IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH
COURT- IV

C.P. (IB) No. 747/MB/2023

[Under Section 10 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]

In the matter of

Bharat Capital and Holdings Limited
CIN: U65990MH1991PLC060092
Registered Office: Unit No 102-B, Dipti Classic Premises CHS Ltd. Suren Road, Andheri (E) Mumbai- 400093.

… Corporate Applicant

Pronounced: 28.07.2026

CORAM:

SHRI ANIL RAJ CHELLAN	**SHRI K. R. SAJI KUMAR**
HON'BLE MEMBER (TECHNICAL)	**HON'BLE MEMBER (JUDICIAL)**

Appearances : ***Hybrid***

For the Corporate Applicant:	Adv. Rajesh Bohra a/w Adv. Sangeeta Bohra
For the Financial Creditor:	Adv. Abhishek R. Mishra

ORDER

1. BACKGROUND

1.1. This Application is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 (Code/IBC) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (AAA Rules) by Bharat Capital and Holdings Limited (Corporate Debtor/Applicant), seeking initiation of its Corporate Insolvency Resolution Process (CIRP). It is submitted that the Application is preferred owing to the financial stress faced by the Corporate Applicant, consequent to which it is not in a position to repay the debts due to its creditors, and is in default.

2. SUBMISSIONS OF CORPORATE APPLICANT

2.1. The Corporate Applicant is a Company incorporated on 04.02.1991, under the provisions of the Companies Act, 1956, with Corporate Identity Number U65990MH1991PLC060092. It is engaged in the business as financier. The registered office of the Applicant is at Unit No. 102-B, Dipti Classic Premises CHS Ltd. Suren Road, Andheri (E) Mumbai- 400093, and therefore, this Bench has jurisdiction to entertain and decide the Application. It is submitted that the Corporate Applicant availed an unsecured loan of Rs.7,50,00,000/- on temporary basis from the Financial Creditor but could repay only a part payment of Rs.1,06,00,000/- and another payment of Rs.2,03,43,200/-, resulting in outstanding dues of Rs.4,40,56,800/-.

2.2. It is submitted that due to continuous financial stress and deterioration in its financial position, the Corporate Applicant has become unable to discharge its financial obligations as and when they became due. Consequently, the Corporate Applicant resolved to invoke the provisions of Section 10 of the Code for commencement of CIRP against itself.

2.3. The Corporate Applicant is in default of Rs.4,40,56,800/- (Four Crore Forty Lakh Fifty-Six Thousand Eight Hundred Rupees) to the Financial Creditor and the date of default mentioned in the Application is 31.03.2021. The particulars of the Financial Creditor together with the amount due and the supporting documents have been placed on record along with the Application. Further, the Corporate Applicant submits that it is in default of Rs.25,24,14,824/- to the Income Tax Department, as Operational Creditor. The total debt of the Corporate Applicant has been disclosed in Part III of Form 6 of the Application as Rs.29,64,71,624/-.

2.4. It is further submitted that the Operational Debt arises pursuant to the Online service of Orders *vide* DIN & Letter No. ITBA/COM/F/17/02/2023-24/1052542199(1) dated 02.05.2023, received from the Income Tax Department, for the Assessment Year 2017-2018, whereby a substantial demand of Rs.25,24,14,824/- (Twenty-Five Crore Twenty-Four Lakh Fourteen Thousand Eight Hundred and Twenty-Four Rupees) was raised by the Department against the Corporate Applicant as outstanding since 08.07.2022.

2.5. It is further submitted that the Corporate Applicant has filed the list of Financial Creditors, list of Operational Creditors, books of account, audited financial statements for the financial years 2020-2021; 2021-2022; 2022-2023 and 2023-2024, ledger accounts and other supporting documents evidencing the financial position of the Corporate Applicant. It is also submitted that the said documents clearly demonstrate that the Corporate Applicant has incurred substantial liabilities and is in default.

2.6. Considering the deep financial stress and its inability to pay off its liabilities in time, the board of directors of the Applicant in the Special Resolution passed in the Extra Ordinary Meeting held on 19.05.2023, resolved to move an application under Section 10 of the IBC for initiation of the CIRP of the Corporate Applicant. Therefore, the present Application is filed for the initiation of CIRP, which is to be admitted.

3. ANALYSIS AND FINDINGS

3.1. We have heard the Ld. Counsel for the Applicant and perused the records.

3.2. The Corporate Applicant has enclosed a copy of the Special Resolution passed by the Board of Directors at the Extra Ordinary General Meeting held on 19.05.2023 to file the application under Section 10 of the Code, which reads as under:

"RESOLVED THAT by passing special resolution, the members have approved for filing of application under Section 10 of the Insolvency and Bankruptcy Code, 2016 and Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 as a Corporate Debtor in view of default for payment to financial creditor and operational creditor and for that purpose…."

The Board of Directors of the Corporate Applicant in the meeting dated 22.04.2023 had also authorised Mr. Rajesh Bohra and Dr Sangeeta Bohra, Advocates of the company, to file necessary application under the Code before the Tribunal, and take necessary actions in matters connected with this Application.

3.3. Further, the Applicant has submitted copies of the Audited Financial Statements of the Corporate Applicant for the financial years, 2020-2021; 2021-2022; 2022-2023, and 2023-2024. The liability of the Corporate Applicant towards unsecured loans has been captured in the Balance Sheet as Rs.4,40,56,800/- as on 31.03.2023. Further, liability towards income-tax as on 08.07.2022 is also reflected as Rs.25,24,14,824/-, in the Online service of Orders- Letter dated 02.05.2023, raised by the Income Tax Department, taking the total default to Rs.29,64,71,624/-. Hence, we observe that the Corporate Applicant is in default beyond the threshold of One Crore Rupees in terms of Section 4 of the Code. It is also seen from the Audited Financial Statements for the year ended 2023-2024 that the Corporate Applicant has no income and is also having substantial losses.

