

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

(IB)-996(ND)/2020

IN THE MATTER OF:

Tulsi Nandan Kant Bansal
Registered office at :
S/o Shri. Kanhaiya Lal Bansal
R/o AK-97, Shalimar Bagh
Delhi - 110088

...Applicant/Financial Creditor

VERSUS

M/s. P.G. Advertising Private Limited
Formerly known as
M/s. Prabhatam Advertising Private Limited
Registered Office at :
Rani Jhansi Road,
New Delhi - 110055

...Respondent

Section: 7 of IBC, 2016

Order Delivered on: 18.10.2022

CORAM:

SH. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (J)
SH. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Adv. Sanjeev Kataria
For the Respondent : Adv. Sunil Choudhary

ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

Tulsi Nandan Kant Bansal (the '**Applicant/Financial Creditor**') has filed the present application under the Section 7 of the Insolvency and Bankruptcy Code, 2016 (the '**IBC, 2016**') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 with a prayer to initiate the Corporate Insolvency process against M/s. P.G. Advertising Private Limited, formerly known as Prabhatam Advertising Private Limited (the '**Respondent**').

2. The Respondent namely, M/s. P.G. Advertising Private Limited is a Company incorporated on 08.04.2005, under the provisions of erstwhile Companies Act, 1956 with CIN U74999DL2005PTC134902 having its registered office at Rani Jhansi Road, New Delhi - 110055, which is within the jurisdiction of this Tribunal. The Authorized Share Capital of the Respondent Company is Rs.5,00,00,000/-, and Paid-up Share Capital is Rs.3,80,17,910/- as per the master data annexed.

3. It is stated by the Applicant that a Loan Agreement was executed between the parties on 28.08.2018 pursuant to which the Applicant advanced a loan of Rs.1,05,00,000/- to the Respondent, which was to be repaid by 31.10.2019. It is further stated by the Applicant that the Loan was disbursed on 28.08.2018 in two tranches of Rs. 85 lakhs and Rs. 20 lakhs.

4. It is further stated by the Applicant that it has sent various reminders to the Respondent asking it to repay the loan along with interest. However, the amount was not paid by the Respondent.

5. The particulars of the total unpaid financial amount of debt and the date of default are mentioned in Column 2, Part IV of the application, which is reproduced below:

2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED	Rs.1,05,00,000/- (Rs. One Crore Five Lakh only) along with interest at the rate of 8% per annum till the date of the realization.
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6. From the perusal of the Part IV of the Application, it is observed that the Applicant has claimed Rs.1,05,00,000/-, as an unpaid financial debt. Basing on the aforesaid facts, the Applicant has prayed for initiation of CIRP against the Respondent.

7. On issuance of notice by this Adjudicating Authority, the Respondent has filed its reply dated 22.03.2021.

8. During the course of hearing on 11.10.2022, the Ld. Counsel appearing for the Respondent admitted the debt payable to the Applicant.

9. We have heard the submissions of both the parties and perused the documents placed on record. It is observed that the Applicant has not mentioned the date of default in column 2 of Part IV of the

application. Therefore, we would like to examine the date, when the debt became due and payable. At this juncture, we would, therefore, refer to the loan agreement dated 28.08.2018, relevant extract of which is reproduced below :

**TULSI NANDAN
Kant Bansal**

LOAN AGREEMENT

THIS LOAN AGREEMENT (this "Agreement")

BETWEEN

Mr. Tulsi Nandan Kant Bansal, (PAN:AAHPB3197J) , S/o Shri Kanhya Lal Bansal, aged 47 years, R/o AK 97 and having its Office at (hereinafter referred to as the "Lender", which expression shall, unless repugnant to the meaning or context thereof, mean and include their heirs, legal representatives, nominees and permitted assigns) ;

And

Prabhatam Advertising Private Limited, (PAN:AAECP0417B) , a Company incorporated under the Companies Act, 1956 and having its Registered Office at 38 Rani Jhansi Road New Delhi-110055 (hereinafter referred to as the "Borrower", which expression shall, unless repugnant to the meaning or context thereof, mean and include their heirs, legal representatives, nominees and permitted assigns) through its authorized representative / Director Mr Dinesh Gupta duly authorised vide board resolution dated 20.08.2018 ;

IN CONSIDERATION OF the Lender loaning certain monies (the "Loan") to the Borrower, and the Borrower repaying the Loan to the Lender, both parties agree to keep, perform and fulfill the promises and conditions set out in the Agreement:

LOAN AMOUNT AND INTEREST

The Lender has advanced a loan of Rs. 1,05,00,000/- through banking channel (NEFT/RTGS) on this date of entering this agreement to the Borrower and the Borrower hereby promises to repay this principal amount to the Lender, along with an interest of 08% per annum (Simple Interest), beginning from the date of disbursement till repayment.

PAYMENT


This Loan shall be repaid in full on 31st October, 2019 along with interest.

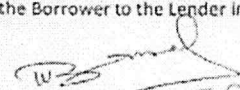
DEFAULT

Notwithstanding anything to the contrary in this Agreement, if the Borrower defaults in the performance of any obligation under this Agreement, then the Lender may declare the principal amount owing under this Agreement at that time to be immediately due and payable.

COSTS

The Borrower shall be liable for all costs, expenses and expenditures including, without limitation, the complete legal costs of the Lender incurred by enforcing this Agreement as a result of any default by the Borrower and such costs will be added to the principal then outstanding and shall be due and payable by the Borrower to the Lender immediately upon demand of the Lender.

For Prabhatam Advertising Pvt. Ltd.

Director


CERTIFIED TRUE COPY

10. From perusal of the Loan Agreement (Supra), it is observed that the loan was to be repaid by 31.10.2019 along with interest.

11. In view of the loan agreement, bank statements of the Applicant depicting disbursement of loan amount to the Respondent and admission of debt made by the Respondent during the hearing, there is enough material on record to establish default made by the Respondent.

12. In the given facts and circumstances, the present Application being complete and the Applicant/Financial Creditor having established the default in payment of the Financial Debt for the default amount above the threshold limit, **the present Application is admitted in terms of Section 7(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code.** As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry:

- “(a) The institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent 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 Respondent.”

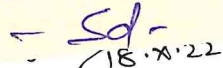
13. As proposed by the Financial Creditor, this Bench appoints Mr. Vinay Kumar Singhal as IRP having Registration No. IBBI/IPA-002/IP-N00624/2018-19/11880 (Email: vinaysinghalca@gmail.com) subject to the condition that no disciplinary proceedings are pending against the IRP so named and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. This Adjudicating Authority orders that :


“Mr. Vinay Kumar Singhal (vinaysinghalca@gmail.com) as IRP having Registration No. IBBI/IPA-002/IP-N00624/2018-19/11880 is directed to take charge of the CIRP of the Respondent with immediate effect. The IRP is directed to take the steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016.”

14. The Financial Creditor is directed to deposit Rs.2,00,000/- (Two Lakh) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

15. A copy of this Order shall be communicated by the Registry/Court Officer of this Tribunal to the Financial Creditor, the

Respondent and the IRP mentioned above. In addition, a copy of the Order shall also be forwarded by the Registry/Court Officer of this Tribunal to the IBBI for their records.


(L. N. GUPTA)
MEMBER (T)


(BACHU VENKAT BALARAM DAS)
MEMBER (J)