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22-9-2021

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IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 141
C.P.(IB)/133(AHM)2021

Order under Section 7 IBC

IN THE MATTER OF:
O3 Developers Pvt Ltd
V/s
Bacon Vanijya Pvt Ltd

.....Applicant
.....Respondent


Order delivered on ..20/09/2021


Coram:
Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:
For the Applicant :
For the IRP/RP :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.
The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)



**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-1**

C.P.(IB) 133/NCLT/AHM/2021

[An Application under Section 7 of the Insolvency and Bankruptcy Code, 2016]

In the matter of:

O3 Developers Pvt. Ltd.,
909, Shitiratna Complex,
Off C G Road, Nr. Panchvati Cross Road,
Ellisbridge, Ahmedabad-380006. Financial Creditor

Versus

Bacon Vanijya Pvt. Ltd.,
Godown 09, SG Road,
PO Kankrol, Himatnagar,
Sabarkantha-383001. ...Corporate Debtor

**Order Reserved on 14.09.2021
Order delivered on 20.09.2021**

**Coram: MADAN B. GOSAVI, MEMBER (J)
VIRENDRA KUMAR GUPTA, MEMBER (T)**

Appearance...

For the Applicant : Advocate, Ms. Nidhi Prajapati.
For the Respondent : Advocate, Mr. Hard S Soni.

ORDER



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[Per : VIRENDRA KUMAR GUPTA, MEMBER (T)]

- 1) This application has been filed by Financial Creditor, namely, O3 Developers Pvt. Ltd. under Section 7 of Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") for initiation of Corporate Insolvency Resolution Process (hereinafter referred to as "**CIRP**") against the Corporate Debtor, namely, Bacon Vanijya Pvt. Ltd. The amount of default is Rs. 1,24,00,000/- and the date of default is stated as 01.04.2021.
- 2) The facts, in brief, are that a sum of Rs. 1,24,00,000/- has been given on 11.09.2020. The amount disbursed is supported by the copy of the Bank Statement and it has not been disputed also. The amount fell due for payment on 01.04.2021, however, the Corporate Debtor could not make payment thereof. Accordingly, notice recalling the loan amount was served on 09.04.2021. Thereafter, this application has been filed.
- 3) On behalf of the Corporate Debtor amount of debt as well as liability to pay has been accepted and only plea which has



been taken that due to adverse business situation they are not in a position to repay the sum.

- 4) Considering this statement of the Corporate Debtor, we are of the view that this application, being otherwise complete and defect free, is liable to be admitted. In the Application, the name of one IRP was proposed, however, subsequently by filing an another affidavit name of other person namely **Mr. Amrish Navinchandra Gandhi (Registration No. IBBI/IPA-002/IP-N00670/2018-19/12036)** as IRP has been proposed whose consent is on record and his name appears in the list maintained by IBBI. It is also claimed that no disciplinary proceedings are pending against such person.
- 5) Accordingly, we admit the same and order as under:

ORDER

Corporate Debtor M/s Bacon Vanijya Private Limited, is admitted in Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.



- ii. We appoint Mr. Amrish Navinchandra Gandhi, Registration No. IBBI/IPA-002/IP-N00670/2018-19/12036, having address 504, Shivalik Abaise, Opp. Shell Petrol Pump, Nr. Anandnagar Bus Stand, Satellite, Ahmedabad, Gujarat-380015, under section 13(1) (c) of the IB Code as IRP.
- iii. That the Moratorium under Section 14 of the Code shall come to effect from 20.09.2021 till the completion of 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 Debtor under Section 33, as the case may be.
- iv. That the Bench hereby prohibits the institution of suits or continuation of pending suit 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(s), transferring, encumbering, alienating or disposing of by the Corporate Debtor 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 Debtor in respect of its





property including any action under the SARFAESI 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 Debtor.

v. Further, litigation or any application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to pronouncement of this order such proceedings are expected to be dealt with in accordance with law r.w. Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.

vi. That the supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the Moratorium, period. The Corporate Debtor to provide effective assistance to the IRP as and when he takes charge of the Corporate Debtor.

vii. The IRP so appointed shall make Public announcement of Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of claim under Section 15 of the Code.



- viii. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- ix. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
- x. We direct the Financial Creditor / Applicant to pay the IRP a sum of Rs. 1,00,000/- (Rs. One lakh) as fees & expenses till the COC decides about his fees / expenses.

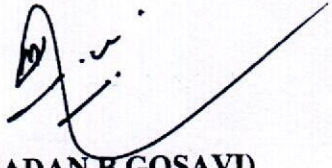


- xi. The Registry is directed to communicate a copy of this order to the Petitioner-Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.
- xii. The commencement of Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.
- xiii. CP(IB) No. 133/7/NCLT/AHM/2021 is allowed and stands disposed of.
- 6) The IRP/RP shall file progress reports/intimate this Adjudicating Authority about all the matters which he is statutorily bound to inform under the relevant provisions of IBC, 2016 and Regulations made thereunder.

List the matter for hearing on 23.11.2021




(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

Abhishek

Certified to be True Copy of the Original


Joint Registrar
NCLT, Ahmedabad Bench
Ahmedabad