



IN THE NATIONAL COMPANY LAW TRIBUNAL,  
MUMBAI BENCH – I

CP (IB) 1143/MB/2022

Under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

**Earls General Trading Private Limited**

**[CIN: U74999MH2008PTC184170]**

702, Acme Plaza, Andheri Kurla Road, Andheri (E),  
Mumbai - 400059

...Financial Creditor/Petitioner

Versus

**Vintage Comtrade Private Limited**

**[CIN: U74999MH1996PTC104343]**

3<sup>rd</sup> Floor, 10/12 Narayan Niwas, Jambulwadi 3<sup>rd</sup> Floor,  
Kalbadevi, Mumbai- 400002

...Corporate Debtor/Respondent

**Order Delivered on 27.02.2023**

***Coram:***

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

Hon'ble Member (Technical): Mr. Shyam Babu Gautam

***Appearances:***

For the Financial Creditor : Mr. Amey Hadwale, Advocate

For the Corporate Debtor : Mr. Yash Jariwala, Advocate i/b  
Vrudhi Legal

**ORDER**

***Per Coram:***

1. The present petition is filed by **Earls General Trading Private Limited** (hereinafter referred to as “the Financial Creditor”) under Section 7 of



the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) read with Rule 4 Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 seeking initiation of Corporate Insolvency Resolution Process (“**CIRP**”) against **Vintage Comtrade Private Limited**, (hereinafter referred to as “**the Corporate Debtor**”).

2. The Corporate Debtor was incorporated on 06.12.1996 under Companies Act, 1956. Its registered office is situated at 3<sup>rd</sup> floor, 10/12 Narayan Niwas, Jambulwadi 3<sup>rd</sup> Floor, Kalbadevi, Mumbai- 400002. Hence, this Tribunal has the jurisdiction to entertain this petition.
3. The total amount of debt alleged to be in default is Rs.5,74,69,655/- (Rupees Five Crores Seventy-Four Lakhs Sixty-Nine Thousand Six Hundred and Fifty-Five Only). Out of this, the Principal amount is Rs.3,83,00,000/- and Rs.1,91,69,655/- is the amount of interest. The date of default is 31.12.2019.
4. The Corporate Debtor states that it was undergoing financial crises which further deteriorated with the advent of the COVID- 19 pandemic. The Financial Creditor is well aware that the business activities of the Corporate Debtor have taken a hit since the advent of the COVID-19 pandemic and is facing severe financial difficulties. I further submit that the business of the Corporate Debtor has come to a complete standstill since then due to market conditions. However, the



Corporate Debtor is making every attempt to revise its business operations despite the unfavourable market conditions.

5. Further the Corporate Debtor submits that the corporate Debtor has tried to resolve the issues with the present Financial Creditor and still striving hard to clear the dues of the outstanding of the Financial Creditor, but consistent losses and day to day losses has broken the backbone of the Corporate Debtor very seriously not only the present Corporate Debtor has suffered but there are various other creditors to whom payments are due.
6. The Financial Creditor is well aware that the Corporate Debtor is deriving most of its income to various companies themselves have entered into Insolvency Resolution Process under the Provision of IBC as a result of which the business activities of the Corporate Debtor have also taken a hit. It is for this reason that the Corporate Debtor has been facing severe financial difficulties.
7. The Corporate Debtor had assured the Financial Creditor and had informed of every intention to clear the outstanding dues by somehow recovering from its debtors or by selling some assets so that the liability of Financial Creditor could be cleared as soon as possible, but the Financial Creditor did not pay any heed to it. In fact, during meetings between the director of the Financial Creditors and the Corporate



Debtors, it was even assured that the Corporate Debtor would not only pay back the entire amount outstanding but would also pay interest. However, this would only be done after the activities of the Corporate Debtor commence and Corporate Debtor is profitable again. At this juncture the Corporate Debtor is not in a position to repay the advances taken from the Financial Creditor however if given sometime and concession the Corporate Debtor would make an attempt to settle outstanding dues.

8. Heard both sides, upon perusing the reply this bench did not find any serious dispute regarding the debt and default committed by the Corporate Debtor. Ld. Counsel appearing for the Corporate Debtor has prayed for time on the pretext that they are trying to revive the business and make it profitable to pay the entire outstanding amount of the Financial Creditor. Therefore, under these circumstances there is no point in postponing admission of this Company Petition.
9. We also consider the facts of the case in the lights of the Order passed by Hon'ble Supreme Court in *Swiss Ribbons Pvt. Ltd. & Ors. Vs. Union of India & Ors. [Writ Petition (Civil) No. 99 of 2018]* upholding the Constitutional validity of IBC, the position is very clear that unlike Section 9, there is no scope of raising a 'dispute' as far as Section 7



petition is concerned. As soon as a 'debt' and 'default' is proved, the adjudicating authority is bound to admit the petition.

10. The Financial Creditor has proposed the name of **Mrs. Bhavi Shreyans Shah**, Registration No. IBBI/IPA-001/IP-P00915/2017-18/11521, as the Interim Resolution Professional of the Corporate Debtor. He has filed his written communication in Form 2 as required under rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 along with a copy of his Certificate of Registration.
11. The application made by the Financial Creditor is complete in all respects as required by law. It clearly shows that the Corporate Debtor is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC. Therefore, the debt and default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority admits this Petition and orders initiation of CIRP against the Corporate Debtor.
12. It is, accordingly, hereby ordered as follows:
  - (a) The petition bearing **CP (IB) 1143/MB/C-I/2022** filed by **Earls General Trading Private Limited**, the Financial Creditor, under section 7 of the IBC read with rule 4(1) of the Insolvency and



Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **Vintage Comtrade Private Limited** the Corporate Debtor, is **admitted**.

- (b) 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.



- (c) 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) 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;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority 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.
- (e) 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.
- (f) **Mrs. Bhavi Shreyans Shah**, Registration No. IBBI/IPA-001/IP-P00915/2017-18/11521 having address J/1, 109, 1<sup>st</sup> Floor, A wing, Siddhi Vinayak Premises, Opp LODha New Cuffe Parrade Gate No. 3, Wadala Truch Terminal, Wadala East, Mumbai 400037 Email: [ipbhavishah@gmail.com](mailto:ipbhavishah@gmail.com), is hereby appointed as Interim Resolution



Professional (IRP) of the Corporate Debtor to carry out the functions as per the IBC. The fee payable to IRP or, as the case may be, the RP shall be compliant with such Regulations, Circulars and Directions issued/as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC.

- (g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (h) The Financial Creditor shall deposit a sum of Rs.5,00,000/- (Five Lakh Only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (i) 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.



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- (j) IRP is directed to send a copy of this Order 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.
- (k) Ordered accordingly.

**Sd/-**

**SHYAM BABU GAUTAM**

**Member (Technical)**

27.02.2023

SAM/ Jagdish

**Sd/-**

**H. V. SUBBA RAO**

**Member (Judicial)**