



NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

(IB)-460(ND)/2021

IN THE MATTER OF:

Morari Commercial Private Limited

Registered Office at:
G-113, Preet Vihar,
New Delhi – 110092

...Applicant/Financial Creditor

VERSUS

Unik Bazar Limited

Registered Office at:
Ground Floor, Shanti Gopal Chamber,
Vikas Marg, Shakarpur, Delhi-110092

...Respondent

Section: 7 of IBC, 2016

Order Delivered on: 24.11.2022

CORAM

SH. BACHU VENKAT BALARAM DAS, HON'BLE MEMBER (J)

SH. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : Adv. Animesh Kumar, Adv. Nishant Kumar

For the Respondent : Adv. Santosh Kumar



ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

Morari Commercial Private Limited (for brevity, **the 'Applicant/ Financial Creditor'**) has filed the present application under the Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity, **the 'IBC, 2016'**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 with a prayer to initiate the Corporate Insolvency Resolution process against M/s. Unik Bazar Limited (**the 'Respondent'**).

2. The Respondent namely, M/s. Unik Bazar Limited is a Company incorporated on 16.09.2011 under the provisions of erstwhile Companies Act, 1956 with CIN U52100DL2011PLC225177 having its registered office at Ground Floor, Shanti Gopal Chamber, Vikas Marg, Shakarpur, Delhi-110092, which is within the territorial jurisdiction of this Tribunal. The Authorized Share Capital of the Respondent Company is Rs.10,00,00,000/- and Paid-up Share Capital is Rs.8,17,36,000/- as per the master data annexed with the Petition.

3. It is stated by the Applicant that it is in the business of retail trading of goods and merchandise. The Respondent has several retail outlets in the name of Unik Bazar throughout India. It is further stated that the Respondent approached the Applicant for financial assistance for running their business. Both the parties entered into



an agreement on 15.09.2018 under which the Applicant agreed and gave a loan of Rs. 90,00,000/- in two tranches of Rs. 50,00,000/- on 27.09.2018 and Rs. 40,00,000/- on 01.10.2018 to the Respondent.

4. It is further stated that it was agreed between the parties that the loan shall be used for the business purpose only and shall be repayable on demand and if Respondent fails to repay the amount on demand, it shall constitute an event of default and the Applicant shall have unfettered right to initiate appropriate legal proceedings.

5 The Applicant has submitted that the Respondent has also acknowledged the amount of loan in its audited balance sheets and tax audit report.

6. The Applicant has asked for balance confirmation including interest accrued from the Respondent. The Respondent then, vide its "Confirmation of Accounts" dated 01.08.2021 has confirmed the outstanding balance amount of Rs. 1,03,63,446/-.

7. The Applicant vide its letter dated 03.08.2021 has demanded the repayment of the entire outstanding amount of Rs. 1,03,63,446/- from the Respondent and got the demand letter delivered to the registered office of the Respondent, which was acknowledged by the authorized signatory of the Respondent.

8. The detailed particulars of the total unpaid financial amount of debt and the date of default are mentioned in Part IV of the application, which is reproduced overleaf:



Part - IV	
PARTICULARS OF FINANCIAL DEBT	
1. TOTAL AMOUNT OF DEBT GRANTED DATE(S) OF DISBURSEMENT	Total amount disbursed Rs.90,00,000/- (Rs. Ninety Lakhs) only. 50,00,000/- on 27 th September, 2018 and 40,00,000/- on 1 st October, 2018
2. AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)	Rs.1,03,63,446/- (Rs. One Crore Three Lakhs Sixty Three Thousand Four Hundred Forty Six) only. Date of Default: 4 th August, 2021 For Morari Commercial Pvt. Ltd. <i>Tawish</i>

9. From the perusal of the Part IV of the Application, it is observed that the Applicant has claimed an amount of Rs.1,03,63,446/- as an unpaid financial debt and 04.08.2021 to be the date of default.

10. The Applicant/Financial Creditor has relied on the following documents to prove the existence of the financial debt.

- a) Copy of the Loan Agreement.
- b) Copy of the bank statement of the Applicant evidencing disbursement of the loan.
- c) Copy of the audited balance sheet of the Respondent for Financial Year 2018-19 and 2019-2020 and the tax audit report.



