



**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 2**

Item No.218 – IA 190 of 2022  
In  
CP(IB) 804 of 2019

**Proceedings under Section 7 IBC**

**IN THE MATTER OF:**

BDH Industries Ltd

.....Applicant

V/s

Mars Remedies Pvt Ltd

.....Respondent

**Order delivered on 07/09/2022**

**Coram:**

Dr. Deepti Mukesh, Hon'ble Member(J)

Ajai Das Mehrotra, Hon'ble Member(T)

**PRESENT:**

For the Applicant : Mr. Kairav Trivedi, PCA

For the Respondent : Mr. Pavan Godiawala, Adv.

**ORDER**

**IA 190 of 2022**

It is noticed from the record that the Corporate Debtor had taken plea of its appeal pending before Hon'ble Supreme Court in the hearings on 17.03.2022, 22.04.2022, 07.06.2022, 09.06.2022, 28.07.2022 and 18.08.2022 and even today, same plea is taken. Learned Counsel Mr. Godiawala for the Corporate Debtor informed that no stay order has been granted by Hon'ble Supreme Court. Considering lapse of more than six months since the matter was restored to NCLT Ahmedabad Bench by Hon'ble NCLAT vide order dated 07.02.2022, we are not inclined to allow any further time to the Corporate Debtor. The order of Hon'ble NCLAT dated 07.02.2022 with the specific direction to this Bench has recorded that the Adjudicating Authority shall, within 15 days of this order, pass order as required under law for initiating CIRP against the Corporate Debtor. In pursuance of said order, IA 190 of 2022 was filed by the Financial Creditor for compliance of the said order. The order of Hon'ble NCLAT records the requirements to be satisfied for admission of Section 7 in its para 27 as under:

*“27. We find that letter dated 27.12.2021 sent by MRPL to BDH Industries is an adequate proof of financial assistance being sought by MRPL / Corporate Debtor from BDH Industries / Financial Creditor which was agreed to and disbursed by the Appellant / Financial Creditor to the Respondent / Corporate Debtor. In the face of such a document as proof of loan being given to the Corporate Debtor, we hold that Appellant / BDH Industries satisfies all the*



*necessary ingredients of being a Financial Creditor under the IBC and the amount given by it to the Respondent is in the nature of a financial debt. As discussed earlier this debt is in default and payable to the Appellant, and hence section 7 application ought to have been admitted. The appeal, therefore, succeeds and in the result, we set aside the Impugned Order of the Adjudicating Authority dated 24.06.2020 and direct that the Adjudicating Authority shall, within a period of fifteen days of this order, pass order as required under law for initiating Corporate Insolvency Resolution Process against the Respondent / Mars Remedies Private Limited and other consequential actions as provided in IBC.”*

The Financial Creditor has thereafter filed an appeal before Hon'ble NCLAT against the order of this Bench for not considering request of the Financial Creditor to admit the application, as the matter was pending before the Hon'ble Supreme Court. The said appeal was disposed of vide order dated 13.07.2022 wherein the Hon'ble NCLAT did not entertain the appeal but granted liberty to mention all the facts before this Adjudicating Authority. Considerable time has passed and no stay order or status quo order, or any other order is obtained by the Corporate Debtor against the order of NCLAT dated 07.02.2022, hence, order of Hon'ble NCLAT is required to be complied.

In pursuance of the said order dated 07.02.2022 passed by the Hon'ble NCLAT, we pass following order:

1. Application stands admitted.
2. The applicant has proposed the name of Mr. Ashish Vyas as Insolvency Resolution Professional, who is hereby appointed as IRP of corporate debtor having registration number IBBI/IPA-001/IP-P-01520/2018 -2019/12267 having office at B-1A Viceroy Court CHS ,Thakur Village ,Kandivali (East), Mumbai Suburban, Maharashtra ,400101, subject to the condition that no disciplinary proceedings are pending against him. Specific consent of the IRP in Form 2 along with disclosures as required under IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 is filed, which is on record.
3. We direct the Financial Creditor to deposit a sum of Rs. 2.00 lacs (Rupees two lacs only) with the Interim Resolution Professional, namely Mr. Ashish vyas to meet the expenses for performing 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 one week from the date of receipt of this order by the Financial Creditor. The amount however 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.
4. As a consequence of the application being admitted in terms of Section 7(5) of IBC, 2016, moratorium as envisaged under the provisions of Section 14 (1) shall follow in relation to the Corporate Debtor, prohibiting actions as per clauses (a) to (d) of



Section 14 (1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall remain in force.

5. A copy of the order shall be communicated to the applicant, IRP and the corporate debtor. In addition, a copy of the order shall also be forwarded to IBBI for its records and taking steps for updating the Master Data of the corporate debtor in MCA portal. IBBI shall send a compliance report to the Registrar, NCLT.

Pending application, if any, also stands disposed of. Accordingly, IA 190 of 2022 stands allowed and disposed of. The order is pronounced in the open court.

-Sd-

**AJAI DAS MEHROTRA  
MEMBER (TECHNICAL)**

-Sd-

**DR. DEEPTI MUKESH  
MEMBER (JUDICIAL)**