

Sr. no. 174/2019

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IN THE NATIONAL COMPANY LAW TRIBUNAL

JAIPUR BENCH (RAJASTHAN)

CP No. (IB)-112/7/JPR/2019

**CORAM: DR. POONDLA BHASKARA MOHAN,
HON'BLE JUDICIAL MEMBER**

**SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER**

IN THE MATTER OF SECTION 7 OF IBC, 2016.

IN THE MATTER OF:

**FINDEAL INVESTMENTS PRIVATE LIMITED.
Flat No. 1201, Bliss-B, Unicorn's Global Arena,
Tivari Village Naigaon (East), Thane,
Maharashtra - 401208**

...FINANCIAL CREDITOR/APPLICANT

VERSUS

**SATYAMITRA STOCK CONSULTANTS PRIVATE LIMITED
6-A-10, Mahaveer Nagar Extension,
Kota, Rajasthan - 324005**

...CORPORATE DEBTOR/RESPONDENT

FOR PETITIONER (S)

FOR RESPONDENT(S)



AMOL VYAS, ADV.

SIDDHARTH BAPNA, ADV.

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Findeal Investment Pvt. Ltd.
Vs.
Satyamitra Stock Consultants Pvt. Ltd.

[Signature]
Assistant Registrar
National Company Law Tribunal
Jaipur
12/8/2019

[Signature]

ORDER PRONOUNCED ON: -09.08.2019

ORDER

1. This Application is filed by Findeal Investments Private Limited, (for brevity "Applicant"), claiming to be a Financial Creditor, through its Director Mr. Manoj Gupta, who is duly authorized vide Board Resolution dated 03.09.2018 to file this Application against the Corporate Debtor, Satyamitra Stock Consultants Private Limited (for brevity "Corporate Debtor") under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 seeking initiation of the Corporate Insolvency Resolution Process (CIRP), pursuant to default in repayment of loan amount by the Corporate Debtor to the Applicant.

2. The Applicant is a Private Limited Company, incorporated under the Companies Act, 1956 on 10.05.1995 and duly registered with the Registrar of Companies, Mumbai having CIN U67120MH1995PTC088263. The Registered Office of the Company is at Flat No. 1201, Bliss-B, Unicorn's Global Arena, Tivari Village Naigaon (East), Thane, Maharashtra – 401208.

3. The Corporate Debtor is a Private Limited company, incorporated under the Companies Act, 1956 on 09.02.2007 and duly registered with the Registrar

Assistant Registrar
3/8/2019
Assistant Registrar
National Company Law Tribunal
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of Companies, Jaipur having CIN: U67120RJ2007PTC023815. The company is having Registered Office at 6-A-10, Mahaveer Nagar Extension, Kota, Rajasthan – 324005. The authorized share capital of the company is Rs. 20,00,000/- (Rupees Twenty Lakh Only) and paid up share capital of Rs. 16,00,000/- (Rupees Sixteen Lakh Only). The Corporate Debtor is in the business of dealing in stock and shares.

4. It is stated that Corporate Debtor has availed interest free advance of a total amount of Rs. 3,87,48,909/- till 31.03.2016 from the Applicant which was to be repaid on or after 01.04.2016 on demand made by the Applicant. On failure of Corporate Debtor to repay interest free advance in 2016-17, the Applicant and Corporate Debtor agreed to enter into Loan Agreement with Security dated 01.04.2017 to convert interest free advance into interest carrying the loan for period of 12 months beginning from 01.04.2017. As a security for the repayment of said loan, the Corporate Debtor has pledged 7,25,000 equity shares held in Systematix Corporate Service Limited. As per the terms and conditions laid down in the Loan Agreement, after 12 months the Corporate Debtor is required to repay the entire loan amount with interest @ 15% p.a. or in case of default or delay in payment thereof the Corporate Debtor is liable for payment of additional charge at 2% p.a. on the loan amount.

5. It is further submitted that the Corporate Debtor has acknowledged its debt

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of Rs. 3,87,48,909/- vide confirmation cum contra account letter dated 01.04.2018 for the year ending on 31.04.2018 and the copy of same is annexed as Annexure-G with the Application. It is also stated that the Corporate Debtor had made payment of Rs. 20,00,000 on 30.08.2018 and Rs. 4,40,000/- on 04.09.2018 but when later on the Applicant requested to make remaining payment, the Corporate Debtor informed that it has incurred huge loss on sale of equity shares of Systematix Corporate Service Limited and facing financial crunch and therefore it cannot repay the balance principal loan amount and interest @ 15% thereon.

6. As a consequence, this Application is filed. As claimed by the Applicant, the Corporate Debtor is liable to pay an amount Rs. 4,29,63,670/- as on 01.04.2019 as an outstanding amount, as reflected in Part IV of the Form- 1 filed.

