



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI C-IV**

**CP (IB) No. 359/MB/2023**

Under section 10 of IBC, 2016

In the matter of

**FULCRUM TRAINING SERVICES PRIVATE  
LIMITED,**

(CIN- U93000MH2011PTC218630)

A-1, Mittal Tower, Barrister Rajani Patel Marg,  
Nariman Point, Mumbai, Maharashtra 400021

.... Corporate Applicant

Order delivered on: 02.08.2023.

***Coram:***

Mr. Prabhat Kumar  
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli  
Hon'ble Member (Judicial)

***Appearances (via videoconferencing):***

For the Petitioner:

Mr. Prakhar Tondon i/b Niranjan  
Karmarkar, Ld. Counsel.



**ORDER**

***Per: Kishore Vemulapalli, Member (Judicial)***

1. This Company Petition is filed by **FULCRUM TRAINING SERVICES PRIVATE LIMITED** (hereinafter called Corporate Applicant), 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 was incorporated on 14.06.2011 by and under the name of Sport Direct Distribution Private Limited, at Mumbai to carry on business of production, sale, e-commerce, franchising of sports products as well as to identify, develop, train and promote sports persons in all types of sports activities. The name of the Corporate Applicant was changed from time to time and finally in 2019 was changed to Fulcrum Training Services Private Limited.
  - 2.1. The Corporate Applicant had availed the unsecured long-term loan ('Facility-1') from one Mr. Rakesh Biyani, amounting to Rs. 3,05,00,000/- (Rupees Three Crore Five Lakh Only). The first tranche amounting Rs. 3,50,000/- (Rupees Three- Lacs Fifty Thousand) was disbursed on 20th August 2011. The said facility was required to be repaid in full by 31 July 2021. The said facility was partly repaid and in view thereof, the said facility stood reduced to Rs. 1,93,83,945/- (Rupees One Crore Ninety-Three Lakh Eighty-Three Thousand Nine Hundred and Forty-Five Only).
  - 2.2. The Corporate Applicant had availed an unsecured long-term loan ('Facility-2') from Global Kitchens Private Limited (herein after also

referred to as "GKPL"), (a shareholder of the Corporate Applicant) amounting Rs. 5,00,00,000/- (Rupees Five Crore Only) and first tranche amounting to Rs. 1,00,00,000/- (Rupees One Crore Only) was disbursed on 12th October 2011. The said facility was required to be repaid in full by 30th September 2021. The said facility was partly paid and in view thereof, the said facility stood reduced to Rs. 3,32,48,010/- (Rupees Three Crore Thirty-Two Lacs Forty-Eight Thousand only). The Corporate Applicant is also liable to pay an amount of Rs. 17,700/- (Rupees Seventeen Thousand Seven Hundred Only) to ASTD & Co, Chartered Accountants for availing auditing services.

2.3. The Corporate Applicant had taken a premise on rent from the Brihanmumbai Kreedaa Anilal Kala Prastistan in the year 2013 and had been paying rent on a regular basis; however, has not made payment from 10<sup>th</sup> February 2020. Thus, as on date an amount Rs.5,38,272/- (Rupees Five Lakh Thirty-Eight Thousand Two Hundred and Seventy-Two Only) is payable by the Corporate Applicant to BKALKP

2.4. The default in payment and the inability of the Company to pay any of its debt has led to the application by the Corporate Debtor for initiating Corporate Insolvency Resolution Process in the matter of self and it has sought approval of its members for filing section 10 petition under the Code vide Special Resolution in the Extra Ordinary General Meeting of the Company convened on 12.12.2022. (Copy of on Special Resolution attached as Annexure A-4). The Accounts of the Company have been prepared and audited for the Financial year 2019-20, 2020-21 and 2021-2022. The operational losses and accumulated losses kept on mounting over the years and the Corporate Applicant found itself unable to pay off its long-standing Operational Creditors, Financial Creditors, Employees etc.



3. This bench perused the material on record

3.1. During hearing this bench ask the Counsel for the Corporate Applicant whether any proceeding u/s 94 or 95 of the Code is pending against Mr. Rakesh Biyani, who is stated as one of the Creditor in the Financial Statement of the Corporate Applicant placed on record, and the Corporate Applicant was asked to serve notice on the Creditors in the meanwhile.

3.2. The Counsel Clarified that there is no proceeding u/s 94 or 95 of the Code pending against Mr. Rakesh Biyani. Further, no creditor has filed any objection to the said application.

**ORDER**

4. The petition bearing CP(IB) 359/MB-IV/2023 filed by **FULCRUM TRAINING SERVICES PRIVATE LIMITED**, the Corporate Applicant, under section 10 of the IBC read with rule 7(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and that the Corporate Applicant is not disqualified U/s 11 of the Code. Hence, this Bench hereby **admits** this petition, declaring moratorium with consequential directions as mentioned below.

- (i) That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Applicant including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the Corporate Applicant any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any

security interest created by the Corporate Applicant in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant.

- (ii) That the supply of essential goods or services to the Corporate Applicant, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (iii) 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.
- (iv) That the order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Applicant under Section 33, as the case may be.
- (v) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- (vi) That this Bench hereby appoints the proposed Resolution Professional after perusing the written communication in Form 2 dated 20.12.2022 by the RP, **Mr. Vishnu Kant Kabra**, having address at 903, Mayfair

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MUMBAI C-IV

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Greens, S.V Road, Kandivali - West ,Mumbai City, Maharashtra ,400067 having **IBBI Registration No. - IBBI/IPA-001/IP-P-02178/2021-2022/13747** and Email- [vishnukabra@rediffmail.com](mailto:vishnukabra@rediffmail.com) as Interim Resolution Professional to carry the functions as mentioned under the Code.

5. The Registry is hereby directed to communicate this order to the Applicant. The Learned Counsel for the Petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith within 10 days of the order being uploaded on the website.

Sd/-

PRABHAT KUMAR  
HON'BLE MEMBER (TECHNICAL)  
02.08.2023

Sd/-

KISHORE VEMULAPALLI  
HON'BLE MEMBER (JUDICIAL)