

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH  
KOLKATA**

**C.P (IB) No. 406/KB/2021**

*A Petition 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.*

*In the matter of:*

1. Ganpati Stocks Private Limited [CIN U70101WB1996PTC076594]
2. Randar Businesses Private Limited [CIN U51109WB1993PTC059522]
3. Anand Potato Cold Storage Private Limited [CIN U63023WB2008PTC125223]
4. Eastman Merchants Private Limited [CIN U51909WB1996PTC076981]
5. Anubandh Financial Services Private Limited [CIN U65993WB1996PTC076599]
6. Bizeal Services Private Limited [CIN U74120MH2013PTC239971]

*...Financial Creditors*

*Versus*

**Indus Integrated Information Management Limited** (CIN U72200WB2003PLC096523)

*...Corporate Debtor*

**Date of Hearing: 23.05.2022**

**Date of pronouncing the order: 15.06.2022**

**Coram:**

***Shri Rohit Kapoor***

***: Member (Judicial)***

***Shri Harish Chander Suri***

***: Member (Technical)***

**Appearances (through Video Conferencing/physical)**

**For Financial Creditor**

1. Ms. Urmita Chakraborty, Advocate
2. Mr. Sourav Jain, Advocate

**ORDER**

***Per Harish Chander Suri, Member (Technical)***

1. The Court convened *via* hybrid mode.
2. This is a Company Petition filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (***the Code***) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Mr. Yogesh Company Randar, Director, Ganpati Stocks Private Limited (***Financial Creditor***), duly authorised *vide* Board Resolution dated 18 December, 2021<sup>1</sup> for initiation of Corporate Insolvency Resolution Process (***CIRP***) against Indus Integrated Information Management Limited (***Corporate Debtor*** or ***CD***). The Petitioner Nos. 2, 3, 4 & 5 have also placed their respective Board Resolution.
3. The present Petition was filed on 20 December, 2021 before this Adjudicating Authority on the ground that the Financial Creditors had advanced loans to the Corporate Debtor, details of the amount advanced are as follows;

<b><i>Financial Creditors</i></b>	<b><i>Loan advanced</i></b>	<b><i>Date of Default</i></b>
Ganpati Stocks Private Limited	Rs.1,98,00,000/-	18.12.2021
Randar Businesses Private Limited	Rs.60,00,000/-	24.11.2021
Anand Potato Cold Storage Private Limited	Rs.17,00,000/-	24.11.2021
Eastman Merchants Private Limited	Rs.13,00,000/-	24.11.2021
Anubandh Financial Services Private Limited	Rs.50,00,000/-	25.11.2021
Bizeal Services Private Limited	Rs.35,00,000/-	30.11.2021

4. It is submitted in the Petition, Part – II that the authorised share capital of the Corporate Debtor is Rs.3,20,00,000/- (Rupees Three Crore Twenty Lakh only)

<sup>1</sup>Annexure – P2 of the Petition.

with paid up Capital as Rs.3,15,34,000/- (Rupees Three Crore Fifteen Lakh Thirty Four Thousand only).

**5. *Submissions by the Ld. Counsel appearing on behalf of the Petitioner No.1***

5.1 Petitioner No. 1 had granted a loan amounting to Rs.1,98,00,000/ - in several tranches @12% p.a. to the Corporate Debtor. The rate was mutually revised to 18% p.a. with effect from new financial year i.e. 01.04.2018 with the condition to repay the debt on demand.

5.2 On 26.02.2021 Last payment of Rs. 25 lakh was received. Petitioner No. 1 after prolonged wait had sent a final demand notice on 09.12.2021 through E-mail & speed post to the CD and also marked to the present directors. The demand notice was sent to the CD for repaying back the principal loan amount along with the interest due till date within 7 days of receipt of the said Demand Notice. The said notice was delivered to the CD on 10.12.2021. The CD has neither responded nor paid the amount.

**6. *Submissions by the Ld. Counsel appearing on behalf of the Petitioner No.2***

6.1 P.2 had granted a loan amounting to Rs. 60,00,000/ - in two tranches @12% p.a. initially which was eventually mutually revised to 18% p.a. with effect from new financial year i.e., 01.04. 2018 with the condition to repay the debt on demand. Bank statement to demonstrate disbursement of loan amount {Page 168 & 166 of CP}.

6.2 After prolonged wait had sent a demand notice dated 13.11.2021 through E-mail on 13.11.2021 & speed post on 15.11.2021 to the CD & its directors. The demand notice was sent to the CD for repaying back the principal loan amount along with the interest due till date within 7 days of receipt of the said Demand Notice. The said notice was delivered to the CD on 16.11.2021. The CD has neither responded back to the demand notice nor repaid back the said debt. This shows CD's deemed inability to pay the financial debt. Hence, the date of default is

calculated 7 days after the receipt of the demand notice by the CD which is 24.11.2021.

**7. Submissions by the Ld. Counsel appearing on behalf of the Petitioner No.3**

7.1 P.3 had granted a loan amounting to Rs. 17, 00,000/- 12% p.a. initially, which was eventually mutually revised to 18% p.a. With effect from new financial year i.e. 01.04.2018 with the condition to repay the debt on demand. Bank statement to show disbursement of loan amount {page 195 of CP}.

