

**Through Videoconference**

IN THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT No. – I

C.P. 2675/MB/2019

*In the matter of*

A Petition under section 7 of the Insolvency and Bankruptcy Code, 2016

Birendra Kumar Agrawal,  
F – 1901, Whispering Palms Xclusive,  
Lokhandwala Township, Akruli Road,  
Kandivali (East), Mumbai – 400 101 ... Petitioner

*V/s*

Vyas Mercantile Private Limited,  
402, Corporate Annexe,  
Sonawala Road, Near Udyog Bhawan,  
Goregaon (East), Mumbai – 400 063 ... Corporate Debtor

Order dated: 16.03.2021

CORAM:

Janab Mohammed Ajmal, Hon'ble Member (Judicial)  
Shri V. Nallasenapathy, Hon'ble Member (Technical)

*Appearance:*

For the Petitioner : Ms Bindu Bhatia, Advocate  
For the Respondent : None

*Per: Janab Mohammed Ajmal, Member (Judicial)*

**ORDER**

This Company Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code) read with Rule 4 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 seeks initiation of Corporate Insolvency Resolution Process (CIRP) against the Respondent alleging default in payment of financial debt.

2. The facts giving rise to the Petition may be stated as follows.
  - i. The Petitioner sanctioned a loan of Rs. 30,00,000/- (Rupees Thirty Lakhs only) to the Respondent *vide* Loan Agreement dated 01.02.2018. The Respondent on the same day executed a Promissory Note for Rs.30,00,000/-.
  - ii. The Respondent defaulted in payment of the loan, with effect from 30.06.2019. As on the date of the filing of the Petition i.e., 12.07.2019 an amount of Rs. 26,13,521.80 (Rupees Twenty Six Lakhs Thirteen Thousand Five Hundred Twenty One and Eighty Paise only) including interest @10% per annum stood outstanding. Copy of the Loan Agreement, Promissory Note and the details of the computation of the aggregate outstanding amount along with bank statement of the Petitioner have been annexed to the Petition.
3. The Respondent by letter dated 02.06.2019 to the Petitioner, confirmed that an amount of Rs. 22,89,216/- (Rupees Twenty Two Lakhs Eighty Nine Thousand Two Hundred Sixteen only) excluding interest, was due and outstanding as on 31.05.2019, towards the loan availed.
4. The Petitioner sent a letter dated 05.06.2019 to the Respondent demanding repayment of outstanding amount of Rs. 25,94,445/- (Rupees Twenty Five Lakhs Ninety Four Thousand Four Hundred Forty Five only) with interest @10% p.a. as on 31.05.2019. The Respondent in response to the above letter, replied on 10.06.2019, acknowledging the debt of Rs. 25,94,445/- and stated that the same would be repaid with interest by 25.06.2019. The Respondent failed to repay the outstanding dues. Therefore, the Petitioner issued another letter dated 26.06.2019 demanding payment of outstanding dues, to no avail.

5. The court notice was duly served several times upon the Corporate Debtor. The Respondent, however, did not appear nor filed a reply in its defence. It was accordingly set *ex parte* on 21.11.2019.
6. We have heard the Petitioner and perused the records. On perusal of the documents filed by the Petitioner, we find that the Respondent availed the loan from the Petitioner and defaulted in making payment to the Petitioner. The Petition is otherwise complete. The Petition thus deserves to be admitted. Hence Ordered.

ORDER

- i. The Petition be and the same is admitted *ex parte*.
- ii. The Corporate Insolvency Resolution Process of the Respondent shall commence from this date and shall be completed within 180 days hence.
- iii. Mr Ankur Kumar, having his address at Office No.18, 10<sup>th</sup> Floor, Pinnacle Corporate Park, G-Block, Bandra Kurla Complex, Bandra (E), Mumbai - 400 051, having Registration No. IBBI/IPA-002/IP-N00113/2017-18/10283 and email id [ankur.srivastava@ezylaws.com](mailto:ankur.srivastava@ezylaws.com) is appointed as the Interim Resolution Professional. No disciplinary proceeding is pending/proposed against him as per the IBBI website.
- iv. He is directed to take charge of the Respondent's management forthwith and take necessary steps in furtherance of the CIRP in terms of Sections 13(2), 15, 17, 18 and 20 of Code and Rules made there under.
- v. Moratorium under Section 14 of the Code in respect of the Respondent is hereby declared.
- vi. The Directors, Promoters or any other person(s) associated with the management of Respondent shall extend all assistance and cooperation to

the IRP as stipulated under section 19 for effectively discharging his functions under the Code.

- vii. The Registry is directed to communicate the order to the Petitioner/Financial Creditor and the Respondent/Corporate Debtor forthwith.
- viii. The Petitioner/FC and the Registry are also directed to send the copy of this order to IRP for necessary compliance.

Sd/-  
V. Nallasenapathy  
Member (Technical)

Sd/-  
Janab Mohammed Ajmal  
Member (Judicial)