

**NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**  
**COURT III**

4. I.A. 3849/2022  
I.A. 3847/2022  
IN  
C.P.(IB)-176(MB)/2020

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)  
SHRI SATYA RANJAN PRASAD, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **20.12.2022**

NAME OF THE PARTIES: Sushma Anand Jain

V/s.

Nirmal Lifestyle Limited

SECTION 7 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

Mr. Aditya Bapat, counsel appearing for the Financial Creditor and Mr. Rishab Jain i/b MDP & Partners appearing for Corporate Debtor are present through virtual hearing.

**I.A. 3849/2022 & I.A. 3847/2022**

The above I.A. 3849/2022 is filed by the Financial Creditor for restoration of the main Company Petition bearing CP No. 176/2020 which was disposed of vide order dated 27.09.2022 by this Bench in view of an unconditional undertaking given by Corporate Debtor to pay the amount within 8 weeks granting liberty to the petitioner to file appropriate application for restoration of the main company petition in case of breach committed by the Corporate Debtor.

The other I.A. 3847/2022 is filed by the Corporate Debtor for grant of further extension of 8 weeks to the Corporate Debtor for complying the order dated 27.09.2022 passed by this bench and also to direct the Financial Creditor to provide NOC within a period of 7 days to the Corporate Debtor for sale of the flat of the Financial Creditor.

Heard Mr. Aditya Bapat, counsel appearing for the Financial Creditor and Mr. Rishab Jain i/b MDP & Partners appearing for Corporate Debtor and perused the record. It is an admitted fact borne out from the record that the Corporate Debtor having admitted the 'debt' and 'default', the above Company Petition was disposed of on 27.09.2022. It was specifically mentioned in the above order dated 27.09.2022 that the Corporate Debtor has unconditionally agreed to deposit the remaining amount of Rs. 7,02,21,273/- without insisting for any NOC for disposal of the property that was purchased by the Applicant. Today, the Corporate Debtor having availed nearly 3 months' time, once again filed the above I.A. 3847/2022 mischievously seeking direction from this Tribunal to the Financial Creditor to provide NOC just to make this Tribunal as well as the Financial Creditor once again fools. It is pertinent to observe here that the Corporate Debtor herein is facing number of company petitions before various Benches in Bombay and adopting the same modus of first entering into consent terms and thereafter breaching the consent terms and thereby once again forcing the applicant to file an application for restoration of the Company Petition and in the meantime once again settling the matter only to gain time. The Corporate Debtor herein played similar trick with the Financial Creditor in another Company Petition bearing CP No. 4412/2019 which is listed on tomorrow's board in which also similar application for restoration of Company Petition in view of breach of consent terms by the Corporate Debtor is filed.

This Bench has taken a very serious note about the conduct of the Corporate Debtor. Since this tribunal has granted liberty to apply for revival while disposing the Company Petition, this Bench has no option except to revive of the Company petition. Otherwise it is not obliged to do so, in view of voluntary withdrawal of the above Company Petition by the Financial Creditor at the risk of entering into consent terms after admission.

Hence, for the aforesaid reasons, this Bench has no option except to revive the Company Petition. Accordingly, the above I.A. 3849/2022 is **allowed** and the main Company is restored to file. The above I.A. 3847/2022 filed by the Corporate Debtor is **rejected** in view of the conduct of the Corporate Debtor.

**CP(IB)/176/MB/2020**

Accordingly, and the above Company Petition is admitted. Detail order would follow:

Sd/-  
SATYA RANJAN PRASAD  
Member (Technical)  
/RKS/

Sd/-  
H. V. SUBBA RAO  
Member (Judicial)

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH  
COURT III**

**C.P. No. 176/IBC/MB/2020**

Under Section 7 of the Insolvency and  
Bankruptcy Code, 2016 read with Rule 4  
of the Insolvency and Bankruptcy  
(Application to Adjudication Authority)  
Rule 2016)

*In the matter of*

**Mrs. Sushma Anand Jain.**

Having registered office at: 82, Maker  
Chambers III, Nariman Point, Mumbai-  
400021

