

Email: ncltahmedabad@gmail.com
registrar-ahm@nclt.gov.in

Phone No. (079) 2685 4591-94



GOVERNMENT OF INDIA/ भारत सरकार
NATIONAL COMPANY LAW TRIBUNAL/ राष्ट्रीय कंपनी विधि अधिकरण
AHMEDABAD BENCH/अहमदाबाद बेंच

1st and 2nd Floor, Corporate Bhawan/ पहली और दूसरी मंजिल, कॉर्पोरेट भवन,
Beside Zydus Hospital, Off S.G. Highway / ज़ाइडस अस्पताल के पास, ऑफ एस जी हाईवे,
Thaltej, Ahmedabad-380 059./थलतेज, अहमदाबाद- ३८० ०५९.

Ref: NCLT/AHM/ CP (IB) No. 175 of 2017/ 184 /2020.

To,

1. India Business Grid	4 th Floor, Chaitanya, Plot No. 112, Hindu Colony, Dadar (East), Mumbai-400014
2. A. Ramakrishnan	4 th Floor, Chaitanya, Plot No. 112, Hindu Colony, Dadar (East), Mumbai-400014
3. Chitra Ramakrishnan	4 th Floor, Chaitanya, Plot No. 112, Hindu Colony, Dadar (East), Mumbai-400014
4. Edunova Educational Research & Training Private Limited	3 rd Floor, Sigma-II, Opp. Himalaya Mall, Off Drive in Road, Vastrapur, Ahmedabad
5. Mr. Ketulbhai Ramubhai Patel Interim Resolution Professional	801, Popular House, Nr. Income Tax Circle, Ashram Road, Ahmedabad-380009
6. The Registrar of Companies	ROC Bhavan, Nr. Ankur Bus Stand, Opp. Rupal Park Society, Naranpura, Ahmedabad- 380 013

Sub: Certified True Copy of order dated 06.01.2019 passed in CP (IB) No. 175 of 2017.

With reference to the subject cited above, please find enclosed herewith copy of the order dated 6th day of January, 2020 passed by this Tribunal in CP (IB) No. 175 of 2017, being The Applicant, Corporate Debtor, Interim Resolution Professional and Registrar of Companies for information, records and action if any at your end.

Date:09.01.2020


Deputy Registrar
09/01/20

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH**


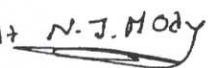
C.P. (I.B) No.175/7/NCLT/AHM/2017

**Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 06.01.2020**

Name of the Company: India Business Grid
V/s.
Edunova Educational Research & Training Pvt.
Ltd.

Section of the Companies Act : Section 7 of the Insolvency and Bankruptcy Code

<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	Kunal J. Vyse a/w Kamya A. Shah	} Advocates	Petitioner	
2.	i/b Navanati Associates			
2.	PAVAN .S. GODIAWALA NAISHAL . J. MODY	} Adv.	Respondent	


ORDER

The Parties are represented through their respective Counsel(s).

The case is fixed for pronouncement of order.

The Order is pronounced in the open court, vide separate sheet.


(PRASANTA KUMAR MOHANTY)
MEMBER (TECHNICAL)


(HARIHAR PRAKASH CHATURVEDI)
MEMBER (JUDICIAL)

Dated this the 6th day of January, 2020.



**BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B.) No. 175/7/NCLT/AHM/2017

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (Judicial)
Hon'ble Mr. Prasanta Kumar Mohanty, Member (Technical)**

In the matter of:

1. INDIA BUSINESS GRID
A Consultancy Firm, having its
address at : 4th Floor, Chaitanya,
Plot No.112, Hindu Colony,
Dadar(E), Mumbai - 400014
2. A. RAMAKRISHNAN
Address : 4th Floor, Chaitanya,
Plot No.112, Hindu Colony,
Dadar(E), Mumbai - 400014
3. CHITRA RAMAKRISHNAN
Address : 4th Floor, Chaitanya,
Plot No.112, Hindu Colony,
Dadar(E), Mumbai - 400014

..... Petitioners

Versus

EDUNOVA EDUCATIONAL
RESEARCH & TRAINING PVT.
LTD.,

Having its Registered Office at:
3rd Floor, Sigma-II, Opp.
Himalaya Mall, Off Drive in
Road, Vastrapur, Ahmedabad.

