

IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD
COURT - 1

ITEM No 144
C.P.(IB)/74(AHM)2021

Order under Section 7 IBC

IN THE MATTER OF:

AHA Holings Pvt Ltd
V/s
Chandra Net Ltd

.....Applicant

.....Respondent

Order delivered on ..20/09/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Virendra Kumar Gupta, Hon'ble Member(T)

PRESENTS:

For the Applicant :
For the IRP/RP :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open court vide separate sheet.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
COURT-I

CP (IB) No.74(AHM)2021

(Application for initiating Corporate Insolvency Resolution Process under
Section 7 of the Insolvency & Bankruptcy Code, 2016)

In the matter of :

AHA Holdings Private Limited

registered Office at :
404, Udyog Mandir No.2,
Mogul Lane, Mahim (West),
Mumbai-400016

..Financial Creditor

V/s

Chandra Net Limited

Registered office at:
401, Parshwa Tower,
Near Pakwan-II, S.G. Highway,
Bodakdev-Ahmedabad-380054

...Corporate Debtor

Order Reserved on 14.09.2021
Order Pronounced on 20.09.2021

Coram: **MADAN B. GOSAVI, MEMBER(J)**
VIRENDRA KUMAR GUPTA, MEMBER (T)

Appearance:

Learned Counsel Mr. Yuvraj Thakore for the Financial Creditor
Learned PCS Mr. Anshul Bhatt appeared for the Corporate Debtor

ORDER**[Per: VIRENDRA KUMAR GUPTA, MEMBER(T)]**

1. This Application is filed by the **AHA Holdings Private Limited** (hereinafter referred to as the 'Financial Creditor') through its Authorised Signatory under Section 7 of the Insolvency & Bankruptcy Code, 2016, r.w. Rule 4 of the Insolvency & Bankruptcy Code, 2016, to initiate Corporate Insolvency Resolution Process (hereinafter referred to as the 'CIRP') against the **M/s. Chandra Net Limited** the Corporate Debtor, on the ground that corporate debtor committed a default in paying the financial debt of **Rs. 35,81,59,855/-** as on 05.04.2021. The date of default has been claimed as 7th April, 2020.
2. The facts, in brief, are that the Financial Creditor granted loan of Rs. 35,00,00,000/- (Rupees Thirty Five Crores) on 17th April, 2008, which was repayable on 31st March, 2016. The Corporate Debtor, however, approached the Financial Creditor vide its letter dated 22nd February, 2016 to extend the loan for further period of two years, this request was accepted by the Financial Creditor and repayment schedule

was extended accordingly. The amount of loan was repayable on 31st March, 2018.

3. The Corporate Debtor, however, failed to honour its commitment. The Financial Creditor sent a demand notice on 2nd April, 2018 in response to which the Corporate Debtor again requested for extension of one year, which was also granted. On 5th April, 2019 again demand notice was sent, however, further extension was sought, which was again granted. In the meanwhile, the meagre payment of Rs. 1,00,000/- had been made by the Corporate Debtor on 31st October, 2018. The demand notice was again sent on 10th April, 2020, which was also not honoured. It has been submitted by the Financial Creditor that the Corporate Debtor has failed to make payment of debt, which is legally due and payable and the loan is "financial debt" within the meaning of provisions of Section 5(8) of the IBC, 2016. Hence, this application is liable to be admitted.
4. Learned Counsel Mr. Yuvraj Thakore appeared for the Financial Creditor narrated these basic facts that there was a debt which was due and payable both in law and fact, hence, an application filed under Section 7 of the Insolvency &

Bankruptcy Code, 2016 was to be admitted for the reason that a default has occurred in the discharge of its liabilities arising out of such Corporate Guarantee.

5. In the reply, the fact on liability has been accepted by the Corporate Debtor, hence, nothing more is to be seen.
6. We have considered the submissions made by both the sides and material available on record. It is noted that there is a debt which is due and payable and which is more than threshold limit of Rs. 1.00 Crore as this application has been filed after 24th March 2020 as regard to a default occurred thereafter.
7. The said debt is due and payable both in law and fact. The default in repayment thereof has occurred. Thus, all basic contentions of Section 7 of the Insolvency & Bankruptcy Code, 2016 have been fulfilled. Other requirement of proposing the name of Insolvency Professional eligible to be appointed as "IRP" has also been complied with.
8. The application is otherwise complete and defect free. The name of the IRP has been proposed whose consent is on record at Annexure-'C', hence, we appoint the same person as IRP against him no disciplinary proceedings are pending.

9. In view of the above facts and legal position applicable thereto, we hold that this application is deserves to be admitted.
10. In the result, the application filed under Section 7 of the Insolvency & Bankruptcy Code, 2016 stands allowed in terms of following directions:

ORDER

1. **AHA Holdings Private Limited** the Corporate Debtor is admitted in Corporate Insolvency Resolution Process (CIRP) under Section 7 of the Insolvency & Bankruptcy Code, 2016 and the moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code.

(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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

- (d) *the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*
2. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under subsection (1) of the Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
3. The Financial Creditor has proposed the name of the Interim Resolution Professional(IRP). Therefore, this Adjudicating Authority hereby appoint **PCA Mr. Ritesh Prakash Adatiya having regn. no. IBBI/IPA-001/IP-01334/2018-19/12013** to act as an IRP under Section 13(1) (c) of the Code. The IRP did not give his fee

schedule.

4. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17,18,20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under Section 19 of the Code extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or Co-operate, IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
5. We direct the IRP to make public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.
6. It is further directed that the supply of goods/service to

the Corporate Debtor Company, it continuing, shall not be terminated or suspended or interrupted during moratorium period.

7. The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016. The Financial Creditor is directed to pay an advance of **Rs. 5.00 lacs (Rupees Five Lacs only)** to the IRP within **two weeks** from the date of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority alongwith First Progress Report.
8. The IRP/RP shall also to file progress report /intimate to this Adjudicating Authority about all the matters which he is statutorily bound to inform under the relevant provisions of IBC, 2016 and regulations made thereunder.

9. The Registry is directed to communicate a copy of this order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities forthwith and upload the same on website immediately after pronouncement of the order.
10. List the matter on 22.11.2021.


(VIRENDRA KUMAR GUPTA)
MEMBER (TECHNICAL)


(MADAN B GOSAVI)
MEMBER (JUDICIAL)

VC