- d) Copy the balance confirmation by the Respondent as on 01.08.2021.
- e) Copy of the letter of demand issued by the Applicant requesting repayment of the outstanding loan amount.
- f) Copy of the reply received from the Respondent showing their inability to pay the loan amount.

11. Basing on the aforesaid facts and documents, the Financial Creditor has prayed for initiation of CIRP against the Respondent.

12. This Adjudicating Authority has issued notice to the Respondent on 15.09.2021. The Respondent has filed its reply and stated that an agreement was executed between the parties on 15.09.2018, as per which the Applicant had transferred the amounts of Rs. 50,00,000/- and Rs. 40,00,000/- to the Respondent as on the dates mentioned in the application. It is further affirmed by the Respondent *"...that for last two years, the corporate debtor is suffering from issues of liquidity and was trying to keep it as going concern, but it was unable to pay the outstanding debt."*

13. During the course of hearing on 09.11.2022, the Ld. Counsel appearing for the Respondent too admitted the liability, on instructions from the Respondent. He also confirmed that the parties herein are not related in any way.



14. After hearing submissions of both the parties and perusing the documents placed on record, this Bench observes that there is enough material on record suggesting that the loan was disbursed by the Applicant to the Respondent. Further, the Respondent in its reply has also averred that, vide its letter dated 04.08.2021, it has confirmed the debt and expressed its inability to repay the said debt of the Applicant. The scanned copy of the letter is reproduced below:



Unik Bazar Ltd.

GSTIN: 09AABCU3690A1ZK

Head Office : A-17, Sector 60
Gautam Budh Nagar, Noida - 201 301 (U.P.)
Phone : 0120-4955350, 9311013388,
Email : unikbazar@gmail.com

197

To,
The Morari Commercial Private Limited
G-113, Preet Vihar, Delhi-110092

Date: 04/08/21

SUB: Repayment of Loan availed by the company from Morari Commercial Private Limited

Ref: Letter of demand dated 3rd August, 2021 for repayment of loan received from Morari Commercial Private Limited

Dear Sir

We are in receipt of your letter dated 3rd August, 2021 through which we have been called upon to repay the entire amount of loan along with interest amounting to Rs. 1,03,63,446.00.

While we admit the liability to pay and confirm the debt due, we are unable to repay the debt at this moment as there has been financial issues in the company for last one year and the company was facing financial stress and liquidity issues.

While we will try to pay the admitted amount at the earliest, we are not in position to commit a definite date for repayment of the entire amount.

Kindly consider, the issues and give us more time.

Thanking you,

For Unik Bazar Limited

Authorized Signatory



15. In view of the above, both the debt and default on the part of the Corporate Debtor are clearly established. Further, the Respondent has not come up with any contention as to why the CIRP shall not be initiated against it. Rather, both in its reply as well as during the hearing, it has admitted the debt and expressed its inability to repay the financial debt.

16. In the given facts and circumstances, the present Application being complete and the Applicant/Financial Creditor having established the default on the part of the respondent in repayment of the financial debt being above the minimum threshold, **the present Application is admitted in terms of Section 7(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code.** As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry:

- “(a) The institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent in respect of its property including any action under the Securitization and



Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

- (d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Respondent.”

17. As proposed by the Financial Creditor, this Bench appoints Mr. Sanjay Kumar Singh IP (Email: singhsk.adv@gmail.com) having Registration No. IBBI/IPA-002/IP-N00188/2017-18/10505 as IRP subject to the condition that no disciplinary proceeding is pending against the IRP so named and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. This Adjudicating Authority orders that:

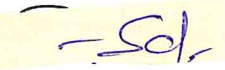
“Mr. Sanjay Kumar Singh (E-mail:singhsk.adv@gmail.com) IRP having Registration No. IBBI/IPA-002/IP-N00188/2017-18/10505 is directed to take charge of the CIRP of the Respondent with immediate effect. He is further directed to take the steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016.


18. The Financial Creditor is directed to deposit Rs. 2,00,000/- (Two Lakh) only with the IRP to meet the immediate expenses. 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 Financial Creditor.



19. A copy of this Order shall immediately be communicated by the Registry/Court Officer of this Tribunal to the Financial Creditor, the Respondent and the IRP mentioned above.

20. In addition, a copy of the Order shall also be forwarded by the Registry/Court Officer of this Tribunal to the IBBI for their record.


(L. N. GUPTA)
MEMBER (T)


(BACHU VENKAT BALARAM DAS)
MEMBER (J)