.....Respondent

Order delivered on 6th January, 2020

**Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (J)
And
Hon'ble Mr. Prasanta Kumar Mohanty, Member (T)**



K

[Handwritten signature]

Appearance:

Ms.Kamya Shah, Advocate on behalf of M/s.Nanavati Associates for the Applicant

Mr.Pavan S. Godiawala and Ms.Naishal J. Mody, Advocates for the Respondent

[Per: Mr. Prasanta Kumar Mohanty, Member (Technical)]

1. The present I.B. Petition is filed by the Financial Creditor **India Business Grid along with Mr.A.Ramakrishnan & Mrs. Chitra Ramakrishnan being the promoters of the said Applicant(Financial Creditor)** under **Section 7** of the Insolvency and Bankruptcy Code, 2016 (herein after referred to as a "Code"), **seeking initiation of Corporate Insolvency Resolution Process** ("CIRP" in Short) against the Corporate Debtor namely, **Edunova Educational Research and Training Pvt. Ltd.**, for the default committed by the Corporate Debtor in making repayment of the outstanding amount of Rs.2,07,69,525/-, which is owed to Financial Creditors. The Applicant (FC), India Business Grid('IBG') is a consultancy firm engaged in the business of providing project consultancy and financial services to industries in the small and medium sector. The application has been filed by the duly authorised person, Shri A.Ramakrishnan, Promoter of India Business Grid having address at 4th Floor, Chaitanya, Plot No.112, Hindu Colony, Dadar(E), Mumbai – 400014



↖

↗

2. The Respondent Corporate Debtor (CD) Company, namely Edunova Educational Research & Training Private Limited is a Company registered under the Companies Act, 1956 and was incorporated on 10/03/2008 with CIN: U80903GJ2008PTC053184.
3. The nominal share capital of the Respondent (CD) Company is Rs.5,10,000/- (Rupees Five Lakhs Ten Thousand Only) and the paid-up capital of the company is Rs.5,00,010/- (Rupees Five Lakhs Ten Only). The Registered Office of the Corporate Debtor Company is situated at : 3rd Floor, Sigma-II, Opp. Himalaya Mall, Off. Drive-in Road, Vastrapur, Ahmedabad.
4. The main objects of the company, by which the Respondent (CD) Company is incorporated is to provide training and education to students taking entrance exams of various courses across India.
5. It is gathered from the records that in the year 2009, the Respondent (Corporate Debtor) Company and the Applicants (Financial Creditors) entered into mutual discussions, whereby Financial Creditors agreed to provide mentorship and management advisory services to the company. Pursuant to above, on 14/06/2010, the



Applicants (Financial Creditors) and the Respondent(Corporate Debtor) Company entered into an agreement whereby the Applicant Financial Creditors agreed to provide an amount of Rs.1.0 Crore to the Respondent Company. It was further mutually agreed by and between the parties that the amount will be converted into equity at a subsequent stage, when the Corporate Debtor ropes in strategic investors and dilutes the stake of the promoters. However in the event of delay beyond 31/12/2010, the Applicants (Financial Creditor) **will treat the amount given as loan to be returned over a period of 5 years in equal monthly instalments alongwith interest at 15% payable monthly.** Accordingly, the Financial Creditors infused an amount of Rs.95,00,000.00 in the Respondent company.

6. It is further stated that the Corporate Debtor **did not convert** the aforesaid amount of Rs.95,00,000.00 **into equity** as per the agreement and hence the said amount was required to be refunded to the **Financial Creditor with interest.** However, the Corporate Debtor failed to refund the said amount and hence various emails were sent. Thereafter, the Directors of the Corporate Debtor communicated dated **11/04/2016, acknowledging and admitting** the fact that the aforesaid amount was received



by the Respondent company from the Financial Creditor and the same is required to be refunded with 15% interest p.a. Further, it is stated that the two Directors of the Corporate Debtor, Mr.Harinder Malik & Mr.Sunil Sharma repaid an amount of Rs.23,00,000.00 towards **interest as on 01/09/2017**. However, the outstanding balance remains to be paid is to the tune of Rs.2,07,69,525.00 and hence the Corporate Debtor is **in default** and on account of such non-payment of the outstanding dues, the Corporate Debtor is in default in the usual and ordinary course of business and has become commercially insolvent.

7. It is submitted that total amount of debt is Rs.2,07,69,525.00 (Rs.95.00 lakhs being **Principal amount plus Rs.1,12,69,525.00** being interest @15% p.a payable monthly and if defaulted compounded annually from the date of loan till 01/09/2017. Further, the amount claimed to be in default is Rs.2,07,69,525.00 (Rs.95.00 lakhs being Principal amount plus Rs.1,12,69,525.00 being interest @15% p.a payable monthly and if defaulted compounded annually from the date of loan till 01/09/2017.



