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NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-1359(ND)2019

IN THE MATTER OF:

Ashoksing L Rajput & Ors.
C/990, Horagin Guttigeri,
Haliyal, Uttar Kannada,
Karnataka-581329

... Financial Creditor

VERSUS

M/s. HBN Foods Limited
Business Unit No. 523, 5th Floor, HBN Office
D Mall, Plot D, District Centre
Paschim Vihar, New Delhi

....Corporate Debtor

Section: 7 of IBC, 2016

Order Delivered on: 21.10.2019

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SHRI. L. N. GUPTA, HON'BLE MEMBER (T)

PRESENT:

For the Petitioner : Mr. Pankaj Yadav and Ms. Priyaranjan Dubey,
Advocates

For the Respondent : None

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24/10/19

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

The present petition is filed under Section 7 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by 18 claimants, who have Authorised Sh. Ashoksing L. Rajput vide letter dated 23.05.2019 for brevity 'Financial Creditor') initiating the Corporate Insolvency Resolution process against M/s. HBN Foods Ltd. (for brevity 'Corporate Debtor').

2. The Corporate Debtor namely, HBN Foods Limited is a Company incorporated on 1.03.2013 under the provisions of Companies Act, 1956 with CIN No. U15400DL2013PLC248945, having its registered Office at Business Unit No. 523, 5th Floor, HBN Office, D Mall, Plot D, District Centre, Paschim Vihar, New Delhi-110087.
3. The Authorised Share Capital of the Respondent Company is Rs. 10,00,000 and Paid-up Share Capital of the Company is Rs. 5,00,000 as per the Master Data of the Company annexed.
4. It is submitted by the Petitioners that the Respondent Company namely, HBN FOODS LTD. had floated an Investment Scheme vide their Circular 9 dated 01.08.2013. The Scheme as given at Exhibit- H (colly) is reproduced below :

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EXHIBIT - "H" (copy)

HBN FOODS LTD.
B-53, B-1 BLOCK COMMUNITY CENTRE,
JANAKPURI, NEW DELHI-110058

Ref. No. HBN/HO/DLH/MKTG/2013-14/108

Dt: 01/08/2013

Circular No. 9

To

All Channel Partners/Distributors/CSC.Incharges

The management is pleased to announce new tables in HBN Foods Ltd. Tables - Foods 1, Foods 2, Foods 3, Foods 4, Foods 5, Foods 6 & Food 7. This will be effective from 1st of Aug 2013.

The spot benefits will be applicable for all plans.

PLAN Foods 1 - 108 Months (9 years)		
S.No.	Advance against Foodgrains	Expected Value of Foodgrains
1	5000	12000
2	10000	24000
3	15000	36000
4	20000	48000
5	25000	60000
10	50000	120000

PLAN Foods 2 - 78 Months (6 years 6 Months)		
S.No.	Advance against Foodgrains	Expected Value of Foodgrains
1	5000	11000
2	10000	22000
3	15000	33000
4	20000	44000
5	25000	55000
10	50000	110000

[Handwritten Signature]

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PLAN Foods 3 - 70 Months (5 years 10 Months)						
S.No.	Advance against Foodgrains	Monthly	Qtrly	Half Yrly	Yrly	Expected Value of Foodgrains
		70	23	11+1	5+1	
		Rs	Rs	Rs	Rs	
1	14000	200	600	1160+800*	2300+2000*	18750
2	21000	300	900	1740+1200*	3450+3000*	28125
3	28000	400	1200	2320+1600*	4600+4000*	37500
4	35000	500	1500	2900+2000*	5750+5000*	46875
9	70000	1000	3000	5800+4000*	11500+10000*	93750

PLAN Foods 4 - 80 Months (6 years 8 Months)						
S.No.	Advance against Foodgrains	Monthly	Qtrly	Half Yrly	Yrly	Expected Value of Foodgrains
		80	26	13	6+1*	
		Rs	Rs	Rs	Rs	
1	16000	200	610	1180	2325+1375*	24375
2	24000	300	915	1770	3485+2075*	36565
3	32000	400	1220	2360	4650+2750*	48750
4	40000	500	1525	2950	5810+3450*	60940
5	48000	600	1830	3540	6970+4150*	73125
9	80000	1000	3050	5900	11620+6900*	121880

PLAN Foods 5 - 108 Months (9 years)						
S.No.	Advance against Foodgrains	Monthly	Qtrly	Half Yrly	Yrly	Expected Value of Foodgrains
		60	20	10	5	
		Rs	Rs	Rs	Rs	
1	12000	200	590	1160	2300	24000
2	18000	300	885	1740	3450	36000
3	24000	400	1180	2320	4600	48000
4	30000	500	1475	2900	5750	60000
9	60000	1000	2950	5800	11500	120000

Ashoksingh



PLAN Foods 6 - 48 Months (4years)						
S.No.	Advance against Foodgrains	Monthly	Qtrly	Half Yrly	Yrly	Expected Value of Foodgrains
		48 Rs	16 Rs	3 Rs	4 Rs	
1	9600	200	600	1180	2350	12250
2	14400	300	900	1770	3525	18375
3	19200	400	1200	2360	4700	24500
4	24000	500	1500	2950	5875	30625
9	48000	1000	3000	5900	11750	61250

PLAN Foods 7 - 60 Months (5years)						
S.No.	Advance against Foodgrains	Monthly	Qtrly	Half Yrly	Yrly	Expected Value of Foodgrains
		60 Rs	20 Rs	10 Rs	5 Rs	
1	12000	200	600	1180	2350	16000
2	18000	300	900	1770	3525	24000
3	24000	400	1200	2360	4700	32000
4	30000	500	1500	2950	5875	40000
9	60000	1000	3000	5900	11750	80000

Wish you all the best.

