

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

CP (IB) - 859/I&B/MB/2019
Under Section 7 of the I&B Code, 2016

In the matter of

Parish Tekriwal
Flat No: 11, 3rd Floor, Sailesh CHS, 6th
Road, Khar West, Mumbai

.... Petitioner

Vs.

VRG Digital Corporation Pvt. Ltd.
501, Mangal Murti, 5th Floor, Linking Road,
Near Arya Samaj, Above Jack and Jones
Showroom, Sanacruz (W), Mumbai 400 054

....Corporate Debtor

Order delivered on: 27.09.2019

Coram:

Hon'ble Shri Bhaskara Pantula Mohan, Member (J)
Hon'ble Shri Shyam Babu Gautam, Member (T)

For the Petitioner: Mr. Pradeep Kumar Mishra, Advocate

For the Corporate Debtor: Mr. Pariket Shah, Advocate

Per: Shri Shyam Babu Gautam, Member (T)

ORDER

1. This is an application filed under Section 7 of the Insolvency and Bankruptcy (I&B) Code, 2016 by Parish Tekriwal (hereinafter called the 'Petitioner') seeking the Corporate Insolvency Resolution Process of VRG Digital Corporation Pvt. Ltd. (hereinafter called the 'Corporate Debtor') on the ground that the Corporate Debtor committed breach of loan agreement by making default in payment of the monthly instalments in loan agreements entered into the Corporate Debtor and the Financial Creditor.

2. The Corporate Debtor is a company incorporated on 13.08.2018 under the Companies Act, 2013 bearing CIN No: U67190MH2008PTC185792, having Authorised Capital Rs. 11.50 Crores and a Paid-Up Capital of Rs. 11 Crores.

3. The counsel for the petitioner submits that various amounts have been loaned to the Corporate Debtor by the Petitioner in the normal course of its business from the year 2011 till the year 2018.

4. An agreement for the repayment of the Loan was entered into between the financial creditor and the corporate debtor on 01.04.2018. As it was difficult for the Corporate Debtor to arrange the funds in one go, it was agreed between both the parties that the Borrower will repay the entire sum in a schedule showing the exact amount and date on which the amount is to be paid. The total amount claimed by the Petitioner to be paid by Corporate Debtor is Rs.1,37,41,523/-.

5. The petitioner has also annexed a copy bank passbook statements starting from 23.03.2011 to 27.12.2017, which clearly indicate that there was disbursement of amount by the Petitioner to the Corporate Debtor on various occasions.

6. According to the contentions made by the petitioner, the default started from the 30.04.2018 i.e. from when the Corporate Debtor failed to pay the amount along with the interest charged as agreed by them in accordance with the Loan Agreement.

7. The rate of interest agreed by both the parties that the lender, or the petitioner in this matter, shall be entitled to an interest at the rate of 12% per annum to be paid on a monthly basis at the end of each month on residual balances at the end of each month and also a penal interest of 3% per annum on residual balance at the end of each month if any default is on the payment of the instalments.

8. The petitioner contends that there have been successive defaults in payment of instalments on behalf of the Corporate Debtor.

9. In support of all the contentions made by the learned counsel for the petitioner, the documents have been annexed and paid reliance upon which are as follows:

- a. Copy of Agreement for repayment of loan dated 01.04.2018 entered between the financial creditor and the corporate debtor.
 - b. Copy of complete details of payments and receipts.
 - c. Copy of Repayment status and interest calculation.
 - d. Copy of bank statement of financial creditor.
10. Herein it is noted that, on an earlier occasion i.e. on 20.08.2019, when the matter was listed for hearing before this, the counsel representing the Corporate Debtor company admitted their liability as well as default on their part. Therefore, there is not argument to be advanced further.

ORDER

This petition is filed by the Mr. Parish Tekriwal for initiating Corporate Insolvency Proceedings against VRG Digital Corporation Private Limited. After perusal of the papers and hearing both the sides, this court is pleased to file the following order:

11. On perusal of the arguments of both the sides and the documents and evidences placed on record, this Bench finds that there was an express Loan Agreement entered into both the parties. Therefore, both the parties shared a relation of creditor-debtor relationship. This fact is not denied by any of the parties.
12. Further, the statements of accounts produced in record prove that there was a disbursement of amount by the financial creditor in favour of corporate debtor. The amount payable to the financial creditor amounts to Rs. 1,42,70,239/- including the interest agreed by both the parties and payable by the corporate debtor.
13. After perusing the documents put on record, we have come to a conclusion that there have been consecutive defaults on the part of the corporate debtor in making the payment towards the liability to the Petitioner. Despite repeated requests and reminders, the Corporate Debtor failed to repay the dues.

14. The Corporate Debtor themselves have admitted their liability and default on their part. Therefore, the petition deserves to be admitted.
15. This Adjudicating Authority, on perusal of the documents filed by the Creditor, is of the view that the Corporate Debtor defaulted in repaying the loan availed. In the light of above facts and circumstances, the existence of debt and default is reasonably established by the Financial Creditor as a major constituent for admission of a petition under section 7 of the I&B Code. Therefore, the Application under sub-section (2) of Section 7 is taken as complete, accordingly this Bench hereby admits this Petition prohibiting all of the following of item-I, namely:
- (I) (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 (SARFAESI Act);
(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.
 - (II) 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.
 - (III) 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.
 - (IV) That the order of moratorium shall have effect from 25.09.2019 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.

- (V) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- (VI) That this Bench hereby appoints, Mr. Mukesh Kathuria, having office at 6B/1105, Sapphire Heights, Lokhandwala Township, Akurli Road, Kandivali, Mumbai – 400 101; having Registration No. IBBI/IPA-001/IP-P01216/2018-19/11925 as Interim Resolution Professional to carry the functions as mentioned under Insolvency & Bankruptcy Code.

16. Accordingly, this Petition is admitted.

17. The Registry is hereby directed to communicate this order to both the parties and the Interim Resolution Professional immediately.

Sd/-
Shyam Babu Gautam
Member (Technical)

Sd/-
Bhaskara Pantula Mohan
Member (Judicial)