8. The Corporate Debtor has defaulted payment and the **date of default is 11/04/2016** as stated by the Petitioner Applicant. Details of transactions (page no. 12 to 14 of the paper book) have been filed by the Applicants (Financial Creditors) which confirms that the Account is **in default**.

9. The copy of extracts of entries from the bank accounts of Financial Creditor, copies of receipts of payment issued by the Corporate Debtor and copies of communications dated 11/04/2016 issued by the Corporate Debtor admitting debt have been filed by the Petitioner Applicant (Page no. 17-53 of paper book). The Petitioner Applicant has claimed its dues of **Rs.2,07,69,525.00 (Rupees: Two Crores Seven Lakhs Sixty Nine Thousand Five Hundred Twenty Five Only)** (Rs.95.00 lakhs being Principal amount plus Rs.1,12,69,525.00 being interest @15% p.a payable monthly and if defaulted compounded annually from the date of loan till 01/09/2017 as computed in the page no. 3 of the paper book).

10. The present application has been filed by the Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy before this Adjudicating Authority to initiate the Corporate Insolvency Resolution Process.



11. The Financial Creditor, to substantiate their claim, has enclosed following documents: -

- i. Details of transactions (Page no.12 to 14 of paper book)
- ii. Copy of letter dated 14/06/2010 (Page no.15 to 16 of paper book)
- iii. Copy of extracts of entries from bank accounts of Financial Creditor (Page no.17 to 41 of paper book)
- iv. Copies of receipts of payment issued by the Corporate Debtor (Page no.42 to 48 of paper book)
- v. Copies of communications dated 11/04/2016 issued by Corporate Debtor admitting debts (Page no.49 to 53 of paper book)
- vi. Copy of Demand Notice dated 20/05/2016 issued by the Financial Creditor (Page no.54 to 58 of paper book)
- vii. Copy of reply dated 08/07/2016 issued by the Corporate Debtor (Page no.59 to 65 of paper book)
- viii. Copies of the Demand Notices dated 18/10/2016 issued by the Financial Creditor (Page no.66 to 80 of paper book)
- ix. Copies of replies dated 05/11/2016 issued by the Corporate Debtor (Page no.81 to 95 of paper book)



12. This Petition has been filed before this Adjudicating Authority on **14.11.2017**. The matter was listed before this Adjudicating Authority for the first time on 21.11.2017. This Adjudicating Authority directed the Respondent to file its objections, if any within one week with a copy to the other side. Objections were filed by Respondent on 31.01.2018. Petitioner filed balance sheets of Respondent company from 2011-12 onwards. Respondent prayed for some time to go through. **Thereafter, on the ground of settlement, adjournments were sought** on 30/11/2017, 08/12/2017 & 21/12/2017. However on 31.01.2018, the Respondent filed its affidavit in reply and on 27.02.2018, the Applicant filed the copy of Auditor's Report for the year 2015-16 & 2016-17. Thereafter, the matter was adjourned repeatedly on various occasions. On 20.08.2019, the matter was finally heard and both the Counsels were advised to submit a synopsis of their written submissions, so as to reply the queries raised by the Tribunal during the course of argument.

13. In response to the present I.B. Petition filed by the Petitioner Applicant, Shri Sameer Gupta, Director of the Respondent company has filed reply on 31/01/2018, objecting the petition filed by the Applicant.



✓

13.1 It is submitted that the petition is filed as an arm twisting process and in form of recovery of the alleged dues, which is a disputed matter. It is submitted that there is no proof of the entity being partnership and the petition is filed jointly by some persons. Further, no proof of incorporation is produced and/or no authority letter of power of attorney is produced on record.

13.2 It is submitted that the amount claimed along with the interest is neither ascertainable nor determined, as there is no contract in respect of the interest rate as stated in the petition. Further, the agreement is entered into between the promoters of one company and petitioner and there is no resolution of the Respondent, authorising any person to enter into such agreement. Thus, the agreement is entered into in personal capacity of the promoters of one concern and not by the Respondent, hence there is no contractual obligation of the Respondent towards the petitioner.

13.3 It is submitted that the Respondent cannot be dragged into such private treaty or agreement entered between the promoters and petitioner, as the Respondent is not a party to such agreement. It is also submitted that the account of the



company could not be used by the Petitioner to settle their score against such promoters. It is submitted that there are entries of unknown bank statements as produced by the Petitioners, wherein the Applicants also withdrew the amount and there is no supporting affidavit about such withdrawal or any clarification.