For HBN FOODS LTD

Authorized Signatory

Cc: Group CEO/Chairman/President/Accounts/Audit/HR/EDP/All CSC Incharges

5. The Petitioners have averred that :

"The Corporate Debtor is a public limited unlisted company and is a group company of HBN Group, incorporated in the year 2013. The Corporate Debtor collected monies from public at large including the Petitioners herein since year 2013 and issued certificate with promise for assured returns."

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“The Applicants invested their hard earned monies in the said Corporate Debtor’s scheme based on the assurances and promise for assured returns. However, subsequently, the directors of the said Corporate Debtors absconded due to various criminal cases initiated against them by various entities. One of the directors is lodged in Raipur Jail since past many years. When the Applicant tried to enquire about their investment there was no one in the company to respond. The Applicants visited the Registered office of the Company at Delhi but the office was found closed. The office of the company remains closed and its business is shut and the Applicants’ monies are stuck.”

“That a group company of the Corporate Debtor “HBN Dairies & Allied Ltd.” is already undergoing CIRP process pursuant to an order of this Hon’ble Tribunal. The directors in the Corporate Debtor and the said : HBN Dairies & Allied Ltd. Even on this date, the present Directors are common in these two companies.”

6. It is submitted by the Petitioners that the total Principal amount invested by the Petitioners in the scheme is Rs. 54,24,150. They have added that the total amount of claim as per the scheme comes to Rs. 74,31,447. Hence, the default committed by the Respondent Company amounts to total Rs. 74,31,447, the Petitioner-wise details of which, as given in the petition, are reproduced below :



Sr. No.	Name	Amount of Default in (Rs)	Date of Default
1.	Ashoksing L. Rajput	9,89,761	27.09.2017
2.	Suresh Tukaram Pawar	32,400	19.11.2016
3.	Chandrakant Popatlal Shah	36,000	29.11.2016
4.	Maya Chandrakant Shaha	36,000	28.11.2016
5.	Shriniwas Rajtam Tala	49,000	31.10.2018
6.	Rajendra Janardan Patil	9,15,000	23.09.2014
7.	Rajesh Vitthal Pawar	4,80,000	27.09.2014
8.	Vijay Manoharrao Mahalle	1,50,000	25.09.2014
9.	Gajnan Tukaram Kakad	2,85,000	27.09.2014
10.	Ashok Mallikarjun Bhandekari	3,60,000	15.12.2014
11.	Bharat Rambhau Kagade	1,80,000	17.12.2014
12.	Baburao Venkatesh Thakkanwar	7,08,000	15.12.2014
13.	Sangita Haridas Kate	3,07,500	30.09.2014
14.	Trimbak Santram Kharare	8,64,000	29.09.2014
15.	Vishwanath Shridhar Pawar	1,56,250	31.01.2014
16.	Bahuaheeb Vitthalrao Kashid	1,56,250	31.01.2014
17.	Baburao Eknath Shinde	7,06,000	30.12.2014
18.	Balasaheb Babasaheb Dhas	9,51,250	17.12.2014

7. As none appeared on behalf of the Respondent Company during the proceedings, the Respondent was proceeded ex-parte vide Order dated 01.07.2019 passed by this Tribunal.

8. In the given facts and circumstances, the Financial Creditors have established the default on the part of the Corporate Debtor in payment of the Financial Debt. The present Petition being complete and the amount of default being above Rs. 1,00,000, the Petition is admitted in terms of Section 7(5) of the IBC. Accordingly, the CIRP is initiated and moratorium is declared in terms of Section 14 of the Code. As a necessary

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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 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;
- (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.”

9. As proposed by the Petitioner, this Bench appoints Sh. Jagdish Singh Nain, as IRP having Office at 98- Gangotri Apartments, Vikaspuri New Delhi-110018 (email id- jsnain@yahoo.com) and Registration No. IBBI/IPA-003/IP-N00187/2018-19/12518, subject to the condition that no disciplinary proceedings are pending against the IRP so named and disclosures as required under IBBI Regulations, 2016 are made him within a period of one week from this Order. The IRP is directed to take the steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016.

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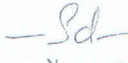
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10. The Petitioners are directed to deposit Rs. 2,00,000 (Two Lakh) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional and shall be paid back to the Petitioner.


11. A copy of this Order shall be communicated to the Petitioner, the Respondent and the IRP mentioned above by the Registry of this Tribunal. In addition, a copy of the Order shall also be forwarded by the Registry to IBBI for their records.


(L. N. Gupta)
Member (T)


(Ina Malhotra)
Member (J)



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Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003