

IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD

ITEM No. 134
(MP) CP(IB) 75 of 2020

Order under Section 7 IBC

IN THE MATTER OF:

Intec Capital Ltd

V/s

Shri Govind Realty Pvt Ltd

.....Applicant

.....Respondent

Order delivered on ..16/12/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)

Ajai Das Mehrotra, Hon'ble Member(T)

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
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ORDER

The case is fixed for pronouncement of the order.

The order is pronounced in open Court vide separate sheet.



(AJAI DAS MEHROTRA)
MEMBER (TECHNICAL)



(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD

ITEM No.
IA/44(MP)2021 in
CP(IB) 75 of 2020

Order under Section Rule 11 of NCLT Rules 2013

IN THE MATTER OF:

Shri Govind Realty Pvt Ltd
V/s
'Intec Capital Ltd

.....Applicant

.....Respondent

Order delivered on ..16/12/2021

Coram:

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MEMBER (TECHNICAL)



(MADAN B GOSAVI)
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD

ITEM No.

IA/106(MP)2021 in CP(IB) 75 of 2020

Order under Section Rule 11 of NCLT,2016

IN THE MATTER OF:

Shri Govind Reality Pvt Ltd
V/s
Intec Capital Ltd

.....Applicant

.....Respondent

Order delivered on ..16/12/2021

Coram:

Madan B. Gosavi, Hon'ble Member(J)
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MEMBER (TECHNICAL)



(MADAN B GOSAVI)
MEMBER (JUDICIAL)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH AT AHMEDABAD**

**(MP) CP (IB) No.75 of 2020 along with
IA/44 (MP) 2021
IA/106(MP)2021**

In the matter of :

[An application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016]

(MP) CP (IB) No.75 of 2020

In the matter between:

INTEC CAPITAL LTD

Having address at:
708, Manjusha Building,
57, Nehru Palace,
New Delhi-110019

....Financial Creditor

Versus

M/S. SHRI GOVIND REALITY PVT. LTD

Having address at:
Aashima Mall,
Hosangabad Main Road, Bhopal,
Madhya Pradesh-462026

....Corporate Debtor

IA/44 (MP) 2021

[An application under Rule 11 of NCLT Rules, 2016]

In the matter between:

M/s. Shri Govind Reality Pvt. Ltd.

Having address at:
Aashima Mall,
Hosangabad Main Road,
Bhopal, Madhya Pradesh-462026

....Applicant



Versus

M/s. Intec Capital Ltd.

Having address at:
708, Manjusha Building,
57, Nehru Palace,
New Delhi-110019

....Respondent

IA/106(MP)2021

[An application under Rule 11 of NCLT Rules, 2016]

In the matter between:

M/s. Shri Govind Reality Pvt. Ltd.

Having address at:
Aashima Mall,
Hosangabad Main Road,
Bhopal, Madhya Pradesh-462026

....Applicant

Versus

M/s. Intec Capital Ltd.

Having address at:
708, Manjusha Building,
57, Nehru Palace,
New Delhi-110019

....Respondent

Order Reserved On : 2nd day of December 2021
Order Pronounced On : 16th day of December 2021

Coram: MADAN B. GOSAVI, MEMBER (J)
AJAI DAS MEHROTRA, MEMBER (T)

PRESENTS:

For the Financial Creditor: Ld. Adv. Mr. Sagar Bansal
For the Corporate Debtor : Ld. Adv. Mr. Anurag Shrivastava



ORDER

[Per: MADAN B. GOSAVI, MEMBER (T)]

1. This application is filed under Section 7 of Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as **"IBC, 2016"**) by M/s. Intec Capital Limited-the Financial Creditor against the M/s. Shri Govind Reality Private Limited-the Corporate Debtor for initiating the Corporate Insolvency Resolution Process (hereinafter referred to as **"CIRP"**) of the Corporate Debtor on the ground that the Corporate Debtor committed the default in paying the financial debt of Rs. 2,90,00,000/- (Rupees Two Crore Ninety Lakh) approximately. The date of default is stated to be 05.03.2018.
2. The Financial Creditor stated that it is a Non-Banking Finance Company (in short **"NBFC"**). It has granted and disbursed the term loan of Rs. 3,00,00,000/- (Rupees Three Crore Only) in favor of the Corporate Debtor on 16.03.2015. The Corporate Debtor was to repay the loan in sixty equitable monthly installments of Rs. 7,61,803/- (Rupees Seven Lakh Sixty One Thousand Eight Hundred Three Only). The Financial Creditor has the right to recall the loan, in case, of one default. The Corporate Debtor had issued sixty post-



dated cheques in favour of the Financial Creditor with instructions to deposit them on the due dates. They were towards repayment of the loan. According to Financial Creditor, the cheques presented on the due date for recovery of the installment got dishonored thereby the Corporate Debtor committed the default in paying the loan. Hence, on 23.06.2018, the Financial Creditor served on the Corporate Debtor notice for recalling of the loan and further calling upon the Corporate Debtor to clear the outstanding amount. Since the Corporate Debtor committed default in paying the debt, this application is filed for initiating the CIRP of the Corporate Debtor.

3. Notice was served on the Corporate Debtor. Learned Advocate Mr. Vijay Sehgal appeared on behalf of the Corporate Debtor and sought time to file an affidavit in reply. Instead of filing an affidavit in reply, the Corporate Debtor filed an IA, bearing no. IA/44(MP)2021 requesting therein to restrain the Financial Creditor from proceeding with the matter which has been filed before the Tehsildar & Executive Magistrate, Tehsil-Kolar, Bhopal for possession of the property mortgaged by the Corporate Debtor.