13.4 It is submitted that certain receipts produced is of individual persons i.e. from Mr.Harendra Malik and Mr.Sunil Sharma, where the company is not concerned. Further as reflected in the agreement in Annexure B, the company is not a party to such agreement and there is no privity of contract between the Respondent company and the Petitioners. It is submitted that the receipts are audaciously produced and the company has not given any authority. Further, it is submitted that the petitioners have tried to create the confirmation in the year 2016, where the handwritten dates, in the confirmation letters, are inserted to the documents produced at page no.49 to 53, misusing the company's letter head. There is no authority of the company to confirm about the interest amount and such evidence is created one, so that the



alleged claim can be substantiated and the claim comes within the limitation period.

13.5 It is submitted that the notice dated 18.10.2016 was issued with interest rate stated @24% p.a. and to create the dues within the time limit, the alleged confirmation was created, whereby the directors said to have agreed for 15% interest. It is submitted that there is no agreement or any privity of contract, wherein the Respondent is a party and the alleged agreement produced at Annexure B of the petition is executed between the petitioners and promoters of the Respondent and hence the Respondent company cannot be victimized.

13.6 It is submitted that the petitioners on the basis of certain entries cannot claim to be the financial creditors, as the right for conversion of equity is not exercised by the petitioners themselves and hence the petition is not maintainable. The documents/bank accounts as produced are not revealing the true and correct facts about the alleged claim. It is pleaded to dismiss the petitioner with costs.

14. The Petitioners have suggested the name of Insolvency Professional to be appointed, if this petition is allowed and



the proposed I.R.P. has also given his affirmation/consent in writing, which is annexed with the present I.B. Petition.

15. The Counsels appearing on behalf of the parties were heard in detail on 20.08.2019. The Counsel for the Petitioner replied to the points raised by the Corporate Debtor, referring to the various documents enclosed with the application. On perusal of the statement of accounts of the Applicant no.3 produced at Page no.40/B of the application, it is reflected that on 09.12.2010, an amount of Rs.10.00 lakhs was transferred from the account of the Petitioner with Axis Bank to Edunova Educational Research and Training Pvt. Ltd., through Cheque no.88200. Further, Rs.10.00 Lakhs was transferred to the Respondent Account on 16.03.2011 vide Cheque no.771021.

16. Further, the Petitioners have enclosed following receipts and acknowledgments along with the application –

Sr. No.	Receipt for Rs.	Cheque No.	Dated
1.	10,00,000/-	088200	09.12.2010
2.	15,00,000/-	015844	17.06.2010
3.	25,00,000/-	015841	17.06.2010
4.	10,00,000/-	771022	16.03.2011
5.	10,00,000/-	762437	17.06.2010
6.	6,00,000/-	450506	17.06.2010
7.	19,00,000/-	450505	17.06.2010

Sr.	Acknowledgment	Cheque	Dated



No.	for Rs.	No.	
1.	10,00,000/-	088200	09.12.2010
2.	15,00,000/-	015844	17.06.2010
3.	25,00,000/-	015841	17.06.2010
4.	10,00,000/-	771022	16.03.2011
5.	10,00,000/-	762437	17.06.2010
6.	6,00,000/-	450506	17.06.2010
7.	19,00,000/-	450505	17.06.2010

17. The Petitioners have issued a statutory notice on 20.05.2016 to the Corporate Debtor for payment of outstanding dues.

18. It is stated that out of the total of Rs.95 lakhs to be paid by IBG, the Petitioner in her capacity as Promoter of IBG, infused Rs.20,00,000/- as funds into the Company and the Company by providing the following loans as listed below:

- a. Rs.10,00,000/- vide Cheque No.88200 dated 09.12.2010 in favour of the Company drawn on Axis Bank.
- b. Rs.10,00,000/- vide Cheque No.771002 dated 16.03.2011 drawn in favour of the Company drawn as Axis Bank.

The remaining amounts were infused by the Petitioner i.e. Mr.A.Ramakrishnan and IBG infused Rs.35,00,000/- and Rs.40,00,000/- respectively.



