

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2**

IA 280 of 2020 in CP (I.B) No. 140/NCLT/AHM/2020

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 03.07.2020**

Name of the Company:

P.Praful & Company Agency (India) Pvt
Ltd
V/s

OXYZO Financial Services Pvt Ltd

Section :

Section 14 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.				
2.				


ORDER

(Through Video Conferencing)

Mr. Kunal P. Vaishnav, Learned Lawyer, appeared on behalf of the Applicant.

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


**CHOCKALINGAM THIRUNAVUKKARASU
MEMBER (TECHNICAL)**


**MANORAMA KUMARI
MEMBER (JUDICIAL)**

Dated this the 3rd day of July, 2020

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

C.P.(IB) No. 140/7/NCLT/AHM/2020 &
IA 280 of 2020 in C.P.(IB) No. 140/7/NCLT/AHM/2020

In the matter of:

C.P.(IB) No. 140/7/NCLT/AHM/2020

OXYZO Financial Services Pvt. Ltd.
Shop No. G-22 C(UGF) D-1 (K-84)
Green Park Main
South Delhi
New Delhi-110 016

And

Corporate Office at
101, First Floor
Vipul Agora Mall
MG Road
Gurgaon-122 002

....Petitioner
(Financial Creditor)

Versus

P. Praful and Company Agency (India) Pvt. Ltd.
508, Narayan Chamber
Near Patang Hotel
Ashram Road
Ahmedabad-380 009

....Respondent
Corporate Debtor

IA No. 280 of 2020

P. Praful and Company Agency (India) Pvt. Ltd.
508, Narayan Chamber
Near Patang Hotel
Ashram Road
Ahmedabad-380 009

....Applicant
(Original Corporate Debtor)

Versus

OXYZO Financial Services Pvt. Ltd.
Shop No. G-22 C(UGF) D-1 (K-84)
Green Park Main
South Delhi
New Delhi-110 016

And

Corporate Office at
101, First Floor





Vipul Agora Mall
MG Road
Gurgaon-122 002

....Respondent
(Original Applicant)

Order delivered on 3rd July, 2020.

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

Appearance: CP (IB) No. 140 of 2020:

Ms. Deepa Kulkarni, Learned Lawyer, for the Petitioner.

Mr. Divyang Majumdar and Mr. Rashesh Sanjanwala, Learned
Lawyers along with Learned Lawyer Mr. Kunal Vaishnav, for the
Respondent.

Appearance: IA 280 of 2020:

Mr. Kunal Vaishnav, Learned Lawyer, for the Applicant.
Ms. Deepa Kulkarni, Learned Lawyer, for the Respondent.

COMMON ORDER

[Per se: Mr. Chockalingam Thirunavukkarasu, Member (T)]

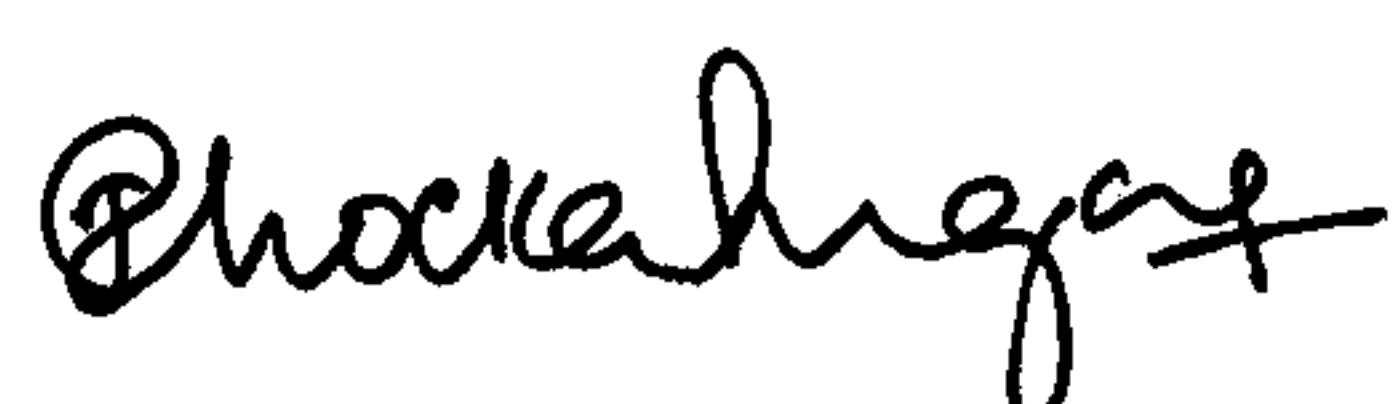
1. Ms. Shreya Sharma, Senior Executive – Legal, on behalf of the Petitioner/Financial Creditor, i.e. OXYZO Financial Services Pvt. Ltd, has filed this Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as “the IB Code”] read with Rule 4 of the insolvency and Bankruptcy Application to Adjudicating Authority Rules, 2016 (hereinafter referred to as “the Rules”) for the purpose of initiating Corporate Insolvency Resolution Process [hereinafter referred to as “CIRP”) against P. Praful & Company Agency (India) Pvt. Ltd., the Respondent company, the Corporate Debtor.
2. P. Praful & Company Agency (India) Pvt. Ltd, the Respondent, a private limited company was incorporated under the provisions of the Companies Act, 1956 under the name and style of Silver Proteins Private Limited having its Registered Office at 508,

