



**THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH - IV**

C.P. (IB) No. 489/MB/2024

Under Section 7 of the Insolvency & Bankruptcy Code, 2016 r/w Rule 4 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016.

In the matter of

Luhariwala Finance and Investment Pvt. Ltd.

[CIN: U65990MH1994PTC079146]

...Financial Creditor

v/s.

Navyug Telefilms Pvt. Ltd.

[CIN: U92110MH1994PTC078309]

...Corporate Debtor

Ordered pronounced on: 13.11.2024

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulappalli
Hon'ble Member (Judicial)

Appearances:

For the Financial Creditor:

Adv. Kunal Kanungo i/b. Adv. Aakash
Shah for the Financial Creditor.

For the Corporate Debtor:

CS Nithish Bangera for Corporate
Debtor.

ORDER

1. This is a Company Petition filed under Section 7 of the Insolvency & Bankruptcy Code, 2016 (“IBC, 2016”) by **Luthariwala Finance and Investment Private Limited** (“Financial Creditor”) seeking initiation of Corporate Insolvency Resolution Process (“CIRP”) in the matter of **Navyug Telefilms Private Limited**, the Corporate Debtor.

i. The captioned petition has been filed on 05.05.2024 and the total default as on 07.04.2024, per the Financial Creditor herein, amounts to INR 1,42,24,632/- (Rupees One crore, forty two lakhs, twenty four thousand, six hundred and thirty two only), which is further broken down as hereinunder:

Sr. No.	Particulars	Amount Disbursed (INR)
1.	Outstanding Principal Amount	1,00,04,247/-
2.	Outstanding Interest	36,87,624/-
3.	Penal Interest	5,29,761/-
	Total amount of Debt	1,42,24,632/-

ii. The Date of Default as established by Part IV is 07.09.2021.

Submissions of the Financial Creditor

2. The Financial Creditor submits that the Corporate Debtor approached the Financial Creditor for availing an amount of INR 1,10,00,000/- towards loan facility against shares. The Financial Creditor consider the request of the Corporate Debtor and sanctioned of INR 1,10,00,000/- vide sanction letter dated 24.03.2021, accordingly the sanctioned amount was disbursed to the Corporate Debtor on 04.05.2021.



3. To secure the aforesaid amount, the Corporate Debtor had pledged shares as security against the loan facility by executing Share Pledged Agreement dated 13.05.2021 in favour of Financial Creditor.
4. The Financial Creditor submits that the loan amount was repaid in 40 equated monthly installments of Rs. 3,46,801/-. Further, the Corporate Debtor has paid regular installments on time, however, have started defaulting since 5th installments i.e. from 07.09.2021.
5. Since, the Corporate Debtor failed to repay the installments on time, the Financial Creditor made the oral request again and again to the Corporate Debtor to pay the outstanding dues. Despite repeated requests, the Corporate Debtor did not adhere to deposit the remaining outstanding dues. As a result of which the Financial Creditor had issued Demand Notice dated 01.03.2023 thereby recalling the outstanding dues to the tune of Rs.62,42,418/- within 15 days. Further, on receipt of Demand Notice, the Corporate Debtor vide letter dated 08.03.2023, requested the Financial Creditor for restructure of loan account, the said request was rejected by the Financial Creditor.
6. Financial Creditor again issued a Demand Notice dated 17.05.2023 recalling the loan facility and calling upon the Corporate Debtor to pay the outstanding amount of INR 1,34,91,460/- as on 07.05.2023 comprising the principal and interest amount within a period of 15 days from the receipt of notice. However, no payments were received.

Submissions of the Corporate Debtor


7. The Corporate Debtor submits that due to pandemic COVID-19, the Corporate Debtor was under pressure as the Corporate Debtor is in the business of entertainment industry which was highly affected due to lockdown.



8. The Corporate Debtor submits that the Petition is not maintainable on the grounds that the provisions of IBC is misused to recover the debt from the Corporate Debtor and not for resolution.
9. The Corporate Debtor submits that the present Petition is not maintainable on the grounds of non-registration of the agreements.

Findings

10. This bench has perused the documents and pleading available on record and considered the arguments of both the sides.
 - a) In the present Petition, the date of default as specified in Part IV and NeSL Report states the date 07.09.2021. The captioned petition has been filed on 05.05.2024, and is thereby within the Limitation period as specified under law and, this Tribunal thus has the jurisdiction to adjudicate upon the same.
 - b) We take note of the letter dated 08.03.2023 issued by Corporate Debtor, requesting the Financial Creditor to restructure of loan account. It is clearly evident that the Corporate Debtor acknowledged its liability in respect of dues payable to the Financial Creditor.
11. The Corporate Debtor has raised the contention with regards to non-registration of agreements. We are of the view that non-registration of document is a curable defect. Moreover, in our considered view, what is required to be seen at this stage is whether there is a debt and the default on the part of Corporate Debtor, and in the present case, the same has been satisfactorily established from the pleadings of the parties and the documents.
12. We are of the considered view that the present Application under Section 7 of the Code is within the limitation and is maintainable as the debt is acknowledge by the Corporate Debtor. It is a settled law that the pre-requisites for an application



under Section 7 of the Code are the existence of 'financial debt ' and a 'default'. The Corporate Debtor owes the Financial Debt in excess of Rs.1 Crore, which is in default, this bench is of the view in such circumstances, it is imperative that the Corporate Insolvency Process be initiated in the matter of the Corporate Debtor. The petition is complete in all aspects. In the light of the above facts and circumstances, the existence of debt and default is reasonably established by the Applicant as a major constituent for admission of the Application under Section 7 of the Code.

ORDER


I. The Petition bearing CP (IB) No.489/MB-IV/2024 filed under section 7 of the Insolvency & Bankruptcy Code, 2016 (IBC) by Luhariwala Finance & Investment Private Limited ("Financial Creditor") seeking initiation of Corporate Insolvency Resolution Process (CIRP) in the matter of Navyug Telefilms Private Limited ("Corporate Debtor") is Admitted.

a) There shall be a moratorium under section 14 of the IBC, in regard to the following:

(i) 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;

(ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

(iii) 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 (SARFAESI) Act, 2002;



(iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

(b) Notwithstanding the above, during the period of moratorium, -

(i) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;

(ii) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;

(c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

(d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

(e) The bench hereby appoints **Mr. Pankaj Bhattad**, an Insolvency Professional registered with Indian Institute of Insolvency Professionals of ICAI having registration number **IBBI/IPA-001/IP-P-02841/2023-24/14362**. He is appointed as IRP for conducting CIRP of the Corporate Debtor and to carry the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.



- (f) The Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (g) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

Sd/-

ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)