 2016. For this purpose, it is useful to refer the judgment of the



**Hon'ble NCLAT in Unigreen Global Pvt. Ltd. VS. Punjab National Bank & Ors. CA (AT) (INS. 81/2017)** wherein it was held that:

“20. Under both Section 7 and Section 10, the two factors are common i.e. the debt is due and there is a default. Subsection (4) of Section 7 is similar to that of sub-section (4) of Section 10. Therefore, we hold that the law laid down by the Hon'ble Supreme Court in “Innoventive Industries Ltd. (Supra) is applicable for Section 10 also, wherein the Hon'ble Supreme Court observed as “The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority”.

22. Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under Section 10 and the information as required to be submitted in Form 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 subject to ineligibility prescribed under Section 11. If all information is provided by an applicant as required under Section 10 and Form 6 and if the Corporate Applicant is otherwise not ineligible under Section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground. 23. Any fact unrelated or beyond the requirement under I & B Code or Forms prescribed under Adjudicating Authority Rules (Form 6 in the present case) are not required to be stated or pleaded. Non-disclosure of any fact, unrelated to Section 10 and Form 6 cannot be termed to be suppression of facts or to hold that the Corporate Applicant has not come with clean hand except the application where the ‘Corporate Applicant’ has not disclosed disqualification, if any, under Section 11. Nondisclosure of facts, such as that the ‘Corporate Debtor’ is undergoing a corporate insolvency resolution process; or that the ‘Corporate Debtor’ has completed corporate insolvency resolution process twelve months preceding the date of making of the application; or that the corporate debtor has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under the said Chapter; or that the corporate debtor is one in respect of whom a liquidation order has already been made can be a ground to reject the application under Section 10 on the ground of suppression of fact/not come with clean hand.

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25. Similarly, if any action has been taken by a ‘Financial Creditor’ under Section 13(4) of SARFAESI Act, 2002 against the Corporate Debtor or a suit is pending against Corporate Debtor under Section 19 of DRT Act, 1993 before a Debt Recovery Tribunal as appeal pending before the Debt Recovery Appellate Tribunal cannot be a ground to reject an application under Section 10, if the application is complete.”





11. We are of the view that the existence of debt and default is established and no winding up proceedings are pending against the Corporate Applicant and Corporate Applicant is not covered by the ineligibilities provided under Section 11 of the Code, 2016. We are satisfied that the Corporate Applicant is entitled to move an application under Section 10 of the Code in view of the admitted outstanding financial debt as well as operational debt and default of the same by the Corporate Applicant. As a sequel of the above discussion and in terms of Section 10(4) of the Code, 2016, we hereby admit the instant Petition (C.P.(IB)/193/(ND)/2024) in terms of Section 10 of the Code and CIRP is initiated against M/s Technicolour Dream Pants Private Limited.
12. The Corporate Person in Part-II of Form-6 of the Company Application has proposed the name of the Interim Resolution Professional in this application. The registration certificate and written consent of the Proposed IRP in Form-2 is annexed with the application. This Adjudicating Authority hereby appoints Mr. Rakesh Kumar Jain, having registration number IBBI/IPA-002/IP-N00053/2017-18/10105 and office at E-205, Basement, Greater Kailash Part-II, New Delhi-110048 with email – id- sirshree.rakesh@gmail.com as the Interim Resolution Professional for Corporate Debtor. The consent of the proposed Interim Resolution Professional is on record. The IRP so appointed shall file a valid AFA and disclosure about non-initiation of any disciplinary proceedings against him, within five (5) days of pronouncement of this order.





13. We direct that public announcement in pursuance of Section 13 (2) of the Code shall be made by the Interim Resolution Professional immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations, 2016) with regard to admission of this application under Section 10 of the Insolvency & Bankruptcy Code, 2016.
14. We direct the Corporate Applicant to deposit a sum of Rs. 2 Lakh with the Interim Resolution Professional namely Mr. Rakesh Kumar Jain to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Corporate Applicant. The said amount however is subject to adjustment towards Resolution Process cost as per applicable rules.
15. We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:
- “(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 Securities 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.”*

*(e) Notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period.*

16. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.
17. The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as





may be required by him in managing the day-to-day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

18. The Court Officer of this Court is hereby directed to communicate this order to the Corporate Person and the IRP through email immediately, and in any case, not later than two days from the date of this order.
19. Additionally, the Corporate Applicant shall serve a copy of this order on the IRP and on the Registrar of Companies, NCT of Delhi and Haryana, by all available means for updating the Master Data of the Corporate Applicant. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.
20. Accordingly, the instant application bearing no. **C.P.**

**(IB)/193/ND/2024 stands admitted.**



Sd/-

**DR. SANJEEV RANJAN  
MEMBER (TECHNICAL)**

Sd/-

**MANNI SANKARIAH SHANMUGA SUNDARAM  
MEMBER (JUDICIAL)**

CP (IB)-193(ND) 2024  
Order Dated: 13.08.2024

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ANISH MEHRA  
COURT OFFICER ✓

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16/08/2024  
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ASSISTANT REGISTRAR  
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