S. no.	Particulars of Financial Debt	
1.	Total amount of debt granted.	Rs. 3,87,48,909/-
2.	Amount claimed to be in default and the date on which the default occurred	As on 01.04.2018 the Corporate Debtor is liable to pay to the Financial Creditor a total sum of Rs. 3,87,48,909/- along with interest @15%p.a. payable and penal interest

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		@ 2% p.a. on the resultant figure which equals to Rs. 4,29,63,670/-.
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7. The Corporate Debtor has filed a reply stating that it is admitting that Corporate Debtor has entered into Loan Agreement for repayment of Rs. 3,87,48,909/- along with interest @ 15%p.a. on or before March 2018 and also states that payment of Rs. 20,00,000 on 30.08.2018 and Rs. 4,40,000/- on 04.09.2018 was made to the Applicant. Thus, the Corporate Debtor is liable to pay the remaining Principal Amount of Rs. 3,63,08,909/- along with interest. In view of the admission made in the reply, the Corporate Insolvency Resolution Process can be initiated against the Corporate Debtor.
8. This Tribunal perused all the relevant papers and found them to be in order. The Registered Office of Corporate Debtor is situated in Kota and therefore this Tribunal has jurisdiction to entertain and try this Application. The matter is within the limitation period as enunciated under the Law of Limitation.
9. The Applicant has named the Interim Resolution Professional (IRP) to be appointed by the order of this Tribunal, one Mr. Vinod Tarachand Agarwal having Registration Number IBB/IPA-001/IP-P00641/2017-18/11090 (email: ca.vinod@gmail.com, Mobile No. : 9510380136), duly registered with Indian Institute of Insolvency Professional of ICAI, as the Interim Resolution Professional. The Applicant has filed consent in Form 2 under

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Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 stating therein that no disciplinary proceedings are pending against the named IRP.

10. It is apparent from the Application and reply of the Respondent that the payment of amount of Rs. 3,63,08,909/- along with interest has been defaulted by the Corporate Debtor to the Applicant.
11. In these circumstances, the claim of Rs. 3,63,08,909/- along with interest stands established and prima facie presumption raised that there is default in payment of the amount due to the Applicant and in view of the reply of the Respondent the debt is admitted by the Respondent.
12. Hence, this Tribunal is inclined to initiate the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor as envisaged under the provisions of IBC, 2016.
13. Consequences of initiation of CIRP shall be inter-alia as follows:
 - (i) The Resolution Professional proposed by the Applicant is Mr. Vinod Tarachand Agarwal who is an IP registered with ICAI institute of Insolvency Professionals having Registration No. IBB/IPA-001/IP-P00641/2017-18/11090. He is hereby appointed as the Insolvency Resolution Professional (IRP) to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of IBC, 2016 including issue of publication in

Vinod Agarwal
 Assistant Registrar
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widely circulated Newspaper as contemplated under the provisions of IBC, 2016 and calling for the claims from the creditors of Corporate Debtor and collation of the same shall be done.

- (ii) Further, as a sequence of admission, moratorium as envisaged under Section 14 of IBC, 2016 is invoked in relation to the Corporate Debtor which will be in vogue during the Corporate Insolvency Resolution Process of the Corporate Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of IBC, 2016 in relation to the Corporate Debtor.
- (iii) The said IRP shall act strictly with the provisions of IBC, 2016 and with a view to defray his expenses to be incurred and fees on account, the Applicant is directed to deposit a sum of Rs. 2,00,000/- (Two Lacs Only) to the account of IRP within three days from the date of this order. The IRP shall duly file a status report appraising this Tribunal about the progress of CIRP unfolded in relation to the Corporate Debtor. In terms of Sections 17 & 19 of IBC, 2016 all personnel of the Corporate Debtor including promoters and Board of Directors, whose powers shall stand suspended will extend all cooperation to the IRP during his tenure as such and the management

of the affairs of the Corporate Debtor shall vest with the IRP.

V. Kumar
 Assistant Registrar
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- (iv) In terms of Section 7 of IBC, 2016, this order shall be communicated to the Applicant, Corporate Debtor as well as the Interim Resolution Professional (IRP) appointed by this Tribunal to carry out the CIRP at the earliest not exceeding one week from today. A copy of this order shall also be communicated to IBBI for its records.
- (v) In the circumstances, this Company Petition is admitted.

Sd—

SH. RAGHU NAYYAR,
MEMBER (TECHNICAL)

Sd—

DR. PONDLA BHASKARA MOHAN
MEMBER (JUDICIAL)



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Jaipur
3.09.2019