

**IN THE NATIONAL COMPANY LAW TRIBUNAL, AHMEDABAD**  
**COURT - 2**



ITEM No304  
CP(IB)/322(AHM)2022

**Order under Section 7 IBC**

**IN THE MATTER OF:**

Svakarma Finance Private Limited  
V/s  
Yours Ethnic Pvt Ltd

.....Applicant

.....Respondent

**Order delivered on 09/10/2023**

**Coram:**

Mrs. Chitra Hankare, Hon'ble Member(J)  
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

**ORDER**

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-Sd-

**DR. V. G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY  
NATIONAL COMPANY LAW TRIBUNAL  
AHMEDABAD BENCH, COURT-II**

**CP(IB)/322/NCLT/AHM/2022**

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

**In the Matter of:**

**Svakarma Finance Pvt. Ltd.**  
(CIN: U65999MH2017PTC302033)  
803, Lodha Supremus,  
Dr. E Moses Road, Worli Naka,  
Mumbai  
Maharashtra-400018

**...Applicant/Financial Creditor**

**VERSUS**

**Yours Ethnic Foods Pvt. Ltd.**  
(CIN: U15490GJ2014PTC078368)  
3-D, Nidhishri Corporation,  
Nr. Vimal House, Vitthalbhai Patel Colony,  
Stadium Road, Navrangpura  
Ahmedbad-380009

**.... Respondent/Corporate Debtor**

**Order Pronounced On: 09/10/2023**

**Coram:**

**CHITRA HANKARE,  
HON'BLE MEMBER (JUDICIAL)**

**Dr. V.G. VENKATA CHALAPATHY  
HON'BLE MEMBER (TECHNICAL)**



## **Appearance**

For the Applicant : Ms. Priyal Parikh, Advocate  
For the Respondent : Mr. Kuldeep Adesara, Advocate

## **ORDER**

1. This application is filed on 17.11.2022 by M/s. Svakarma Finance Private Limited(hereinafter referred to as **“the Financial Creditor”**) through its authorized representative Mr. Suresh Kulkarni who is duly authorized vide Board Resolution dated 6.05.2022 to file this application, against M/s. Youth Ethnic Foods Pvt Ltd (hereinafter referred to as **“the Corporate Debtor”**) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (**“IBC, 2016”**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 with a prayer to initiate the Corporate Insolvency Resolution Process (**“CIRP”**) against the Corporate Debtor. The amount claimed in default is Rs.1,56,78,280 (Rs. 79,42,738/- being the principal amount + 17,28,675 being interest @ 14%charged on the principal amount plus future principal amount recalled of Rs 13,97,487 plus other charges of Rs46,09,380). The date of default is stated to be 20.02.2020.



2. The averments made in the petition are summarised as under:-

- (a). The Applicant/Financial Creditor i.e., Svakarma Finance Pvt Ltd is a company incorporated under the provisions of the Companies Act, 1956 with CIN: 65999MH2017PTC302033 is a non banking financial company registered with the Reserve Bank of India having its registered office at 803, Lodha Supremus, Dr E Moses Road, Worli, Mumbai 400018.
- (b). The Respondent/Corporate Debtor i.e., M/s Yours Ethnic Foods Private Limited is a private limited company incorporated under the Companies Act, 2013 on 22.01.2014 with CIN: U15490GJ2014PC078368. The registered office of the Respondent/Corporate Debtor is situated at Avlon Crest Bungalow, Rajpath Rangoli Road, Opp Shashwat Bungalows, Bodakdev, Thaltej Ahmedabad - 380059. The authorized and Paid Up Share Capital of the Respondent/Corporate Debtor are Rs. Rs.2,00,00,000/- and Rs. 1,99,44,380/- respectively.



(c). The Respondent/Corporate Debtor approached the Applicant/Financial Creditor for availing financial facilities for business purposes and requested Applicant/Financial Creditor to lend money as a loan. Accordingly, the Respondent/Corporate Debtor and Applicant/Financial Creditor. The financial creditor sanctioned a loan on July 18, 2019 to offer to the Corporate Debtor a working capital Term Loan of Rs 1,10,00,000 (Rupees One Crore and Ten Lakhs only) on the terms and conditions specified in the letter and an agreement was executed dated July 25, 2019 between the applicant and the corporate debtor. The loan was for a period of 3 years beginning from August 20, 2019 and ending on July 20, 2022, repayable at the rate of 14% interest. Thereafter, the Corporate Debtor availed the moratorium option offered by RBI as part of COVID 19 regulatory package vide circular dated May 23, 2020 and therefore the tenure of the loan was extended to 38 months with the last instalment due and payable on Feb 23, 2023. The stated loan was disbursed in two instalments on 25.7.2019 for an amount of Rs 83,70,200 to the corporate debtor account by NEFT and Rs.25,00,000 to a supplier of corporate debtor as per the sanction terms i.e. Darshan Traders. As per terms of



sanction (exhibit C), the tenure and repayment was repayment of principal to be in 36 instalments and interest on reducing balance at interest rate of 14%.

