

SL. No.2

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

Video Conference

CORAM: HON'BLE DR. VENKATA RAMAKRISHNA BADARINATH NANDULA,-MEMBER (J)
CORAM: HON'BLE DR. BINOD KUMAR SINHA,-MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 17.06.2022 AT 02:15 PM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No.14/7/HDB/2020
NAME OF THE COMPANY	Payism Technologies India Pvt Ltd
NAME OF THE PETITIONER(S)	Nune Chiranjeevi Nagaraju & another
NAME OF THE RESPONDENT(S)	Payism Technologies India Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

Order Pronounced vide separate sheets. CP(IB) No. 14/7/HDB/2020 is hereby admitted.

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MEMBER (T)

Ajay

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MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.14/7/HDB/2020
Under section 7 of the IB Code, 2016
Under rule 4 of the Insolvency and Bankruptcy
(Application Adjudicating Authority) Rules, 2016.

In the matter of
M/S PAYISM TECHNOLOGIES INDIA PRIVATE LIMITED

Between:

- 1.) Nune Chiranjeevi Nagaraju,
S/O N. Rambabu,
R/O 276-277, Lake View Pragathi Residency,
Pragathi Nagar, Nizampet,
Hyderabad – 500090
- 2.) Nune Kiran Kumar,
S/O N. Rambabu,
R/O 276-277, Lake View Pragathi Residency,
Pragathi Nagar, Nizampet,
Hyderabad – 500090

...Applicants/
Financial Creditors

A N D

M/S Payism Technologies India Private Limited,
Registered Office: #202, 2nd Floor, Silicon Towers,
Plot Nos. 2 & 3, Silicon Towers, Madhapur,
Hyderabad – 500081.

...Respondent/
Corporate Debtor

Date of Order: 17.06.2022

**Coram: Dr Venkata Ramakrishna Badarinath Nandula, Member Judicial
Dr. Binod Kumar Sinha, Member Technical**

Parties/Counsels present:

For the Financial Creditor: Mr. Vinod Alias Inniah Pasala, Advocate

For the Corporate Debtor: None [Ex-Parte]

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Per: Bench

ORDER

1. Under consideration is an Application filed by Mr. Nune Chiranjeevi Nagaraju and Mr. Nune Kiran Kumar (hereinafter referred to as "Financial Creditors"), under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code, 2016"), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiation of Corporate Insolvency Resolution Process (CIRP) against M/s. Payism Technologies India Private Limited (hereinafter referred to as "Corporate Debtor"), bearing Corporate Identity Number 'U72200TG2013PTC091292'.
2. Brief facts of the case as submitted by the Financial Creditors are as follows:
 - a) The Financial Creditors are individual lenders from whom the Corporate Debtor has collectively obtained a short-term loan of Rs. 25,00,000 (Rupees Twenty Five Lakh Only) that was disbursed to the Corporate Debtor, vide a common loan agreement dated 02.07.2015, under which a sum of Rs. 10,00,000 (Rupees Ten Lakh Only) was loaned by Mr. Nune Kiran Kumar and a sum of Rs. 15,00,000 (Rupees Fifteen Lakh Only) was loaned by Mr. Nune Chiranjeevi Nagaraju, vide Cheque No. 036338 and Cheque No. 229266, respectively, drawn on ICICI Bank, S.R. Nagar Branch, Hyderabad.
 - b) It was agreed vide the loan agreement that the Corporate Debtor shall repay the loan along with interest and other costs within six months. It was also agreed that interest at the rate of 36% per annum shall be paid on the said loan.
 - c) The Corporate Debtor has secured the said loan along with interest and costs, *inter-alia*, with the following:

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- i) A Deed of Indemnity, dated 02.07.2015 executed by the Corporate Debtor in favor of the Financial Creditors under which the former has to allot 50,000 shares of Rs. 10/- each of the Corporate Debtor to the latter within 90 days from the date of disbursement of loan or before repayment of the loan whichever is earlier. Out of the 50,000 shares, 40,000 shares are to be allotted to the Financial Creditors towards interest and the remaining to other entities towards arranger's fee, costs etc.;
- ii) A duly signed and witnessed promissory note;
- iii) Undated cheques from the Corporate Debtor;
- iv) Individual personal guarantees and undated cheques from the Directors of the Corporate Debtor.
- d) The Corporate Debtor after obtaining the said amounts by way of financial assistance from the Financial Creditor has failed to pay the loan amounts that were due for repayment on 01.01.2016 as agreed on in the said loan agreement.
- e) The total amount claimed by the Financial Creditors through this Application is Rs. 63,25,000/- (Rupees Sixty Three Lakh Twenty Thousand Only) towards the outstanding loan amount inclusive of the principle and interest, payable at 36% per annum for the period between 02.07.2015 and 01.08.2019.
- f) The statement of the loan account as filed by the Financial Creditors is reproduced below:

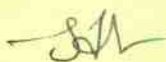
S. No.	Date	Particulars	Amount	Outstanding Amount
1	2.7.2015	Total amount lent by the financial creditors with an interest rate of 36% per annum	25,00,000	25,00,000
2	1.8.2015	Interest for the period of one (1)	9,00,000	34,00,000

