

**NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

C.P. (IB)/91(PB)/2022

IN THE MATTER OF:

DBS Bank India Ltd (DBIL)

...FINANCIAL CREDITOR

Versus

M/s. Abhisar Impex Pvt. Ltd.

...CORPORATE DEBTOR

**U/S 7 of IBC, 2016 of INSOLVENCY AND BANKRUPTCY (Application to
Adjudicating Authority) RULES, 2016**

Order delivered on: 29.03.2022

CORAM:

JUSTICE RAMALINGAM SUDHAKAR

HON'BLE PRESIDENT

MR. AVINASH K. SRIVASTAVA

HON'BLE MEMBER (TECHNICAL)

PRESENT:

**For the Financial Creditor : Mr. Dhruv Malik, Ms. Mannat Sabharwal,
Ms. Palak Nenwani, Advocates**

For the Corporate Debtor : Mr. Dhruva Vij, Mr. Prabhat Rajan, Advocates

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ORDER

PER SH. AVINASH K. SRIVASTAVA, HON'BLE MEMBER(TECHNICAL)

1. This is an application has been filed by DBS Bank India Limited (DBIL), (Financial Creditor) seeking initiation of corporate insolvency resolution process of M/s. AbhisarImpex Private Limited (Corporate Debtor, who is Corporate Guarantor). Briefly the Corporate Debtor (Corporate Guarantor) has given corporate guarantee for Rs. 25 Crore in favour of M/s Vayam Technologies Limited (“principal borrower”) who had availed working capital credit facilities of Rs. 25 Crore sanctioned on 01.08.2011 and renewed thereafter on 13.09.2012 and 22.11.2013 by the Financial Creditor under the Canara Bank Consortium, comprising of Canara Bank (Lead Bank), Applicant Banks and other member banks namely Axis Bank, IBBI Bank Ltd,. Standard Chartered Bank and Dena Bank.
2. The working capital facility was secured by way of corporate guarantee dated 14.03.2012 extended by **M/s. Abhisar Impex Private Limited** as well as by creation of charge by way of equitable mortgage on *pari passu* basis on commercial property situated at D-319, Sector-63, Noida.
3. Despite various requests, the principal borrower failed to honour its obligations and neglected to make payment of the loan. Owing to the occurrence of said default, the Corporate Guarantor was obliged to make repayment of the outstanding amounts, in accordance with the terms of Corporate Guarantee. However, the Corporate Guarantor too failed to honour its agreed obligations.
4. Consequently, the Financial Creditor was constrained to issue a loan recall notice dated 20.06.2015 to the borrower as well as Corporate Guarantor. The Financial Creditor has been awarded Rs. 23,29,19,212.46/- (Rupees Twenty-Three Crore Twenty-Nine Lakhs

Nineteen Thousand Two Hundred Twelve and Paise Forty Six Only) alongwith interest @ 18% vide Recovery Certificate No. 347/2019 dated 24.07.2019 by Debt Recovery Tribunal, New Delhi.

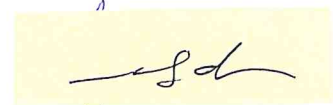
5. The Financial Creditor has also filed an application under Section 7 of the IBC for initiating CIRP for the principal borrower. The Financial Creditor invoked the corporate guarantee on 29.10.2021. However, the Corporate Guarantor did not reply to the notice of invocation of guarantee nor refuted its liability towards the payment to the Financial Creditor.
6. Vide order dated 11.02.2022 of this Adjudicating Authority, notice was issued to the Respondent through process dasti as well as through all modes. The same was served on the party on 07.03.2022 which was admitted by the Ld. Advocate for the Corporate Debtor (Corporate Guarantor) who appeared today and sought time for filing reply IBC proceedings being time bound and the notice of Section 7 application has been served upon the Corporate Debtor on 07.03.2022. Further, the Corporate Guarantor was a party in the MA No. 135/2017 in OA No. 466/2015 before Debt Recovery Tribunal which issued recovery certificate no. 347/2019 dated 16.07.2019, and hence is well versed with the facts of the case since a long time.
7. The application for initiation of CIRP has been filed for total debt of Rs. 49,55,93,696.48/- (Rupees Forty-Nine Crores Fifty-Five Lakhs Ninety Three Thousand Six Hundred and Ninety Six and Paise Forty Eight Only) which include interest.
8. The date of recovery certificate is 24.07.2019, so the application under Section 7 is within the period of limitation.
9. The application is hereby **ADMITTED**.

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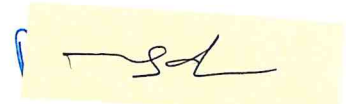
10. The applicant has proposed the name of interim resolution professional (IRP) **Ms. Ritu Rastogi** having address: **D-1B, 9A, Janakpuri, New Delhi-110058**, Registration No: **IBBI/IPA-001/IP-P00204/2017-2018/10393**, contact no. **9810037450** and email: ritu_rastogi1@yahoo.co.in . The consent of the IRP and as well as self declaration that no disciplinary proceedings are pending against her in the Insolvency and Bankruptcy Board of India or ICAI. In addition, further necessary disclosures have been made by **Ms. Ritu Rastogi** as per the requirement of the IBBI Regulations. Accordingly, she satisfies the requirement of Section 7 (3)(b) of the Code. Hence, we appoint Ms. Ritu Rastogi, as the IRP of the Corporate Debtor (Corporate Guarantor).
11. In pursuance of Section 13(2) of the Code, we direct the IRP to make public announcement immediately with regard to admission of this application under Section 7 of IBC. The expression 'immediately' means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
12. As a consequence of the application being admitted in terms of Section 7 of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) of IBC shall follow in relation to the Corporate Guarantor as per proviso (a) to (d) of section 14(1) of the IBC. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the IBC shall come in force.
13. We direct the Applicant to deposit a sum of Rs. 2,00,000, with the Interim Resolution Professional **Ms. Ritu Rastogi**, to meet out the expenses to perform the functions assigned to her 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 three days from the date of receipt of this order by the Applicant. The amount however, will be subject to adjustment by the Committee of

Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Applicant.

14. The registry is directed to communicate a copy of the Order to the Applicant, the Corporate Debtor (Corporate Guarantor) the Interim Resolution Professional and the Registrar of Companies, NCR, New Delhi, at the earliest, but not later than seven days from today. The Registrar of Companies shall update his website by updating the status of 'Corporate Debtor' and specific mention regarding admission of this petition must be notified.



**RAMALINGAM SUDHAKAR
PRESIDENT**



**AVINASH K. SRIVASTAVA
MEMBER (TECHNICAL)**