



**NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH**

**COURT III**

11. C.P.(IB)-3953(MB)/2019

CORAM: SHRI H. V. SUBBA RAO, MEMBER (J)  
SMT ANURADHA SANJAY BHATIA, MEMBER (T)

ORDER SHEET OF THE HEARING OF MUMBAI BENCH OF THE NATIONAL  
COMPANY LAW TRIBUNAL ON **06.09.2022**

NAME OF THE PARTIES: Fortune Park Hotels Ltd

V/s

Lavasa Hotels Ltd.

SECTION 9 OF INSOLVENCY AND BANKRUPTCY CODE, 2016

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**ORDER**

Counsel for the Petitioner/OC, Mr. Anil Kher with Mr. Kunal and counsel for the Resolution Professional of Lavasa Corporation Ltd/Respondent, Ms. Kriti Kalyani i/b Mr. Shardul Amarchand Mangaldas & Co. are present through virtual hearing.

**C.P. 3953/2019**

Heard the arguments on both sides. The above Company Petition is **admitted**.  
Detailed order will follow.

Sd/-  
ANURADHA SANJAY BHATIA  
Member (Technical)  
*--Rajeev--*

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



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

**C.P. No. 3953/IBC/MB/2019**

Under Section 9 of the Insolvency and  
Bankruptcy Code, 2016 read with Rule 6 of the Insolvency  
and Bankruptcy (Application to Adjudication Authority)  
Rule 2016)

*In the matter of*

**FORTUNE PARK HOTELS LIMITED**

Having registered office at: ITC Green Centre, 10,  
Institutional Area, Sector 32, Gurgaon- 122001, Haryana

*.....Operational Creditor*

*V/s*

**LAVASA HOTELS LIMITED**

(CIN: U55100MH2007PLC173728)

Registered office at: Hinson House, Lal Bahadur Shastri  
Marg, Vikhroli West, Mumbai, Maharashtra- 400083

*.....Corporate Debtor*

Order pronounced on: **06.09.2022**

**Coram:**

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

Hon'ble Anuradha Sanjay Bhatia, Member (Technical)

**For the Applicant:** Mr. Anil Kher a/w Mr. Kunal

**For the Respondent/RP:** Ms. Kriti Kalyani i/b Mr. Shardul  
Amarchand Mangaldas



The above Company Petition is filed by M/s. Fortune Park Hotels Limited hereinafter called as Operational Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against M/s. Lavasa Hotels Limited called as Corporate Debtor by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called "Code" read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of Operational Debt of Rs. 2,13,13,394.66/-.

**BRIEF FACTS OF THE PETITIONER ARE AS FOLLOWS;**

1. The Application has been filed by Mr. Samir Mecherivalappil Chandrasekharan, Managing Director of the Applicant Company who is duly authorised to sign, verify and file the present application on behalf of the Applicant Company.
2. That the Corporate Debtor is a company incorporated under the Companies act, 1956 having its Registered Office at Hincan House, Lal Bahadur Shastri Marg, Vikhroli West, Mumbai, Maharashtra-400083. The main objects of the Corporate Debtor Company are as follows;
  - A. To construct, own, buy, sell, promote, conduct, manage and also to carry on business of establishing and/or running hotels, motels, resorts, clubs, restaurants, cafes, bars, road houses, holiday camps, amusement parks, recreation centres, convention centre, all kinds of entertainment, games, sports, amusements, exhibitions, concerts, health clubs, medical centre, spiritual centre, meditation centre, sports centre, water sports, ski resorts, medical schemes and to provide, organize, sponsor a credit card scheme/organisation, health club scheme, medical scheme, multi benefit investment scheme on special and concessional terms and conditions or otherwise and to provide, organise, supervise musical soirees, sangeet sammelans, dances, cabarets, casinos,



gaming, competitions in all or any hotels, motels, resorts, clubs, restaurants, cafes, bars, holiday camps, recreation centres and all other kinds of amusement to tourists, boarders, guests and the public.

3. That the applicant Company is engaged in the business of the providing Technical Audit, Pre-opening, Operating and Marketing Services having good reputation in the market for their services.
4. That the Corporate Debtor Company approached the Applicant to avail the said services. According, after various meetings and discussions, the Applicant Company provided the said services to the Corporate Debtor Company and raised the invoices from time to time. The Corporate Debtor Company never raised any objection whatsoever with the regard to the said services provided by the Applicant Company.
5. That there was a default on the part of Corporate Debtor in payment towards said services availed of them from the Applicant Company and a sum of Rs. 2,13,13,394.66 was outstanding, due and payable by the Corporate Debtor Company to the Applicant Company.
6. That accordingly, on the request of the Applicant Company, the Corporate Debtor Company issued the balance confirmation vide Reconciliation Statement dated 12.03.2019 issued by the Corporate Debtor in favour of Applicant.
7. That the Applicant Company through various telephonic calls and personal visits to the Corporate Debtor Company requested the Corporate Debtor Company to make the payment of the admitted and undisputed amount of Rs. 2,13,13,394.66. despite admitted their liability, the Corporate Debtor failed to release the admitted outstanding amount to the Applicant Company.
8. That accordingly, the Applicant Company sent a demand notice dated 29.08.2019 under section 8 of Insolvency & Bankruptcy Code, 2016 through Speed Post to the Corporate Debtor Company requested to release the admitted outstanding payment of Rs. 2,13,13,394.66. Despite receipt of demand notice by the Corporate