3.4. Further, to the notice issued to the Financial Creditor, namely, Gayatri Pipes & Fittings Private Limited, they have submitted, by way of affidavit, No Objection to the admission of the present Application, which has been placed on record by the Corporate Applicant.

3.5. The Income Tax Department has also filed an Affidavit in Reply placing its stand on record. The Corporate Applicant has thereafter filed a Rejoinder controverting the averments made in the Reply and explaining the circumstances leading to the filing of the present Application. The Corporate Applicant has also filed Written Submissions and relied upon various judicial precedents*, inter alia,* containing the decision of the Hon'ble NCLAT, Principal Bench, New Delhi in *Unigreen Global Private Limited Vs. Punjab National Bank & Ors.* [(2017) ibclaw.in 05 NCLAT]. Applying the principle laid down in *Innoventive Industries Ltd. Vs. ICICI Bank & Anr.* [Company Appeal (AT) (Insolvency) No. 1 & 2 of 2017], the Hon’ble NCLAT held that Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under Section 10 and the information as required to be submitted in Form 6 of the AAA Rules. If all the information is provided by an applicant and if the corporate applicant is otherwise not ineligible under Section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground.

3.6. It is noted that the authorised director of the Corporate Applicant, Mr. Vinay Rajaram Chavan has placed on record an Affidavit on behalf of the Corporate Applicant. This Application is filed as per Rule 7 of the AAA Rules, in Form 6. All required information is also furnished therein. The financial statement placed on record acknowledges the existence of debt and default by the Applicant. As per Part III of the Application, the date of default by the Corporate Applicant is 31.03.2021. However, it is seen that the default of Rs.4,40,56,800/- due to the Financial Creditor is reflected in the Balance Sheet as on 31.03.2022 and on 31.03.2023. The Online service of Orders No. DIN & Letter No. ITBA/COM/F/17/02/2023-24/1052542199(1) dated 02.05.2023 by the Income Tax Department, for a demand of Rs.25,24,14,824/- for the Assessment Year 2017-

2018 is also on record. There is nothing to show that the debt fell due to be paid and became payable was paid to the Financial Creditor and the Income Tax Department, and hence the Corporate Applicant has defaulted. This Application is filed on 21.08.2023, and the same falls within the period of limitation.

3.7. Section 10 of the IBC provides for a corporate applicant to file application for initiating the insolvency resolution process if it is in default. The same default amount of One Crore Rupees, specified under Section 4 of the Code, is applicable to a corporate applicant under Section 10 also. In view of the above, we conclude that the present Corporate Applicant has committed default of more than the specified amount under the IBC.

3.8. The Corporate Applicant has suggested the name of Mrs. Anjali Nirav Choksi, having Registration no. IBBI/IPA-001/IP-P00820/2017-2018/11382 for appointment as the Interim Resolution Professional (IRP). The proposed IRP has also submitted his Consent in Form 2, confirming eligibility and that there are no disciplinary proceedings pending against her. She possesses valid AFA up to 31.12.2026 as per records available on the website of the Insolvency and Bankruptcy Board of India (IBBI).

3.9. After hearing the submissions and upon perusing the supporting documents, we are of the considered view that the Application made by the Corporate Applicant is complete in all respects as required by law. Hence, the present Application deserves to be admitted.

ORDER

In the result, **C.P. (IB) No. 747 of 2023** filed under Section 10 of the IBC by **Bharat Capital and Holdings Limited**, the Corporate Applicant for initiating Corporate Insolvency Resolution Process (CIRP) is hereby **admitted**.

We further declare moratorium under Section 14 of the IBC with consequential directions as mentioned below:

I. We prohibit-

a) 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;

b) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

c) 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;

d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;

III. That the moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

IV. That public announcement regarding the CIRP of the Corporate Debtor shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

V. That the Bench appoints **Mrs. Anjali Nirav Choksi,** having Registration No. IBBI/IPA-001/IP-P00820/2017-2018/11382**,** and has registered address at DJNV & Co., 2nd Floor, H.N. House, Opposite Muktajivan Colour Lab, Stadium Circle, Navrangpura, Ahmadabad, Gujarat ,380009, Email Id: anjali.ibc@gmail.com; as the IRP of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated under Sections 15, 17, 18, 19, 20 and 21 of the

IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the IBBI, as may be applicable.

VI. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.

VII. In exercise of the powers conferred by Rule 11 of NCLT Rules, we order that the Corporate Applicant shall deposit a sum of Rs. 5,00,000/- (Five Lakh Rupees) with the IRP, if demanded by the IRP, to meet the initial CIRP cost arising out of issuing public notice, inviting claims, etc. These expenses are subject to approval by the Committee of Creditors (CoC). The amount so deposited shall be interim finance and paid back to the FC on priority upon the funds available with IRP/RP.

VIII. The Registry is directed to communicate this Order to the Corporate Applicant and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.

IX. A copy of this Order be sent to the Registrar of Companies, Mumbai, Maharashtra, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

X. An electronic version of this Order shall also be sent to IBBI for information and record.

XI. Ordered accordingly.

Sd/-	Sd/-
ANIL RAJ CHELLAN	**K. R. SAJI KUMAR**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

/Sakshi G/