- (d). The applicant issued a demand notice (recall) on 6.11.2020 upon the respondent to pay the amount outstanding along with interest and other charges an amount of Rs 95,75,107 along with future interest @ 3% per month from 31,10.2020. It is submitted that the respondent had acknowledged by email dated Dec 1, 2020 that they have failed to pay the commitment amount on account of business slow down. He suggested a restructuring proposal with a restructured payment schedule starting from January 1, 2021. Thereafter, by another email dated March 10, 2021, an email was sent by the corporate debtor offering to settle the loan in full at Rs 75 lakhs. It is submitted by the applicant that till date the dues of the applicant has not been paid and is in default since January 20, 2020 as per the loan agreement. A fresh notice was issued by the applicant on 12 May 2021 under Sec 138 of the NI Act, 1881 for dishonour of a cheque No.001688 for Rs 94,40,225 (Rupees Ninety Four



Lakh Forty Thousand Two Hundred and Twenty Five Only) dated 26 March 2021 due to “Funds Insufficient”. A case has been filed before the Hon'ble Judicial Magistrate First Class Court at Pimpri (Criminal Complaint) which is pending.

- (e) This Tribunal has after giving various opportunities for the respondent to file reply has closed the right to file reply by the Corporate Debtor vide its order dated 28 April 2023. The counsel for applicant has confirmed and submitted copies of having filed with the Information Utility Under Regulation 20 (1) (A) of IBBI.
- (f) The Counsel for the applicant and respondent were heard on 21 September 2023. The applicant has established the debt by supporting documents and that the debt is due for payment.

3. The applicant has filed sanctioned letter (Exh. C) & term Loan Agreement (Annexure-D) which shows that he has disbursed a loan of Rs.1,10,00,000/-. Schedule 2 of the agreement (on page 47) gives the repayment schedule\_(Table below).



 **svakarma**  
finance  
Repayment Schedule

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Installment Number	Due Date	Installment Amount	Principal Amount	Interest Amount	Principal OS
1	20-08-2019	3,75,954.00	2,66,255.00	1,09,699.00	1,07,33,745.00
2	20-09-2019	3,75,954.00	2,48,325.00	1,27,629.00	1,04,85,420.00
3	20-10-2019	3,75,954.00	2,55,300.00	1,20,654.00	1,02,30,120.00
4	20-11-2019	3,75,954.00	2,54,314.00	1,21,640.00	99,75,806.00
5	20-12-2019	3,75,954.00	2,61,164.00	1,14,790.00	97,14,642.00
6	20-01-2020	3,75,954.00	2,60,443.00	1,15,511.00	94,54,199.00
7	20-02-2020	3,75,954.00	2,63,540.00	1,12,414.00	91,90,659.00
8	20-03-2020	3,75,954.00	2,73,724.00	1,02,230.00	89,16,935.00
9	20-04-2020	3,75,954.00	2,69,928.00	1,06,026.00	86,47,007.00
10	20-05-2020	3,75,954.00	2,76,454.00	99,500.00	83,70,553.00
11	20-06-2020	3,75,954.00	2,76,425.00	99,529.00	80,94,128.00
12	20-07-2020	3,75,954.00	2,82,816.00	93,138.00	78,11,312.00
13	20-08-2020	3,75,954.00	2,83,074.00	92,880.00	75,28,238.00
14	20-09-2020	3,75,954.00	2,86,440.00	89,514.00	72,41,798.00
15	20-10-2020	3,75,954.00	2,92,624.00	83,330.00	69,49,174.00
16	20-11-2020	3,75,954.00	2,93,325.00	82,629.00	66,55,849.00
17	20-12-2020	3,75,954.00	2,99,366.00	76,588.00	63,56,483.00
18	20-01-2021	3,75,954.00	3,00,373.00	75,581.00	60,56,110.00
19	20-02-2021	3,75,954.00	3,03,944.00	72,010.00	57,52,166.00
20	20-03-2021	3,75,954.00	3,14,177.00	61,777.00	54,37,989.00
21	20-04-2021	3,75,954.00	3,11,294.00	64,660.00	51,26,695.00
22	20-05-2021	3,75,954.00	3,16,962.00	58,992.00	48,09,733.00
23	20-06-2021	3,75,954.00	3,18,764.00	57,190.00	44,90,969.00
24	20-07-2021	3,75,954.00	3,24,277.00	51,677.00	41,66,692.00
25	20-08-2021	3,75,954.00	3,26,410.00	49,544.00	38,40,282.00
26	20-09-2021	3,75,954.00	3,30,291.00	45,663.00	35,09,991.00
27	20-10-2021	3,75,954.00	3,35,565.00	40,389.00	31,74,426.00
28	20-11-2021	3,75,954.00	3,38,209.00	37,745.00	28,36,217.00
29	20-12-2021	3,75,954.00	3,43,318.00	32,636.00	24,92,899.00
30	20-01-2022	3,75,954.00	3,46,312.00	29,642.00	21,46,587.00
31	20-02-2022	3,75,954.00	3,50,430.00	25,524.00	17,96,157.00
32	20-03-2022	3,75,954.00	3,56,664.00	19,290.00	14,39,493.00
33	20-04-2022	3,75,954.00	3,58,838.00	17,116.00	10,80,655.00
34	20-05-2022	3,75,954.00	3,63,519.00	12,435.00	7,17,136.00
35	20-06-2022	3,75,954.00	3,67,427.00	8,527.00	3,49,709.00
36	20-07-2022	3,53,733.00	3,49,709.00	4,024.00	0