Debtor Company, there is neither any payment nor any reply from the Corporate Debtor Company since the Corporate Debtor Company have absolutely no defence to raise.

9. That it is submitted that prior to demand notice dated 29.08.2019 from Applicant Company to the Corporate Debtor, in the past, the Corporate Debtor had never raised any whisper, objection or protest with regard to the services availed or about pay ability of amount in favour of the Applicant Company.
10. That it is submitted that the Applicant Company has complied with all requirements under the Insolvency and Bankruptcy Code for filing the present application and the Applicant Company is fully entitled to do so and there is no legal impediment in filing the present application.

**BRIEF FACTS OF THE RESPONDENT ARE AS FOLLOWS;**

1. Affidavit of Reply is filed by Mr. Shailesh Verma, aged 65, the resolution professional (“RP”) of Lavasa Corporation Limited (“LCL”) and its four wholly-owned subsidiaries, viz., Warasgaon Assets Maintenance Limited (“WAML”), Dasve Convention Center Limited (“DCCL”). Warasgaon Power Supply Limited (“WPSL”) and Dasve Retail Limited (“DRL”), having office at- Deloitte India Insolvency Professionals LLP, 32<sup>nd</sup> Floor, Tower 3, One International Center, Elphinstone-West, Mumbai-400013 do hereby solemnly state as under:
  1. By order dated 30<sup>th</sup> August, 2018, this Hon’ble Tribunal had initiated the corporate insolvency resolution process (“CIRP”) of LCL, pursuant to an application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 by an operational creditor. Subsequently, Mr. Shailesh Verma was appointed as the Resolution Professional of LCL by order dated 15<sup>th</sup> October, 2018 passed by this Hon’ble Tribunal. Crave leave to refer and rely upon orders dated



30<sup>th</sup> August, 2018 and 15<sup>th</sup> October, 2018, as and when produced.

2. Thereafter, by orders dated 26<sup>th</sup> February, 2020 and 13<sup>th</sup> May, 2021, this Hon'ble Tribunal consolidated the CIRP of Warasgaon Assets Maintenance Limited ("WAML"), Dasve Convention Center Limited ("DCCL"), Warasgaon Power Supply Limited ("WPSL") and Dasve Retail Limited ("DRL"), respectively, with the CIRP of LCL and Mr. Shailesh Verma was appointed as the Resolution Professional of the consolidated CIRP of LCL. Mr. Shailesh Verma crave leave to refer and rely upon the orders dated 26<sup>th</sup> February, 2020 and 13<sup>th</sup> May, 2021, as and when produced.
3. The consolidated CIRP of LCL concluded on 25<sup>th</sup> December, 2021, pursuant to which an application, being Interlocutory Application No. 52/2022, under Section 30(6) read with Section 31 of the Code was filed by seeking approval of this Hon'ble Tribunal to the Resolution Plan submitted by Darwin Platform Infrastructure Limited. The said Application is presently pending before this Hon'ble Tribunal and is part-heard.
4. Mr. Shailesh Verma is filing the present Affidavit, pursuant to the oral directions of this Hon'ble Tribunal during the hearing held on 25<sup>th</sup> April, 2022 in the captioned matter to provide details pertaining to the assets and liabilities of the Corporate Debtor. Since the Corporate Debtor presently does not have any employees or directors, the present Affidavit is being filed on the basis of the information as made available to the Resolution Professional by the management of LCL. Mr. Shailesh Verma say and submit as under:



- a. That LCL owns over 10,579 acres of land (“Lavasa Township”), which includes lands having been purchased through sale deeds and lease with private parties and lands which have been acquired a lease from Maharashtra Krishna Valley Development Corporation. Accordingly, the land parcels situated in Lavasa Township form part of the assets of LCL.
- b. In or around the year 2005 LCL initiated the construction of a hotel namely Lavasa Select, Dasve within the Lavasa Township. The costs associated with the construction and development of the hotel were to be borne, by LCL, and accordingly, the said hotel building is recorded as an asset of LCL, its books of accounts.
- c. On 5<sup>th</sup> September, 2005, during the construction of the hotel, LCL entered into a Technical Audit, Pre-Opening, Operating and Marketing Services Agreement (“O&M Agreement”) with the Fortune Park Hotel Ltd. (“FPHL/Operational Creditor”).
- d. In order to manage the affairs and operation of the said hotel, LCL set up a company incorporated under the Companies Act, 1956, namely, Lavasa Hotels Ltd. (“LHL/Corporate Debtor”), a wholly owned subsidiary on 1<sup>st</sup> September, 2007. The Corporate Debtor’s primary business objectives were to construct, own, buy, sell, promote, conduct, and manage and also to carry on the business of establishing running hotels, motels, resorts, clubs, restaurants, bars, cafes, etc.



