NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH
COURT- V

37) C.P. (IB)/1270(MB)2020

CORAM:

SMT. ANURADHA SANJAY BHATIA
Member (Technical)

SHRI H. V. SUBBA RAO
Member (Judicial)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON **11.07.2022**.

NAME OF THE PARTIES: Inox Lesiure Limited

VS

Orienta Cine Advertising Private Limited

UNDER SECTION 9 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

ORDER

Ms. Kareena Tahilramani, Advocate appeared for the Petitioner. Ms. Hetal Master, Advocate appeared for the Corporate Debtor.

Reply has been filed by the Corporate Debtor. Heard both sides and perused the records. Counsel appearing for the Petitioner brought to the attention of this Bench regarding the admission of liability and the offer of the Corporate Debtor to pay 50% of the amount claimed by the Petitioner in the petition and the remaining balance in due course of time stretching around three years. Counsel appearing for the Petitioner, on instructions, informed that the above proposal was not acceptable to them.

Counsel appearing for the Corporate Debtor except pleading time did not addressed any substantial legal issue opposing the admission of the above Company Petition. In view of the clear-cut admission of debt and default on behalf of the Corporate Debtor, this Bench has no option except to admit the above Company Petition.

Accordingly, CP 1270 of 2020 is **allowed.** Detailed order follows.

SD/-	SD/-
ANURADHA SANJAY BHATIA Member (Technical)	H. V. SUBBA RAO Member (Judicial)

/n/k/

IN THE NATIONAL COMPANY LAW TRIBUNAL,

COURT-V, MUMBAI BENCH

C.P. No. 1270/IBC/MB/2020

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of

INOX Leisure Limited

Having registered office at:

5th Floor, Viraj Towers, Next to Andheri flyover, Western Express Highway, Andheri (East), Mumbai-400093.

……Operational Creditor/ Petitioner

Vs

Orienta Cine Advertising Private Limited

(CIN: U74300MH2002PTC136020)

Registered office at:

202, Bhaveshwar Complex, Near Vidya Vihar Railway Station, Vidya Vihar West, Mumbai-400086

…….Corporate Debtor

Order delivered on: 11.07.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

For the Petitioner: Ms. Kareena Tahilramani, Advocate.
For the Corporate Debtor: Ms. Hetal Master, Advocate.

1. The above Company Petition is filed by INOX Leisure Limited hereinafter called as “Petitioner” seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against Orienta Cine Advertising Private Limited called as “Corporate Debtor” by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called “Code” read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of an unresolved Operational Debt of Rs. 6,73,21,246/-.

2. Petitioner is engaged in the business of exhibition of films, managing, running and operating cinema Theatres across the country. The Corporate Debtor is engaged in the business of advertising, branding and promotions of malls and multiplexes.

3. The Petitioner and Corporate Debtor entered into an advertising agreement dated 15.05.2018 under which the Corporate Debtor was obligated to submit monthly sales details to the Petitioner and the Petitioner was entitled to raise monthly invoices on an equal amount basis.

4. The Petitioner raised multiple monthly invoices upon the Corporate Debtor towards which the Corporate Debtor had made certain ad-hoc payments which were adjusted against the invoices on first-in First-out basis (“FIFO”).

5. The Corporate Debtor has accepted and acknowledged the receipt of all the invoices without any demur, however, the Corporate Debtor has failed to make payments for the outstanding invoices.

6. The Corporate Debtor vide a letter dated 06.05.2019 admitted its liability to pay Rs. 9,08,65,117/- as on 31.03.2019. The Corporate Debtor paid certain amounts as on 11.11.2019 leaving Rs. 7,91,41,047/- outstanding including interest @12% pa.

7. The Petitioner has issued demand notice on 20.11.2019 under Rule 5 to the Corporate Debtor demanding the payment of Rs. 7,91,41,047/-. The said demand notice was duly received by the Corporate Debtor; however, no reply was filed to the same.

8. Pursuant to the demand notice, the Corporate Debtor made certain payments to that end leaving the total outstanding debt of Rs. 6,73,21,246/-, principle amount being Rs. 5,82,86,662/- along with interest @12% pa being Rs. 90,34,584/-.

9. On 11.07.2022, both sides were present. Reply has been filed by the Corporate Debtor. Heard both sides and perused the records.

10. Counsel appearing for the Petitioner brought to the attention of this Bench regarding the admission of liability and the offer of the Corporate Debtor to pay 50% of the amount claimed by the Petitioner in the petition and the remaining balance in due course of time stretching around three years. Counsel appearing for the Petitioner, on instructions, informed that the above proposal was not acceptable to them.

11. Counsel appearing for the Corporate Debtor except pleading time did not addressed any substantial legal issue opposing the admission of the above Company Petition.

12. In view of the clear-cut admission of debt and default on behalf of the Corporate Debtor, this Bench has no option except to admit the above Company Petition.

ORDER

a. The above Company Petition No. (IB) 1270 (MB)/2020 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **M/s. Orienta Cine Advertising Private Limited.**

b. Since the Operational Creditor has not suggested the name of any person to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Bhaskar Gopal Shetty** (cabgshetty@gmail.com) (Mobile No. 9322697310) Insolvency Professional, Registration No: IBBI/IPA-001/IP-P01285/2018-19/12003 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

a. The Operational Creditor shall deposit an amount of Rs.5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by CoC.

b. That this Bench hereby prohibits 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 of law, tribunal, arbitration panel or other authority; 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 Securitization 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 Debtor.

c. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

d. 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.

e. That the order of moratorium shall have effect from the date of pronouncement 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 debtor under section 33, as the case may be.

f. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

g. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

h. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

i. Accordingly, CP 1270 of 2020 is **admitted**.

j. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-	SD/-
ANURADHA SANJAY BHATIA	**H.V. SUBBA RAO**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**