

SL. No.7

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

(Video Conference)

**CORAM: DR.VENKATA RAMAKRISHNA BADARINATH NANDULA – HON’BLE MEMBER (J)
CORAM: SHRI SATYA RANJAN PRASAD, HON’BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 25.05.2023 AT 10:30 PM THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No.36/7/HDB/2020
NAME OF THE COMPANY	Maruti Rich Ventures Pvt Ltd
NAME OF THE PETITIONER(S)	Gurucharan Singh Bagga
NAME OF THE RESPONDENT(S)	Maruti Rich Ventures Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

Orders in CP 36/7/HDB/2020 pronounced, recorded vide separate sheets. In the result, this Company Petition is admitted. Corporate Debtor is put under CIRP and moratorium imposed.

MEMBER (T)

MEMBER (J)

Syamala

Sd/-

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II**

CP (IB) No. 36/7/HDB/2020

[U/s 7 of I&B Code, 2016 read with Rule 4 of I & B (AAA) Rules, 2016]

Between:

Shri Gurucharan Singh Bagga

R/p D. 8-2-287/B, Road No. 14,
Banjara Hills, Hyderabad – 500 034

... **Petitioner/Financial Creditor**

And

Maruti Rich Ventures Pvt. Ltd.

**E-27, Road No. 5, Vikrampuri Colony,
Karkhana, Secnderabad – 500 026**

... **Respondent/Corporate Debtor**

Date of Order: 25.05.2023

Coram:

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA
HON'BLE MEMBER (JUDICIAL)**

**SHRI SATYA RANJAN PRASAD
HON'BLE MEMBER (TECHNICAL)**

Parties /Counsels present:

For petitioner : Shri K.V. Raman, Advocate.

For respondent: Shri G.V.B.Santosh Kumar, Advocate

[**PER: BENCH**]

ORDER

1. The Company Petition is filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, read with Rule 4 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, by Shri Gurucharan Singh Bagga claiming a sum of **Rs. 1,82,52,000/-** (Rupees One Crore Eighty Two Lakhs Fifty Two Thousand only) as on **31.07.2019**. The Financial Creditor seeks admission of this petition, initiation of Corporate Insolvency Resolution Process (CIRP), granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

2. The averments made in the application are:

(i) The owners of land in SY No. 31 to 36 and 37 to 41 situated at Madhapur, Srilingampally, Revenue Mandal, Rangareddy District, Telangana (erstwhile Andhra Pradesh) registered a General Power of Attorney vide document No. 2016 of 2012 dated 18th day of February, 2012 in the office of DRO, Rangareddy District, in favour of Maruti Rich Ventures Pvt. Ltd./Corporate Debtor.

ii) On 28th day of March, 2017 the Corporate Debtor entered in an agreement of sale without possession, which is

annexed as Annexure – B to the application, for sale of Flat No. 707 (which fell into the share of the Corporate Debtor in terms of Development Agreement-cum-GPA) to Shri Gurucharan Singh Bagga/Financial Creditor for a total consideration of Rs.1,18,22,500/- (Rupees One Crore Eighteen Lakhs Twenty Two Thousand Five Hundred Only). The said agreement was also registered with the Sub-Registrar Office, RR District, Telangana.

iii) The Financial Creditor agreed and paid an advance amount of Rs.1,17,00,000/- (Rupees One Crore Seventeen Lakhs Only) to the Corporate Debtor vide cheque bearing No. 345299, dated 3rd April, 2017 drawn on Union Bank of India, Ramkote Branch. A copy of Bank statement evidencing the payment of the said advance is annexed as Annexure – C to this application. The balance consideration was payable at the time of registration.

iv) As per the terms of the agreement, the Corporate Debtor had to hand over the abovementioned flat to the Financial Creditor within a period of 20 months from the date of execution of the agreement i.e. by 27th November, 2018 with a grace period of 6 months i.e. 27th May, 2019. However, the Corporate Debtor failed to honor the agreement even beyond the grace period and had not delivered the Flat till date to the Financial Creditor.

v) Upon failure of the Corporate Debtor to deliver the Flat, the Authorized Representative of Corporate Debtor Mr. Pramodkumar Prataprai Ramrakhyani issued 6 cheques bearing Nos. 019261 to 019263, 0186266 for Rs. 50,00,000/- (Rupees Fifty Lakhs only) each, cheque No. 019264 for Rs. 33,00,000/- (Rupees Thirty Three Lakhs only) and cheque No. 019266 for Rs. 58,00,000/- (Rupees Fifty Eight Lakhs only) in favour of the Financial Creditor. All the above cheques were drawn on Sind Cooperative Urban Bank Ltd., 1-8-50/7, Prender Ghasht Road, Secunderabad – 500 003. However, all the cheques were returned dishonoured with an endorsement “Payment Stopped by Drawer” vide Bank Return Memos dated 13th May, 2019. Copies of Cheques along with Bank return memo is attached as Annexure – D to the application.

