

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH, COURT-V**

**C.P.(IB) No. 1024 of 2022**

Under Section 7 of the Insolvency and  
Bankruptcy Code, 2016 read with Rule 4 of the  
Insolvency and Bankruptcy (Application to  
Adjudication Authority) Rule 2016)

*In the matter of*

**Buoyant Financial Advisor Pvt. Ltd.,**

Registered Office at 401, Dalamal House, J. Bajaj  
Road, Nariman Point, Mumbai- 400 021

**.....Petitioner / Financial Creditor**

**Vs**

**Ramavtar Investment and Trading Company**

**Private Limited,**

(U65990MH1981PTC023681)

Registered Office at Office 28, Appollo Street,  
Rajabhadhur Mansion, Fort, Mumbai 400 023.

**.....Corporate Debtor/ Respondent**

**Date of order: 25.04.2023**

**Coram:**

Hon'ble Sh. Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

**For the Financial Creditor:** Mr. Aman Kacheria a/w Mr. Vaibhav Sharma i/b Mr. Rishabh Dhanuka, Advocates

**For the Corporate Debtor:** None Present

*Per: Smt. Anuradha Sanjay Bhatia, Member (Technical)*

**ORDER**

1. This Company Petition is filed by Buoyant Financial Advisor Pvt. Ltd. (hereinafter called "**Petitioner/Financial Creditor**") seeking to initiate Corporate Insolvency Resolution Process (**CIRP**) against Ramavtar Investment and Trading Company Private Limited (hereinafter called "**Corporate Debtor**") alleging that the Corporate Debtor defaulted in making payment to the Financial Creditors. This Petition has been filed by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called "**Code**") read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for a Resolution of Financial Debt of Rs. 2,49,36,758/- comprising of Rs. 1,05,20,000/- towards the principal amount and interest of Rs. 1,44,16,758/- calculated @ 24% p.a. in accordance with the Loan Agreement.

**BRIEF FACTS OF THE CASE**

2. The Ld. Counsel for the Petitioner/ Financial Creditor submits that the Corporate Debtor had approached the Financial Creditor for funds, for expanding his business in Food Park project. Thereafter, on 5<sup>th</sup> March 2018, the Corporate Debtor and Financial Creditor entered into a Loan Agreement, wherein the Financial Creditor agreed to disburse an amount of up to Rs. 2,00,00,000/- at the interest rate of 24% per month, for a tenure of 3 years.

3. Pursuant to the Loan Agreement, the Financial Creditor disbursed an amount of Rs. 1,05,20,000/- (Rupees One Crore Five lakhs and Twenty Thousand Only) to the Corporate Debtor in the month of March, 2018.
4. The Financial Creditor requested the Corporate Debtor to inform it about the commencement and progress of the Food Truck Project. The Financial Creditor also brought it to the Corporate Debtor's attention that as per the terms of the Loan Agreement, the Corporate Debtor was required to commence the project within a period of six months, from the date of first disbursement (which is on 13.03.2018). The Corporate Debtor replied to the Letter dated 2<sup>nd</sup> July, 2018 and informed the Financial Creditor that they are in the process of opening the business and they are in the process of negotiations with potential vendors/suppliers. On 15.01.2019, the Financial Creditor addressed a letter to the Corporate Debtor, requesting them to give an update about the commencement and progress of the Food Truck Project and the manner in which the loan advanced by the Financial Creditor was utilized by the Corporate debtor. The Financial Creditor addressed another letter dated 04.04.2019 to the Corporate Debtor once again requesting it to provide an update on the Food Truck Project.
5. The Corporate Debtor, vide letter a dated 03.08.2019, stated that they were facing several issues with the potential vendors and informed that they would need further time to commence the Project and admitted that they have been unable to do the same and requested for an extension of a terms of three months to commence the operations of the Project in terms of the Loan Agreement. On 15.11.2019, the Financial Creditor sent a Letter to the Corporate Debtor informing it that since there was no progress, despite lapse