- e. LHL entered into Management Agreement with LCL for management of the said hotel on behalf of LCL on 1<sup>st</sup> July, 2009 for a term of 3 years. The Management agreement was renewed/extended for a further period of 3 years w.e.f. 1<sup>st</sup> July 2012 and for another period of 3 years w.e.f. 1<sup>st</sup> July 2015 till 30<sup>th</sup> June, 2018. No further renewal / extension of the agreement was made after expiry of the extended term thereafter.
- f. The hotel was subsequently commissioned in the year 2009 and was operational for about 10 years under the brand of Fortune Hotels as “Fortune Select, Dasve”. When the operations of the hotel commenced, LHL dealt with FPHL as an agent of the LCL and followed the provisions of the O&M Agreement between LCL and FPHL. All staff salaries and other operating expenses were on account of LHL. The entire hotel revenue was deposited in the account of LHL and all operating expenses of the hotel were paid for by LHL.
- g. On account of incurring operating losses, and the commencement of CIRP of LCL, FPHL decided to discontinue operations of the hotel with effect from 31<sup>st</sup> March 2019 and terminated the O&M Agreement and withdrew its operating services w.e.f. 13<sup>th</sup> April 2019.
- h. In furtherance of the oral directions passed by this Hon’ble Tribunal during the hearing held on 25<sup>th</sup> April, 2022, the following documents are also being placed on record:
- i. It is pertinent to note that an amount of Rs. 2,06,13,395/- is reflecting in the books of the



Corporate Debtor as a liability towards FPHL. The liabilities owed by LHL to Financial Creditors Rs. 23,45,35,265/-, out of which an amount of Rs. 19,53,61,783/- is due and payable to LCL. Further, apart from the monies owed to FPHL, LHL has a liability to operational creditors of over Rs. 6 crores.

- ii. A perusal of the fixed assets register demonstrates that the only assets which LHL has are in the nature of movable assets such as office equipment, furniture and fixtures, 2 lifts, computers, etc.
5. Presently, there are no subsisting operations or cash inflows/outflows in LHL. It is pertinent to note that MSEDCL had disconnected electricity to the said hotel on 24<sup>th</sup> June, 2019. Further, as aforesaid, LHL presently has no directors or employees to carry on the business. Additionally, as the Resolution Professional of LCL, the RP issued a notice upon the Corporate Debtor to vacate the hotel premises on 29<sup>th</sup> January, 2022 on account of expiry of the Management Agreement.

### **FINDINGS**

Heard both sides and perused the records. No reply is filed by the Corporate Debtor disputing the “debt” and “default” in this case, on the other hand, one Mr. Suresh Pendalkar the representative of the Corporate Debtor appeared and reported no objection for allowing the above company petition on 31.01.2022 which was recorded in the daily order. It is an admitted case that the parent company of the Corporate Debtor M/s. Lavasa Corporation Limited is undergoing into CIRP process and present Corporate Debtor namely



Lavasa Hotels Limited is not in operation nor owing any immovable properties as per the Affidavit in Reply filed by the Resolution Professional, Mr. Shailesh Verma of Lavasa Corporation Limited in this case.

When this Bench brought the above facts to the attention of the counsel appearing for the Petitioner herein and asked him as to what useful purpose would be served in putting the present Corporate Debtor Company into CIRP since there are no assets nor any operations, the counsel appearing for the Operational Creditor requested the Bench to admit the above Company Petition stating that the Corporate Debtor has some movable assets, furniture and fixtures etc.

Accordingly, the above Company Petition is admitted by passing the following;

**ORDER**

- a. The above Company Petition No. (IB) 3953 (MB)/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. Lavasa Hotels Limited.
- b. Since the Operational Creditor has not suggested the name of IRP to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Pramod Kumar Dokania (pramoddokania123@gmail.com)**, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P01994/2020-2021/13062 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Operational 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 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.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

**Sd/-**  
**ANURADHA SANJAY BHATIA**  
**MEMBER (TECHNICAL)**

--Rajeev--

**Sd/-**  
**H.V. SUBBA RAO**  
**MEMBER (JUDICIAL)**