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		year from 2.7.2015 to 1.6.2016 @ 36% p.a		
3		Interest for the period of one (1) year from 2.7.2016 to 1.6.2017 @ 36% p.a	9,00,000	43,00,000
4		Interest for the period of one (1) year from 2.7.2017 to 1.6.2018 @ 36% p.a	9,00,000	52,00,000
5		Interest for the period of one (1) year from 2.7.2018 to 1.6.2019 @ 36% p.a	9,00,000	61,00,000
6		Interest for the period of three (3) months from 2.7.2019 to 1.9.2019 @ 36% p.a	2,25,000	63,25,000
TOTAL OUTSTANDING DEBT AMOUNT				63,25,000/-

- g) That it is borne out of the said loan agreement that the said loan obtained by the Corporate Debtor from the Financial Creditors herein is subordinate in order of precedence to the loan that seems to have been obtained by the Financial Creditor from one Mr. S.S.R.K. Mohan Babu. In other words the loan extended by the said Mr. S.S.R.K. Mohan Babu will have a priority over those extended by the Financial Creditors herein.
- h) The Financial Creditors have filed a private complaint before the Learned IX Metropolitan Magistrate, Kukatpally, under Sections 420 and 506 of the Indian Penal Code, 1860 which was referred by to the





police Station, Kukatpally, by the Hon'ble Court and has been pending since.

- i) The Financial Creditors had earlier filed a Company Petition before this Tribunal, under Section 9 of the Code, 2016, vide CA (IBC) No. 532/9/HDB/2018, which was disposed of as withdrawn, granting liberty to the Financial Creditors, to file a fresh application under Section 7 of the Code, 2016.

Reiterating the above, learned counsel for the Financial Creditor, prayed that the instant Application be admitted.

3. The Corporate Debtor has been set *ex-parte*, vide order dated 13.03.2020. It is pertinent to mention here the circumstances that led to the instant Application being proceeded with *ex-parte*. The learned counsel appearing for the Financial Creditors was on two occasions directed to send notice to the Corporate Debtor to appear before this Adjudicating Authority, vide orders dated 21.01.2020 and 05.02.2020. It is observed that notices were sent to the office of the Corporate Debtor in Hyderabad as well as to three other addresses of the Corporate Debtor including that of the office in Bengaluru. On both the occasions, it was stated, by the learned counsel for the Financial Creditors that the notices were returned unserved with the endorsements "Addressee Left Without Instructions" and "Refused". Another notice through a paper publication was directed to be issued vide order dated 19.02.2020 the compliance of which was reported by the learned counsel for the Financial Creditors on 13.03.2020. A notice in the form of a publication in the English daily "Hans India" was made on 11.03.2020, however, there was no representation. Hence, the order setting the Corporate Debtor *ex-parte* came to be passed.
4. Heard. Perused the record.
5. In view of the above facts and circumstances, we are of the view that in the instant case there is a financial debt and there has been a default committed by the Corporate Debtor in repayment of the same. This

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Adjudicating Authority is satisfied that the Financial Creditors have proved their case by producing evidence that default has occurred, for which the Corporate Debtor is liable to pay.

6. It is pertinent to note that the Hon'ble Supreme Court of India, in the case of *Innoventive Industries Ltd v. ICICI Bank & Anr.*, (2018) 1 SCC 407, held as under:

".....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. Under subsection (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be."

7. The Financial Creditors have also fulfilled all the stipulations as required under the provisions of the Code, 2016, for the purpose of initiating the Corporate Insolvency Resolution Process. In these circumstances, this Adjudicating Authority is inclined to admit the instant Application.
8. Accordingly, the Application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process, which shall ordinarily be completed within the timelines stipulated in the Code, 2016 (as amended), reckoning from the date on which this order is passed.
9. The Financial Creditor proposed the name of Mr. Pavan Kankani as Interim Resolution Professional and he has filed his written consent in Form 2. Accordingly, this Tribunal appoints Mr. Pavan Kankani, as Interim Resolution Professional, bearing Registration No.: IBBI/IPA-002/IP-N00368/2017-2018/11062, E-mail ID: ippavankankani@gmail.com, as the Interim Resolution Professional. The IRP is directed to file Authorization for Assignment within three days from the date of this order.

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10. The IRP is directed to take charge of the Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the Code, 2016, within three days from the date of receipt of this order, and call for submissions of claim in the manner as prescribed.
11. We direct the Financial Creditor/Petitioner to pay a sum of Rs.2,00,000/- towards the advance fee of the IRP and expenses towards the CIRP, which shall be ratified later on by the Committee of Creditors.
12. Moratorium is hereby declared and shall have effect from the date of this order till the completion of the CIRP, for the purposes referred to in Section 14 of the Code, 2016. It is hereby ordered that all of the following are prohibited:
 - 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 Financial 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.*
13. The supply of essential goods or services to the Corporate Debtor shall not be terminated, suspended or interrupted during the moratorium period. Further, if the IRP considers supply of any goods or services

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- 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 financial sector regulator or any other authority.
14. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code, 2016. 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 Code, 2016.
 15. The Financial Creditor as well as the Registry are directed to send the copy of this Order to the IRP, to enable him to take charge of the assets etc. of the Corporate Debtor, and comply with this order as per the provisions of the Code, 2016.
 16. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
 17. The Registry shall also communicate this Order to the Registrar of Companies, Hyderabad, for updating the status of the Corporate Debtor in the website of the Ministry of Corporate Affairs.
 18. Accordingly, this Petition is admitted.

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Dr. Binod Kumar Sinha
Member Technical

Dr. Venkata Ramakrishna Badarinath Nandula
Member Judicial

SKRathi/Santi