19. **It is stated that the Petitioner no.3 and her husband, Petitioner no.2 herein and IBG** had cumulatively paid an amount of Rs.95,00,000/- to the Company pursuant to the initial understanding between IBG and the Company. Therefore, separate statutory notices were required to be issued on behalf of (i) Petitioner, Mrs.Chitra Ramakrishnan, (ii) Mr.A. Ramakrishnan and (iii) IBG; however due to oversight, the same was not done. Therefore, Statutory Notices dated 18.10.2016 were issued afresh separately on behalf of (i) Petitioner demanding Rs.20,00,000/- (ii) Mr.A. Ramakrishnan demanding Rs.35,00,000/- and (iii) IBG demanding Rs.40,00,000/-.

OBSERVATIONS

20. It is observed that -

20.1 Loans have been given by the Applicants through cheque/bank account.

20.2 The Applicant has enclosed the copy of the balance sheet as of 31.03.2017 signed by the Director of Corporate Debtor, which shows that there is an outstanding of **Short Term Borrowing as on 31.03.2017**, which is inclusive of amount of Applicant no.3, Mrs Chitra Ramakrishnan for Rs.20.00 Lakhs and from the Applicant no.1, India

K



Business Grid for Rs.12.00 Lakhs (Page no.22 & 25 of the Balance Sheet document submitted).

20.2 It is a clear proof that the Corporate Debtor has taken unsecured loan of above amount from the Applicants, which is still **outstanding on 31.03.2017**. Whereas, the Application is filed on 14.11.2017.

20.3 Letter of Confirmation of unsecured loans taken by the Corporate Debtor from the Respondent, as on 11.04.2016, have been submitted.

21. Considering the materials papers filed by the Petitioner, arguments of the Counsels of both the parties and the facts mentioned in the **Para No.20, 20.1, 20.2 & 20.3**, this Adjudicating Authority is satisfied that,

(a) The Corporate Debtor availed unsecured loan with 15% interest from the Petitioners.

(b) Existence of debt is above Rs. One Lac;

(c) Debt is due;

(d) Default has occurred on 11.04.2016;

(e) Petition had been filed within the limitation period;

(f) Copy of the Application filed before the Tribunal has been sent to the Corporate Debtor and the application filed by the **Petitioner Bank Under Section 7 of IBC is found to be complete for the purpose of initiation of**



Corporate Insolvency Resolution Process against the Corporate Debtor.

Hence, **the present IB Petition is admitted** with the following Directions/observations. **The date of admission of this petition is 18.12.2019.**

22. This Adjudicating Authority hereby appoints, as proposed, **Mr.Ketulbhai Ramubhai Patel, having Insolvency Professional Registration No.IBBI/IPA-001/IP-P00228/2017-18/10427, Email ID: ketul@rspatelca.com, Address: 801, Popular House, Nr.Income Tax Circle, Ashram Road, Ahmedabad - 380009, Gujarat, India as an Interim-Resolution Professional.** The Interim Resolution Professional is further directed to make public announcement of moratorium in respect of Corporate Debtor soon after receipt of an authenticated copy of this order and to act further as per the order/direction issued by this Adjudicating-Authority and to follow the provisions Under Section 13 and 14 and other relevant provisions of the Insolvency and Bankruptcy Code.

23. As per the provisions of Section 13 and 14 of the I.B. Code on the date of commencement of insolvency, this



Adjudicating Authority declares moratorium with effect from today for prohibiting all of the following, namely: -


- I. (a) *The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 (54 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.*
- II. *The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.*
- III. *The provisions of sub-section (1) shall not apply to*
 - (a) *such transactions as may be notified by the Central Government in consultation with any financial sector regulator.*
- IV. *The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process.*

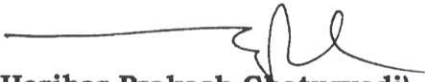
24. The **IRP is hereby advised to adhere the time limit** as stipulated for completion of the Corporate Insolvency Resolution Process ("CIRP" in short) and perform the



duties as specified Under Section 17, 18, 20, 21 of I.B Code. Further the **personnels of the Corporate Debtor** are advised to extend co-operation to **Interim Resolution Professional as required Under Section 19 of IB Code.**

25. The **Registry is hereby directed** to communicate the authenticate copy of this order to the Financial Creditor, Corporate Debtor Company, the I.R.P and also to the Registrar of Companies, Gujarat immediately through speed post / registered post.
26. Thus the present I.B petition filed Under Section 7 of the IBC stands admitted with the above direction and observations.


(Prasanta Kumar Mohanty)
Adjudicating Authority &
Member (Technical)


(Harihar Prakash Chaturvedi)
Adjudicating Authority &
Member (Judicial)

SS



Certified to be True Copy of the Original


Deputy Registrar
NCLT, Ahmedabad Bench
Ahmedabad

Rec. on 13/1/2020.