4. Annexure-F is the notice issued to the respondent on default of payment of loan amount. Restructuring proposals appears to have been given by the respondent to the applicant. However, as per Annexure-G, respondent has admitted the default in repayment. The applicant has also filed copy of cheque given towards repayment and memo of bank dishonouring the same.



After giving notice, applicant has filed complaint under Negotiable Instrument Act against the respondent.

5. The applicant complied with the order dated 15.05.23 and confirmed that they have received the acknowledgment from the Information Utility and submitted to the Court. Thus, it is clear from the documents that Financial Creditor has issued a debt while respondent has committed a default in repayment. We are satisfied that default has occurred and application is complete.
6. In view of the above, we hold that present application is complete in terms of Section 7 (5) of the Code. The Applicant/Financial Creditor is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt.
7. The outstanding financial debt is of more than rupees one crore which meets the threshold limit as per section 4 of the Code and is well within the three years of limitation for filing the present application. Accordingly, the Application filed under section 7(2) of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the



Respondent/Respondent/Corporate Debtor deserves to be admitted.

8. The Applicant/Financial Creditor has proposed the name of the Interim Resolution Professional (**'IRP'**) **Mr. Rajendra Devidas Puranik**, having registration No. IBBI/IPA-01/IP-P02029/2020-2021/13149. He has filed his written communication annexed with the Application as **Exhibit B** at **Page 10-12** as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that there are no disciplinary proceedings pending against him with the Board or in Indian Institute of Insolvency Professionals of ICAI. In addition, further necessary disclosures have been made by him as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of the Section 7(3)(b) of the code.
9. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under:-

The Respondent/Corporate Debtor M/s Yours Ethnic Foods Private Limited is a private limited company incorporated under the Companies Act, 2013 on 22.01.2014 with CIN: U15490GJ2014PC078368 is



admitted in Corporate Insolvency Resolution Process (CIRP) under section 7 of the IBC, 2016.

10. As a consequence thereof, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.
11. 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;
  - *Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;*
  - *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;*
  - *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*



- *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a Corporate Debtor.*

12. The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this 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 of the IBC 2016, as the case may be.

13. However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.

14. As proposed by the Applicant/Financial Creditor, we appoint Shri Rajendra Devidas Puranik having registration number no. IBBI/IPA-001/IP-P02029/2020-2021/13149 having address at C 601, Dindoshi Onkar Chas Ltd Shivdham Complex, Off Gen A K Vaidya Marg, Opp Fire Brigade, Malad East Mumbai 400097



to act as Interim Resolution Professional (IRP) subject to the condition that no disciplinary proceedings are pending against him. He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

15. The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.

16. The IRP shall perform all his functions as contemplated, inter-alia, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.



17. The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
18. The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by section 20 of the Code.
19. The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
20. We direct the Applicant/Financial Creditor to pay IRP a sum of **Rs Rs.2,00,000/- (Rupees Two Lakh Only)** in advance as fees and expenses arising out of issuing public notice and inviting claims till the CoC decides about his fees/expenses.
21. The Registry is directed to communicate this order to the Applicant/Financial Creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall



update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.

22. The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST (centre), State Trade Tax, Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/employees associations so that they are informed timely of the initiation of CIRP against the Corporate Debtor timely.

23. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

24. Accordingly, the present application i.e., **CP (IB)/322 (AHM) 2022** stands admitted.

-Sd-

**Dr. V.G. VENKATA CHALAPATHY**  
**MEMBER (TECHNICAL)**

-Sd-

**CHITRA HANKARE**  
**MEMBER (JUDICIAL)**