

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
BENCH V AT NEW DELHI**

**C.P. (IB)- 721 (PB)/2021**

*SECTION: Under Section 7 of The Insolvency and Bankruptcy Code, 2016, read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules')*

**IN THE MATTER OF:**

**M/s. UTSAV SECURITIES PRIVATE LIMITED**

**...Financial Creditor/Applicant**

**VERSUS**

**M/s. VA REALCON PRIVATE LIMITED**

**...Corporate Debtor/Respondent**

**Order pronounced on: 07.04.2022**

**CORAM:**

**SHRI. ABNI RANJAN KUMAR SINHA  
HON'BLE MEMBER (JUDICIAL)**

**SHRI. HEMANT KUMAR SARANGI  
HON'BLE MEMBER (TECHNICAL)**

**PRESENT:**

For the Applicant : Tanveer Ilahi

For the Respondent : Mateen Ahmad, Advocate



**MEMO OF PARTIES:**

**M/s. UTSAV SECURITIES PRIVATE LIMITED**

Having its registered office at:

16/121-122, Jain Bhawan, Faiz Road,  
W.E.A. Karol Bagh, New Delhi-110005

**...FINANCIAL CREDITOR/APPLICANT**

**Versus**

**M/s. VA REALCON PRIVATE LIMITED**

Having its registered office at:

106 Palco House, T-10 Main Patel Road,  
Patel Nagar, New Delhi-110008

**...CORPORATE DEBTOR/RESPONDENT**

**ORDER**

**PER- HEMANT KUMAR SARANGI, MEMBER (TECHNICAL)**

1. The present application is filed under Section 7 of The Insolvency and Bankruptcy Code, 2016, read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules'), by M/s. Utsav Securities Private Limited, claiming to be 'Financial Creditor' (FC) (for brevity 'Applicant'), through its authorised representative & Director, Mr. Virendra Jain, authorized by the Board Resolution dated 12.10.2021, with a prayer for

initiation of Corporate Insolvency Resolution Process (“CIRP”), in respect of respondent company, M/s. VA Realcon Pvt. Ltd. (for brevity ‘Respondent’).

2. The Respondent, Corporate Debtor (“CD”), namely M/s. VA Realcon Private Limited (CIN-U45200DL2008PTC175668), was incorporated on 20.03.2008, under the provisions of the Companies Act, 1956. The registered office of the respondent company is situated at 106 Palco House, T-10 Main Patel Road, Patel Nagar, New Delhi 110008. Its authorized share capital is Rs. 10,52,00,000/- and paid up capital is Rs.10,51,01,000/-, which is based on the details given in the Master Data as reflected on the official website of Registrar of Companies under MCA.
3. The registered office of the CD is in Delhi, therefore, this Tribunal, being the Adjudicating Authority (“AA”), has territorial jurisdiction in respect of CD as per the provisions of sub-section (1) of Section 60 of the Code.
4. The Applicant/ Financial Creditor (“FC”), states that it is engaged in the business of dealing in securities, preparation of offer documents/ properties/ letter of offer and act as intermediaries in securities. It is also engaged in the

business of security analysis, investments, financial consultants and advisers and to act as asset manager. The Applicant is a registered NBFC and corresponding registration certificate has also been annexed at Annexure-3 of the application.

5. The records, as submitted by the Applicant/ FC, reveal that on 25.02.2021, a Loan agreement was entered into between the FC and the CD, wherein, it contained detailed terms and conditions of the loan granted. Some of the clauses are as follow;

- a. The Lender has agreed and grant a Credit facility/ Loan up to Rs.1,30,00,000/- (Rupees One Crore and Thirty Lakh Only) to the borrower company.
- b. The rate of interest shall be charged at 8% per annum.
- c. The tenure of Loan shall be for a period of 6 months beginning from the date of Loan Agreement.

The copy of Loan Agreement dated 25.01.2021 has been annexed by the applicant as Annexure-4 in the Application.

6. The Applicant states that pursuant to the said Loan agreement, FC disbursed to the CD an amount of Rs. 1,30,00,000/- (Rupees One Crore Thirty Lakh), on different



dated, as interest bearing loan on which the FC has charged the interest @ 8% per annum and CD has accepted the same which is evident by the Board Resolution dated 25.01.2021 passed by the CD, which is enclosed along with the Application as Annexure-5.

7. The Applicant further states that, being aggrieved by the Non-payment of principal and the Interest amount, they demanded the outstanding payment from time to time. However, the Applicant/ FC has not received the payment. The FC has also served the reminder letter by speed post followed by hand delivery of the reminder letter for demanding the outstanding amount with interest on 12.10.2021 and the same has been acknowledged by the CD. The CD assured the FC to pay the dues within the week, but the dues were never cleared.
8. The Applicant states that as per the loan agreement, the entire loan was payable by the end of 26.07.2021, whereas, the amount in default is Rs.1,34,69,282/- (Rupees One Crore Thirty Four Lakh Sixty Nine Thousand Two Hundred Eighty Two), with interest up to 31.09.2021, plus interest 8% upto date of payment.

