



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-I)
KOLKATA**

C.P. (IB) No. 2119/KB/2019

*An application 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;*

And

In the matter of :

Adventz Finance Pvt. Ltd

...Financial Creditor

-Versus-

In the matter of:

Jai Annanya Investments Pvt. Ltd.

...Corporate Debtor

-And-

Date of hearing: 04/11/2022

Order Pronounced on : 15/11/2022

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

Appearances (via video conferencing/physical)

Ms. Neha Somani, PCS : For Financial Creditor

ORDER

Per: Balraj Joshi, Member (Technical)

1. The Court convened through hybrid mode.



2. This application has been filed 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.
3. Vide order dated 12th of January, 2022, this Tribunal had rejected the Section 7 application filed by the Financial Creditor viz. Adventz Finance Pvt. Ltd. Against Jai Annanya Investments Pvt. Ltd. (Corporate Debtor).
4. This order was appealed against by the Financial Creditor at Hon'ble NCLAT who was pleased to set aside the subject order vide Judgment dated 12.10.2011 it has been directed at para 14 of the said order that Section 7 application being **CP(IB) No. 2119/KB/2019** is revived before the Adjudicating Authority and Adjudicating Authority is directed to pass an order of admission along with all consequential directions within a period of one month from the date of the copy of this order is produced before the Adjudicating Authority.
5. The operative part of the order is reproduced hereunder:

14. We, thus, are of the view that Adjudicating Authority committed error in rejecting Section 7 application. The order passed by the Adjudicating Authority dated 12.01.2022 cannot be sustained and is hereby set aside. Section 7 application being CP (IB) No. 2119/KB/2019 is revived before the -14- Company Appeal (AT) (Insolvency) No. 475 of 2022 Adjudicating Authority and Adjudicating Authority is directed to pass an order of admission alongwith all consequential directions within period of one month from the date the copy of this order is produced before the Adjudicating Authority. The Appeal is allowed accordingly.

6. In view of the above direction of the Hon'ble NCLAT **CP (IB) No. 2119/KB/2019** is hereby **admitted**.



ORDERS

- (i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating corporate Insolvency Resolution Process against the Corporate Debtor is hereby **admitted**.
- (ii) We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
- (iii) Moratorium is declared for the purpose referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The I.R.P shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under sub-Section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- (iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:
 - a) The institution of suits of 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;
 - b) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - c) 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 Act, 2002 (52 of 2002);

- d) 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) The supply of essential goods or services rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.
- (vi) The provisions of sub-Section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (vii) The order of moratorium shall have effect from the date of admission till the completion of the Corporate Insolvency Resolution Process.
- (viii) Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the resolution plan under sub-Section (1) of Section 31 or passes an order for liquidation of the Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- (ix) **Mr. Amit Choraria** registered with Insolvency and Bankruptcy Board of India, having Registration No. **IBBI/IPA-001/IP-P01345/2018-19/12129** Email: **hmcsamitchoraria@gmail.com** is hereby appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee or Creditors for evolving a resolution plan subject to production or written consent within one week from the date of receipt of this order.



In the National Company Law Tribunal,
Kolkata Bench (Court- I)

Adventz Finance Pvt. Ltd. vs. Jai Annanya Pvt. Ltd.
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- (x) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the Insolvency commencement date.
- (xi) The Financial Creditor/Applicant is directed to deposit **Rs. 5,00,000/-** with the IRP appointed hereinabove within **Five** days from this order for meeting the preliminary expenses to carry out the IR process. This shall be adjusted subject to the approval of the CoC who shall regulate the fees of the IRP/RP in line with the Notification No. IBBI/2022-23/GN/REG091 dated 13.09.2022, issued by the Insolvency and Bankruptcy Board of India, as published in the in the Official Gazette.
- (xii) Registry is hereby directed to communicate the order to the Financial Creditor, the Corporate Debtor, the I.R.P. and the jurisdictional Registrar of Companies by Speed Post as well as through email.
- (xiii) List the matter on **30/12/2022** for the filing of the **Progress Report**.
- (xiv) Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Order signed on 15th day of November, 2022

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