vi) Thereafter, the Financial Creditor issued a legal notice dated 11th June, 2019 to the Corporate Debtor. The Corporate Debtor is indebted to the Financial Creditor for an amount of Rs. 1,82,52,000/- (Rs. 1,17,00,000/- towards principal amount and Rs. 65,52,000/- towards interest @ 18% accrued thereon from 3rd April, 2017 till 31st July, 2019) and shall be liable for further interest till the date of actual repayment of the dues.

3. The Corporate Debtor having entered appearance through a Counsel, Sri G.V.B.Santosh Kumar, took time to file counter, and also several adjournments stating that efforts are being made to settle the matter between the parties. However, no settlement has been reported and counter also was not filed. Under the said circumstances, this Adjudicating Authority, vide Order dated 08.07.2021 directed the Corporate Debtor to file its reply, if any, within seven days, lest the matter would be proceeded as if there is no reply. Despite the direction the Corporate Debtor did not choose to file the counter. Therefore, the right to file the counter stood *forfeited*. Even after forfeiture of the right to file the counter, the Corporate Debtor did not choose to file any counter in this regard. Therefore, the averments made in the application remain *unrebutted*.
4. In the above backdrop, we have carefully perused the records/documents filed along with the company petition. The Agreement dated 28.03.2017 entered between the Applicant and the Respondent discloses that upon failure in honouring the terms of the said Agreement, the Corporate Debtor has to compensate the Applicant. According to the Applicant, the Corporate Debtor committed breach of the terms. Hence, issued six

(6) cheques for a sum of Rs.2,91,00,000/- in favour of the Applicant and the said cheques were dishonoured with an endorsement "Payment stopped by the Drawer", when presented for realisation. Therefore, a Legal Notice demanding the payment of Rs.1,82,52,000/- being advance amount paid by the Applicant to the Corporate Debtor together with interest @ 18% p.a. has been claimed. None of these averments have been denied.

5. We are therefore satisfied that the applicant has established the financial debt of a sum exceeding of over Rs.1.00 crore due and payable by the Respondent to the Applicant, besides its default. The application is in order. Therefore, it is a fit case to admit the application. Accordingly, the instant application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process (CIRP) which shall ordinarily be completed within the timelines stipulated in the IB Code, 2016 (as amended), reckoning from the day of this order is passed.
6. The Financial Creditor has not named anyone as Interim Resolution Professional (IRP) and has requested this Adjudicating Authority to appoint one for the Insolvency Resolution Professionals as IRP. The Insolvency and

Bankruptcy Board of India (IBBI) has recommended a panel of Insolvency Professionals for appointment as Insolvency Resolution Professional for the period from January 1, 2023 to June 30, 2023 in compliance with Section 16(3)(a) of the Code in order to avoid delay. Accordingly, this Tribunal appoints **Mr. Bethanabhotla Sudhakar, having Registration No. IBBI-IPA-003/IP-N00402/2022-2023/14091, email:bethanabhotla.sudhakar@gmail.com, Mobile No.9704719072 as Interim Resolution Professional.** As per the IBBI website, his AFA is valid upto 07.09.2023. He is directed to file Authorization for Assignment within three days from the date of this order.

7. The IRP is directed to take charge of the Respondent/Corporate Debtor's Management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IB Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.
8. We direct the Financial Creditor/Petitioner to pay a sum of Rs.2,00,000/- towards the advance fee of IRP and

expenses towards CIRP, which shall be ratified later on by CoC.

9. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP. For the purposes referred to in Section 14 of the IB Code, 2016. It is hereby ordered to prohibit all of the following namely:-

- 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 or 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 rights 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 and Reconstruction of Operational Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);*
- iv. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*
- v. Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances 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, concessions, clearances or a similar grant or right during the moratorium period.

10. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements. or other arrangement as may be notified by the Central Government in consultation with any operational sector regulator or any other authority.

11. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.
12. The Petitioner/Financial Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
13. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
14. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
15. Accordingly, this Petition is admitted.

Sd/-
SATYA RANJAN PRASAD
MEMBER (TECHNICAL)

Sd/-
DR.N.V.RAMA KRISHNA BADARINATH
MEMBER (JUDICIAL)