9. It is further submitted by the FC that the CD failed to adhere to the repayment schedule of credit facilities and defaulted in the repayment of the loan, the date of default as enumerated in Part IV of application is 26.07.2021..
10. The CD has also filed its reply in the matter, in its reply the CD states that;

*“3. That the Financial Creditor i.e. Utsav Securities Private Limited is a Financial Company granted loan to the Respondent of INR 1,30,00,000/- (Rupees One Crore and Thirty Lakhs Only) @ 8% p.a. after being approached by the Respondent as per the terms and conditions of loan agreement entered between both the parties on 25.01.2021.*

*4. That the Corporate Debtor/ Respondent Company have full intentions to repay for Loan facility availed from the Applicant. It is further to be submitted that due to bad shape of economy, and poor market conditions, Crisis due to Covid-19 pandemic, the business of Corporate Debtor had suffered huge losses. Therefore, even though the Corporate Debtor was willing to repay the loan amount but was unable to repay the same.”*

6. *That it is to be respectfully submitted that the Corporate Debtor was always and is still willing and is also making the arrangements to repay outstanding the loan amount to the Financial Creditor, but due to bad shape of economy, poor market conditions, constant business losses and financial crisis due to Covid, the Corporate Debtor has failed to make arrangements for payment to the Financial Creditor.”*

11. Having heard learned counsels for the parties, we are of the considered view that the FC has succeeded in making out a case for triggering the CIRP. The material on record clearly goes to show that the CD had availed the loan facility and has committed default in the payment of the said debt amount. The FC has placed on record evidence in support of the claim, as well as material to prove the debt and default. The CD, by its own admission in reply, acknowledges the existence of financial debt and default. There is no document placed on record by CD to show repayment of debt.

12. Under sub-section (5)(a) of section 7 of the code, the application filed by the Applicant, Financial Creditor (“FC”) has to be admitted on satisfaction that:
- (i) Default has occurred and has been accepted by the CD
  - (ii) Application is complete, and
  - (iii) No disciplinary proceeding against the proposed IRP is pending.
13. It is evident from the record that the application has been filed on the proforma prescribed under Rule 4 (2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 read with Section 7 of the Code. We are satisfied that a default has occurred and debt has remained unpaid. Thus, the application warrants admission as it is complete in all respects and is hereby admitted initiating CIRP as prescribed under the Code. Further, the present application is not hit by Section 10A of the Code.
14. The ‘Financial Creditor’- applicant has proposed the name of Insolvency Resolution Professional, Mr. Mohd. Nazim Khan, address at G-41, Ground Floor, West Patel Nagar, New Delhi-110008 and having registration No. IBBI/IPA-002/IP-

N00076/2017-18/10207, email:nazim@mnkassociates.com.

A written communication sent by him in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 has also been placed on record.

15. There is a declaration made by the proposed IRP in an affidavit, that no disciplinary proceedings are pending against him in the Insolvency and Bankruptcy Board of India or ICSI. In addition, further necessary disclosures have been made by Mr. Mohd. Nazim Khan, as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of Section 7 (3) (b) of the Code. His appointment as IRP is therefore confirmed.
16. In pursuance of Section 13 (2) of the Code, we direct the Interim Insolvency Resolution Professional to make a public announcement immediately with regard to admission of this application under Section 7 of the Code. The expression 'immediately' means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

17. As a consequence of the application being admitted in terms of Section 7 of IBC, 2016, moratorium as envisaged under the provisions of Section 14(1) of IBC, 2016 shall follow in relation to the CD, prohibiting the CD as per proviso (a) to (d) of section 14(1) of the Code. However, during the pendency of the moratorium period, terms of sub-section 2 and 3 of Section 14 of the Code shall come in force.
18. We direct the Financial Creditor to deposit a sum of Rs. 2 lacs, with the Interim Resolution Professional, to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order, by the Financial Creditor. The amount however will be subject to adjustment by the Committee of Creditors, as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.
19. The registry is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies,

NCR, New Delhi at the earliest, but not later than seven days from today. The Registrar of Companies shall update their website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified.

20. Accordingly, the IB- 721 (PB)/2021 stands admitted and disposed of in terms of the order.

Let a copy of the order be served to the parties.

Sd/-

**(HEMANT KUMAR SARANGI)**  
**MEMBER (TECHNICAL)**

Sd/-  
07-04-2022

**(ABNI RANJAN KUMAR SINHA)**  
**MEMBER (JUDICIAL)**