



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH – IV**

CP (IB) 1182/MB/2022

Under section 7 of the Insolvency and Bankruptcy
Code, 2016

In the matter of

IDBI Trusteeship Services Limited

[CIN: U65991MH2001GOI131154]

Asian Building, Ground Floor, 17, R.
Kamani Marg, Ballard Estate, Mumbai-
400001.

... Financial Creditor/Applicant

Versus

Envirant Constructions Private Limited

[CIN: U45201PN2019PTC187937]

Mont Verc Marc, S. No. 129/2, Beyond
Altesse, Sus Road, Pune-411021.

... Corporate Debtor/Respondent

Order Delivered on: 09.11.2023

Coram:

Hon'ble Member (Judicial) : Mr. Kishore Vemulapalli
Hon'ble Member (Technical) : Mr. Anu Jagmohan Singh

Appearances:

For the Financial Creditor : Mr. Yash Momaya a/w Mr.
Jash Shah i/b DSK Legal
For the Corporate Debtor : None Appeared.

**ORDER**

1. This Company Petition is filed under section 7 (“**the Petition**”) of the Insolvency and Bankruptcy Code, 2016 (**IBC**) by **IDBI Trusteeship Services Limited** (“IDBI/ Financial Creditor”), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Envirant Constructions Private Limited** (“EPCL/ Corporate Debtor”).
2. The Corporate Debtor is a private company limited by shares incorporated on 21.11.2019 under the Companies Act, 1956, with the Registrar of Companies, Maharashtra, Pune. Its registered office is at Mont Verc Marc, S. No. 129/2, Beyond Altesse, Sus Road, Pune-411021. Therefore, this Bench has jurisdiction to deal with this petition.
3. The present Petition was filed on 08.11.2022 before this Tribunal for claiming a Principal sum of INR 45,00,00,000/- (Rupees Forty-Five Crores only) and an Interest amount of INR 13,70,97,000/- (Rupees Thirteen crores, seventy lakhs and ninety-seven thousand only) for a secured loan vide a Debenture Trustee Agreement dated 02.03.2020, for the Aggregate default of INR 62,84,14,060/- (Rupees Sixty-Two Crore Eighty-Four Lakhs Fourteen Thousand and Sixty only). The Date of Default was on 22.04.2022.

Submissions made by the Financial Creditor:

4. The Financial Creditor submits that:
 - 4.1 EPCL approached India Housing Fund Series 2 (“Debenture Holders”) to seek necessary funds for the purpose of developing Mont Vert Tropez Business Center (“Project”) situated at Pune by subscribing to the Debentures to be issued by EPCL on the mutually agreed terms and conditions. For this purpose, IDBI Trusteeship Services Limited (“IDBI Trusteeship”) was appointed as Debenture Trustee acting for and on behalf of Debenture Holders and for holding the debentures to be subscribed by



the Debenture Holders by executing a Debenture Trustee Agreement dated March 2, 2020.

4.2 Accordingly, the Debenture Holders agreed to invest an aggregate amount of INR 65,00,00,000/- (Rupees sixty-five crore only) in EPCL by subscribing to the secured, unlisted, unrated, interest-bearing, non-convertible debentures to be issued by EPCL on the terms and conditions set out in the Debenture Trust Deed, executed by and between EPCL, Mont Vert Associates, Niraj Kumar Associate Private Limited, Mr. Jayant Kaneria, Mr. Dhirajlal Hansalia, Mr. Sanjay Kalate and IDBI Trusteeship.

4.3 In terms of the Debenture Trust Deed, the following security interests were created in favour of IDBI Trusteeship:

4.3.1 First ranking charge on all rights, title, interest of Mont Vert Associates on the land parcels situated at Village Wakad, Taluka Mulshi, District Pune and the project named 'Mont Vert Tropez Business Center' being constructed therein and cashflows/receivables arising out from the aforesaid land and project by way of Unattested Deed of Hypothecation executed by ECPL and Mont Vert Associates in favour of IDBI Trusteeship.

4.3.2 First ranking charge created over partnership interest of Mont Vert Associates held by partners of Mont Vert Associates by way of Unattested Deed of Hypothecation executed by ECPL, Mont Vert Associates, Mr. Jayant Kaneria, Mr. Dhirajlal Hansalia and Mr. Sanjay Kalate in favour of IDBI Trusteeship dated March 02, 2020.

4.3.3 100% pledge of the shareholding of the ECPL by the executing Share Pledge Agreement dated March 02,



2020, among ECPL, Mr. Jayant Kaneria, Mr. Dhirajlal Hansalia and Mr. Sanjay Kalate in favour of IDBI Trusteeship.

4.3.4 Unconditional and irrevocable personal guarantee given by Mr. Jayant Kaneria, Mr. Dhirajlal Hansalia and Mr. Sanjay Kalate in favour of IDBI Trusteeship dated March 02, 2020.

4.3.5 Unconditional and irrevocable corporate guarantee given by Mr. Niraj Kumar Associate Private Limited in favour of IDBI Trusteeship dated March 02, 2020.

4.3.6 Memorandum of Entry and Declaration executed by Rohini Mohan Kalate to create first charge on Flat No. 1/402 in Mont Vert Tropez, S. No. 239/8A, B, C to 14, Wakad, Pune registered at Sub Registrar Haveli No. 19 vide registration receipt no. 9292/2013 as an additional security in favour of IDBI Trusteeship.