4. According to Corporate Debtor, the Financial Creditor has filed that application after initiation of this proceeding. This Adjudicating Authority, vide order dated 19.04.2021, restrained the Financial Creditor from proceeding with that matter pending before the Tehsildar & Executive Magistrate, Tehsil-Kolar, Bhopal and further directed the Corporate Debtor to file a reply.
5. In spite of the opportunities given, the Corporate Debtor did not file affidavit in reply. However, the Corporate Debtor again filed another IA, bearing no. IA/106(MP)2021 online only requesting this Adjudicating Authority to further restrain the Financial Creditor from proceeding with the application filed under Section 13 of the SARFAESI Act, 2002. IA/106(MP)2021 has not been filed physically but it has been presented online. Notice has not been served to the other side.
6. On 02.12.2021, we called upon the Learned Counsel for the Financial Creditor and Learned Counsel for the Corporate Debtor to proceed with the hearing of this application as it has to be disposed of in a time-bound manner. Accordingly, we heard Learned Counsel for the Financial Creditor.



Learned Counsel for the Corporate Debtor again prayed for time to file a reply on the ground that the One Time Settlement (in short **"OTS"**) proposal submitted by the Corporate Debtor is under consideration of the Financial Creditor. We made it clear to him that this Adjudicating Authority cannot adjourn the matter on such ground and we heard Learned Counsel for the Financial Creditor at length. However, we granted the time to Learned Counsel for the Corporate Debtor to file the written notes of submissions within three days but Counsel for the Corporate Debtor did not comply with the order. Hence, we proceeded with passing the order.

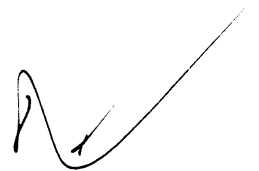
7. The Financial Creditor produced on record the certificate of default of the financial debt by the Corporate Debtor issued by National E-Governance Services Limited (in short **"NeSL"**). Even otherwise, the Corporate Debtor did not dispute that financial debt more than Rs. 1 Crore is due and payable by it to the Financial Creditor and it has committed default in paying the same. These are only relevant facts for the consideration of this Adjudicating Authority in an inquiry of this application under Section 7 of IBC, 2016. We hold



that Financial Creditor has established both facts. This application is defect-free. The Financial Creditor has suggested the name of Insolvency Professional Ms. Teena Saraswat Pandey, having Registration No. IBBI/IPA-001/IP-P00652/2017-2018/11126 for appointment as an Interim Resolution Professional (in short **"IRP"**) against whom no disciplinary proceedings are pending, hence, we pass the following orders:

ORDER

- I. The Corporate Debtor M/s. Shri Govind Reality Pvt. Ltd. is admitted in the Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.
- II. We appoint **Ms. Teena Saraswat Pandey, having Registration No. IBBI/IPA-001/IP-P00652/2017-2018/11126, E-mail id: teenasaraswat@yahoo.co.in,** and having address at 378F 114 Scheme Part-1, Behind Diksha Boys Hostel, Santi Nagar, Indore (MP)-452010 under section 13(1) (c) of the IB Code as IRP as proposed by the Financial Creditor.



- III. The Moratorium under Section 14 of the Code shall come to effect from the date of this order till the completion of 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.
- IV. The Adjudicating Authority hereby prohibits the institution of suits or continuation of pending suit or proceedings against the Corporate Debtor including the execution of any judgment, decree or order in any Court of law and further prohibits Tribunals, Arbitration Panels or other Authority(s), transferring, encumbering, alienating or disposing any of Corporate Debtor 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 SARFAESI 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.



- V. Further, litigation or application, if any, is pending before any competent Court of law under the provisions of the SARFAESI Act and RDB Act, prior to the pronouncement of this order such proceedings are expected to be dealt with in accordance with law i.e., Section 14 and Section 238 of the Insolvency & Bankruptcy Code, 2016.
- VI. The supply of essential goods or services to Corporate Debtor, if continuing, shall not be terminated or suspended, or interrupted during the Moratorium, period. The Corporate Debtor to provide effective assistance to the IRP as and when he takes charge of assets and management of the Corporate Debtor.
- VII. The IRP so appointed shall make a Public announcement of the Corporate Insolvency Resolution Process (CIRP) immediately as specified under Section 13 of the Code and by calling for submissions of the claim under Section 15 of the Code.
- VIII. The IRP shall perform all his functions as contemplated, *inter-alia*, by Sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with the Corporate Debtor, its Promoter, or any other person



associated with the management of the Corporate Debtor are under legal obligation as per Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter, or any other person required to assist or co-operate with the IRP, do not assist or co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- IX. The IRP shall be under a duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of an obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
- X. We direct the Financial Creditor / Applicant to pay the IRP a sum of **Rs. 1,00,000/- (Rs. One lakh)** as fees & expenses till the COC decides about his fees/expenses.
- XI. The Registry is directed to communicate this order to the Financial Creditor, Corporate Debtor, and to the Interim Resolution Professional and the concerned Registrar of



Companies, after completion of necessary formalities, within three working days and upload the same on the website immediately after pronouncement of the order.

XII. The commencement of the Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.

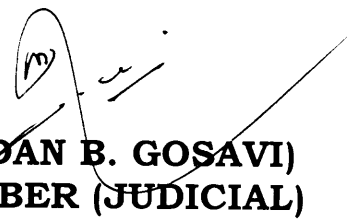
8. In view of the above directions (more particularly part IV of this order), IA/44(MP)2021 and IA/106(MP)2021 filed by Corporate Debtor stand disposed of.

9. Accordingly, CP (IB) No. 75 of 2020 is allowed.

10. Signed on this, the 16th day of December 2021.



(AJAI DAS MEHROTRA)
MEMBER (TECHNICAL)



(MADAN B. GOSAVI)
MEMBER (JUDICIAL)

Rajeev Sen/ Stenographer