.....Financial Creditor

Vs

**Nirmal Lifestyle Limited.**

(CIN: U92411MH1999PLC122542)

Registered office at: 3<sup>rd</sup> floor, Multiplex  
Building, Nirmal Lifestyle, L.B.S. Marg,  
Mulund (West), Mumbai- 400080

.....Corporate Debtor

**Order dated: 20.12.2022**

**Coram:**

Hon'ble Shri H.V. Subba Rao, Member (Judicial)

Hon'ble Shri Satya Ranjan Prasad, Member (Technical)

**For the Applicant:** Mr. Aditya Bapat, Advocate

**For the Respondent:** Mr. Rishab Jain i/b MDP & Partners, Advocate

**Per:** *Shri H.V. Subba Rao, Member (Judicial)*

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1. The above Company Petition is filed by *Mrs. Sushma Anand Jain.* hereinafter called as Financial Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP)

against *Nirmal Lifestyle Limited* called as Corporate Debtor by invoking the provisions of Section 7 Insolvency and Bankruptcy code (hereinafter called “Code” read with rule 4 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of an unresolved Financial Debt of Rs. 8,02,21,273/- (Rupees Eight Crores Two Lakhs Twenty One Thousand Two Hundred Seventy Three only).

2. The above Company Petition was already disposed of vide order dated 24.08.2021 in view of admitting another Company Petition bearing CP No. 4412 of 2019 against the same Corporate Debtor. Since the Corporate Debtor has settled the matter and come out of CIRP, the Financial Creditor filed I.A. 823 of 2022 to restore the main Company Petition in view of setting aside the CIRP order passed against the Corporate Debtor in the other Company Petition bearing CP No. 4412/2019. Accordingly, the above I.A. 823/2022 was allowed and the main Company Petition was restored to file on 05.08.2022. Thereafter, the above Company Petition was once again disposed of on 27.09.2022 in view of the settlement offer given by Corporate Debtor for a comprehensive settlement for an amount of Rs. 8,02,21,273/- out of which he has already paid Rs. 1,00,00,000/-. The Corporate Debtor agreed to pay the remaining amount within 8 weeks from 27.09.2022 failing which agreed for admission and ordering CIRP against the Corporate Debtor. Since the Corporate Debtor once again failed to adhere to the undertaking given in the open court, the Financial Creditor once again filed I.A. 3849/2022 for restoration of the Company Petition and the Corporate Debtor filed another I.A. 3847/2022 for extension of time which were

disposed of by common order today by rejecting the extension application filed by the Corporate Debtor and by restoring the main Company Petition by allowing the restoration application filed by the Financial Creditor.

3. In view of the above facts and circumstances, nothing remains to be adjudicated in the above matter since it an admitted case of 'debt' and 'default' and breach of undertaking by the Corporate Debtor on two occasions. The Financial Creditor has also suggested the name of proposed Interim Resolution Professional in part-3 of the Petition along with his consent letter in Form-2. Thus, the present company Petition satisfies all the necessary requirements for admission. Accordingly, the above Company Petition is admitted by passing the following:

**ORDER**

- a. The above Company Petition No. (IB) 176 (MB)/2020 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Nirmal Lifestyle Limited.
- b. This Bench hereby appoints **Mr. Ankur Kumar** (ankursrivastava@ezylaws.com) Insolvency Professional, Registration No: IBBI/IPA-002/IP-N00113/2017-18/10283 having registered office at: Office No. 18, 10<sup>th</sup> Floor, Pinnacle Corporate Park, G-Block, Bandra-Kurla Complex, Bandra East, Mumbai- 400051 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Financial Creditor shall deposit an amount of Rs.5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this

Order. The IRP shall spend the above amount only towards expenses and not towards fee till his fee is decided by COC.

- d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- e. 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.
- f. 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.
- g. That the order of moratorium shall have effect from the date of pronouncement of this order 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.

- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, this Petition is admitted.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

**SATYA RANJAN PRASAD**  
**MEMBER (TECHNICAL)**

Sd/-

**H.V. SUBBA RAO**  
**MEMBER (JUDICIAL)**