4.3.7 Demand Promissory Note of INR 40,00,00,000 (Rupees Forty Crores only) issued by ECPL dated March 02, 2020.

4.4 After execution of the Finance Documents described above, ECPL issued Private Placement Offer Letter dated March 02, 2020 to Debenture Holders in Form No. PAS-4 offering subscription to First Tranche Debentures. Accordingly, IDBI Trusteeship acting on behalf of Debenture Holders subscribed First Tranche Debentures on March 13, 2020.

4.5 Thereafter, on August 7, 2020, December 16, 2020 and February 17, 2021, IDBI Trusteeship subscribed to 3000, 1000, and 1000 fully secured, unrated, unlisted, interest-bearing, non-convertible debentures, respectively, of face value of Rs. 1,00,000 each aggregating to Rs. 5,00,00,000/- (Rupees five-crores only)



4.6 The following amounts were due and payable by the Borrower/ECPL to the Debenture Holders, in relation to the Debentures, on respective dates:

Payment Dates	Interest defaulted as per repayment schedule
31.12.2020	Rs. 1,53,77,411
31.03.2021	Rs. 1,69,99,041
30.06.2021	Rs. 1,73,89,726
30.09.2021	Rs. 1,75,80,822
31.12.2021	Rs. 1,75,80,822
31.03.2022	Rs. 1,71,98,630
30.06.2022	Rs. 1,73,89,726
30.09.2022	Rs. 1,75,80,822
Total Interest	Rs. 13,70,97,000
Default Interest	Rs. 3,71,17,060
Total Interest Outstanding	Rs. 17,42,14,060
Default Interest on Principal	Rs. 42,00,000



Total Amount	Rs. 17,84,14,060
---------------------	-------------------------

- 4.7 On account of failure of the ECPL to pay such outstanding interest as per DTD, Offer Letters and other Finance Documents as per the repayment schedule, IDBI Trusteeship recalled the entire Debentures issued by ECPL vide its Recall-cum-Invocation of guarantee notice dated April 15, 2022 calling upon the Borrower, Mortgagors and Guarantors to pay the outstanding amount within seven (7) days from the issuance of Notice i.e. till April 22, 2022.

Findings:

5. Heard the Ld. Counsel for the Financial Creditors and perused the records.
6. Upon going through the record files, it is observed that Counsel for Corporate Debtor appeared only on 10.07.2023 & 07.08.2023. *Vide* order dated 21.08.2023, this bench granted final opportunity to the Corporate debtor for filing reply for which no reply was received from the Corporate Debtor. On account of non-filing of the reply, this bench forfeited the right to file reply of the Corporate Debtor. Hence, the matter in hand is taken on merits.
7. The following facts are not in dispute:
- 7.1 At the request of the Corporate Debtor, the Debenture Holders agreed to invest an amount of INR 65,00,00,00/- (Rupees Sixty-Five Crores only) and disbursed an amount aggregating to Rs. 45,00,00,000/- (Rupees Forty-five crores only) in favor of the Corporate Debtor. Total amount as claimed includes Principal sum of INR 45,00,00,000/- (Rupees Forty-Five Crores only) and an Interest amount of INR 13,70,97,000/- (Rupees Thirteen crores, seventy lakhs and ninety-seven thousand only).



- 7.2 A Debenture Trust Deed was also executed between the Financial Creditor and the Corporate Debtor on 02.03.2020. Furthermore, a Deed of Personal Guarantee and Corporate Guarantee were also Executed.
- 7.3 The said amount was extended to the Corporate Debtor for a consideration in time value of money and hence is a Financial Debt within the meaning of Section 5(8) of the IBC.
- 7.4 There is no dispute over the fact that the Corporate Debtor defaulted in paying the financial debts of more than Rs. 1 Crore (as per Section 4 of the IBC). From evidence and material on record, we also hold that the application is filed by properly authorized person.
- 8 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.
- 9 Upon perusal of records, this Bench is of the considered opinion that there is no dispute regarding the fact that the Corporate Debtor owes debt to the Financial Creditor. Hence, the debt due and default is established. Hence, this CP is liable to be admitted.
- 10 The Financial Creditor has proposed the name of **Mr. Ritesh R. Mahajan**, Registration No: IBBI/IPA-002/IP-N00048/2017-18/10132, 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) 1182/MB/2022** filed by **IDBI Trusteeship Services Limited** [CIN: U65991MH2001GOI131154], 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 **Envirant Constructions Private Limited** [CIN: U45201PN2019PTC187937], the Corporate Debtor, is **Admitted**.
- (b) We are hereby directing the suspended Board of Directors to cooperate with the RP/IRP for smooth functioning of CIRP Procedure, by providing necessary documents/information as required by the RP/ IRP/
- (c) 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.
- (d) 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;
- (e) 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.
- (f) 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.
- (g) **Mr. Ritesh R. Mahajan**, Registration No: IBBI/IPA-002/IP-N00048/2017-18/10132, having address at B-203, Devgiri, Ganeshmala, Singhad Road, Pune-411030, 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.

- (h) 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.
- (i) The Financial Creditor shall deposit a sum of Rs. 5,00,000/- (Rupees five-lakhs 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).
- (j) 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.
- (k) 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.

Sd/-

ANU JAGMOHAN SINGH
Member (Technical)

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)