- of several months and requested for a meeting between the Representatives of the Financial Creditor and the Corporate Debtor to reconcile the accounts and to restructure the loan agreements.
6. Thereafter, on 22 November 2019, a meeting was held between the representatives of the Financial Creditor and the Corporate Debtor, where the Corporate Debtor accepted that the Food Truck Project had not commenced till date and it was unlikely to commence. Therefore, it was agreed to reschedule the Repayment date. It was also agreed by the Corporate Debtor that it would be liable to pay an amount of Rs. 1,62,17,975/- (Rupees One Crores Sixty-Two Lakhs Seventeen Thousand Nine Hundred and Seventy-Five only) to the Financial Creditor, on or before 31 March 2020. Further, the Corporate Debtor also issued three post-dated cheques for a total amount of Rs. 1,62,17,975/- (Rupees One Crore Sixty-Two Lakhs Seventeen Thousand Nine Hundred and Seventy-Five only) as security towards the repayment of the loan amount
  7. The Corporate Debtor failed to repay the amount, as agreed between the parties. The Corporate Debtor requested for a further period of six months to enable it to clear the dues which they failed to do so. Therefore, vide a Letter dated 14 December 2020, the Financial Creditor addressed a Letter to the Corporate Debtor requisitioning it to pay an amount of Rs. 1,62,17,975/- (Rupees One Crore Sixty-Two Lakhs Seventeen Thousand Nine Hundred Seventy-Five Only).
  8. Thus, on 28 April 2022, the Financial Creditor, through its Advocate addressed a Demand Notice to the Corporate Debtor calling upon the Corporate Debtor to make a payment of Rs. 1,62, 17, 975/- (One Crore Sixty-Two Lakhs Seventeen

Thousand Nine Hundred Seventy-Five Only). Despite, receipt of the said Demand Notice, the Corporate Debtor neither replied to the notice nor paid the outstanding dues.

9. The following documents categorically demonstrate the financial debt "due" and "payable" by the Corporate Debtor, to the Financial Creditors:
  - a. Loan Agreement dated 05.03.2018
  - b. Statement of Monies disbursed to the Corporate Debtor
  - c. Correspondence between the Financial Creditor and the Corporate Debtor.
10. **The Corporate Debtor had not appeared before this Bench despite the fact that the Court Notice has been served upon the Corporate Debtor by the Registry as well as by the Petitioner.**

### **FINDINGS**

11. Heard the submissions of Mr. Aman Kacheria a/w Mr. Vaibhav Sharma i/b Mr. Rishabh Dhanuka, Advocates, counsel appearing for the Petitioner/ Financial Creditor and perused the material available on record.
12. The Ld. Counsel of the Financial Creditor/ Petitioner has placed reliance upon the letter 14.12.2020, wherein the Financial Creditor has requested the Corporate Debtor to repay the loan advanced along with the interest, but the Corporate Debtor has failed to reply to the above-mentioned letter.
13. Notice in the present Company Petition was duly served upon the Corporate Debtor both by the Petitioner as well as by the Registry of this Bench. The Corporate Debtor failed to appear before this Bench despite the court notice served on them from the Registry of NCLT. Despite of several opportunities granted to the Corporate Debtor, the Corporate Debtor chosen not to appear

before this Bench. Hence, the hearing was concluded after hearing the counsel for the Petitioners/ Financial Creditors and the matter was reserved.

14. After hearing the submissions and upon perusing the material available on record and considering the Corporate Debtor has been proceeded against ex-parte, this Bench is of the view that the Petitioner has successfully demonstrated the existence of "debt" and "default" committed by the Corporate Debtor in this case. The Petitioners suggested the name of Mr. Vimal Kumar Agarwal as Interim Resolution Profession along with his consent letter in Form 2. Accordingly, the above Company Petition is '**admitted**' by passing the following:

### **ORDER**

- a. The above **Company Petition No. 1024 of 2022** is hereby **admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Ramavtar Investment and Trading Company Private Limited.
- b. This Bench hereby appoints **Mr. Vimal Kumar Agarwal**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P00741/2017-2018/11247, having Registered Address at: C-4, Shanti Jyot, Balaji Nagar, Bhayandar West, District – Thane 401 101 as the Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Financial Creditor shall deposit an amount of Rs. 5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim

Resolution Professional appointed herein, immediately upon communication of this Order.

- d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- e. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.

- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, this Petition is admitted.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-

**Anuradha Sanjay Bhatia**  
**Member (Technical)**

SD/-

**Kuldip Kumar Kareer**  
**Member (Judicial)**