7.2 P.3 after prolonged wait had sent a demand notice dated 18.11.2021 through E-mail or 13. 11. 2021 & speed post on 15.11. 2021 to the CD & its directors. The demand notice was sent to the CD for repaying back the principal loan amount along with the interest due till date within 7 days of receipt of the said Demand Notice. The said notice was delivered to the corporate debtor on 16.11.2021. The CD has neither responded back to the demand notice nor repaid back the said debt. This shows CD's deemed inability to pay the financial debt. Hence, the date of default is calculated 7 days after the receipt of the demand notice by the CD which is 24. 11.2021

**8. Submissions by the Ld. Counsel appearing on behalf of the Petitioner No.4**

8.1 P.4 had granted a loan amounting to Rs. 13,00,000/- @12% p.a. initially which was eventually mutually revised to 18% p.a. with effect from new financial year i.e. 01.04.2018 with the condition to repay the debt on demand.

8.2 P.4 after prolonged wait had sent a demand notice dated 13.11.2021 through E-mail on 13. 11.2021 & speed post on 15.11.2021 to the CD & its directors. The demand notice was sent to the CD for repaying back the principal loan amount along with the interest due till date within 7 days of receipt of the said Demand Notice. The said notice was delivered to the CD on 16.11.2021. The CD has neither responded back to the demand notice nor repaid back the said debt. This shows CD's deemed inability to pay the financial debt. Hence, the date of default

is calculated 7 days after the receipt of the demand notice by the CD which is 24.11.2021.

**9. Submissions by the Ld. Counsel appearing on behalf of the Petitioner No.5**

9.1 P.5 had granted a loan amounting to Rs. 50,00,000/- @12% with the condition to repay the debt on demand. Last payment of Rs. 50 lakhs were received from CD.

9.2 P.5 after prolonged wait had sent a demand notice dated 13.11.2021 through E-mail & speed post on 15.11.2021 to the CD & its directors. The demand notice was sent to the CD for repaying back the principal loan amount along with the interest due till date within 7 days of receipt of the said Demand Notice. The said notice was delivered to the CD on 17.11.2021. The CD has neither responded back to the demand notice nor repaid back the said debt. This shows CD's deemed inability to pay the financial debt. Hence, the date of default is calculated 7 days after the receipt of the demand notice by the CD which is 25.11.2021

**10. Submissions by the Ld. Counsel appearing on behalf of the Petitioner No.6**

10.1 Petitioner No. 6 had granted a loan amounting to Rs. 35,00,000/- in several tranches @12% p.a. initially which was eventually mutually revised to 18% p.a. with effect from new financial year i.e., 01.04.2018 with the condition to repay the debt on demand.

10.2 P.6 after prolonged wait had sent a demand notice dated 19.11.2021 through E-mail & speed post on 20.11.2021 to the CD & its directors. The demand notice was sent to the CD for repaying back the principal loan amount along with the interest due till date within 7 days of receipt of the said Demand Notice. The said notice was delivered to the CD on 22.11.2021. The CD has neither responded back to the demand notice nor repaid back the said debt. This shows CD's deemed inability to pay the financial debt. Hence, the date of default is calculated 7 days after the receipt of the demand notice by the CD which is 30.11.2021.

*Analysis and Findings*

- 11.** We have heard the Ld. Counsel appearing on behalf of the Financial Creditor and perused the record. No reply has been filed on behalf of the Corporate Debtor. The matter was set as *ex-parte* on 19 April, 2022
- 12.** It is pertinent to mention that the Financial Creditors have been able to prove the Financial Debt disbursed to the Corporate Debtor and the default. The Corporate Debtor has failed to repay the debt inspite of the demand notices. What is worse is that the Corporate Debtor neither responded to the demand notices issued by the Financial Creditors nor have represented themselves before this Adjudicating Authority.
- 13.** It clearly indicated that the Corporate Debtor is not in a position to repay its Financial Debt owed to the Financial Creditors. We are satisfied that this petition deserves admission.
- 14.** In the light of the above facts and circumstances, it is, hereby ordered as follows:-

  - (a) The application bearing CP (IB) No. 406/KB/2021 filed by Ganpati Stocks Private Limited, under section 7 of the Code read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against Indus Integrated Information Management Limited, the Corporate Debtor, is *admitted*.
  - (b) There shall be a moratorium under section 14 of the IBC.
  - (c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

- (d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (e) **Mr. Kamal Nayan Jain**, registration number **IBBI/IPA-001/IP-P00029/2016-2017/10065**, email: **knjain@knjainco.com**, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the Code.
- (f) During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (g) The IRP/RP shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- (h) The Financial Creditor shall deposit a sum of **Rs.3,00,000/- (Rupees Three Lakh only)** with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

- (i) In terms of section 7(5)(a) of the Code, Court Officer of this Court is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order.
- (j) Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, Kolkata by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.
- 15.** *CP (IB) No. 406/KB/2021* to come up on **03 August, 2022** for filing the periodical report
- 16.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**Harish Chander Suri**  
Member (Technical)

**Rohit Kapoor**  
Member (Judicial)

The Order is pronounced on 15<sup>th</sup> day of June, 2022

SA, LRA