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Narayan Chamber, Near Patang Hotel, Ashram Road, Ahmedabad-380 009. The Company is engaged in the business activity of Wholesale Trading.

3. The Authorised Share Capital of the Respondent Company, i.e. the Corporate Debtor is Rs.2,00,00,000/- (Rupees Two Crores only) and the Paid-Up Share Capital is Rs.1,04,40,000/- (Rupees One Crore Four Lakhs Forty Thousand only).
4. As per Part IV of the application, the total amount of debt due as on 30th September 2019 is Rs.1,05,68,424/- (Rupees One Crore Five Lakh Sixty Eight Thousand Four Hundred Twenty Four only) including interest on delayed payment charges for the Purchase Finance Facility availed by the Corporate Debtor.
6. It is stated by the Petitioner-Financial Creditor that during the year December 2017, the corporate debtor approached the petitioner and requested for financial assistance for its business. Hence, they entered into a Master Facilities Agreement on 05.01.2018 and addendum dated 29.12.2018.
7. It is stated that on the request of the Corporate Debtor, the petitioner had sanctioned a loan of Rs.1,00,00,000/- (Rupees One Crore only) with 18% interest per annum on 29th December, 2017. It is further stated that the account maintained by the Petitioner is a running account and the Corporate Debtor used to pay randomly against the amount disbursed.
8. It is further stated that as per the ledger, an amount of Rs.1,05,68,424/- (Rupees One Crore Five Lakh Sixty Eight Thousand Four Hundred Twenty Four only) is due as on 30th September, 2019.
9. It is further stated by the petitioner that a loan recall notice was issued on 30th September 2019 to the Corporate Debtor for




3

repayment of the amount. Further, on 31st October 2019 a Demand Notice was also issued to the Corporate Debtor, but the Corporate Debtor has failed to repay.

10. The Petitioner submitted the following documents in support of its claim:-

- Copy of Sanction letter dated 29th December, 2017
- Copy of Demand Promissory Note and Copy of Master Facilities Agreement dated 5th January 2018 and addendum dated 29th December 2018
- Copy of Ledger and request for disbursal letters along with certificate under Section 65B of the Indian Evidence Act.
- Copies of Request for Disbursement dated 03.03.2018, 13.04.2018, 12.06.2018, 10.07.2018, 06.08.2018, 21.08.2018, 19.12.2018 and 07.03.2019
- Copy of Recall Notice dated September 30, 2019.
- Copy of Legal Notice dated October 31, 2019.
- Copy of Master Data of the Corporate Debtor

11. The Respondent Company has filed an IA No. 280 of 2020 on 15.06.2020 with following prayers:

- A. Let appropriate order be passed admitting Company Petition (IB) No.140 of 2020 and declaration of moratorium with consequential measures under the provisions of Section 14 of the Code be made.
- B. In the Alternative and without prejudice to prayer A) above, pending the further order/s in Company Petition (IB) No.140 of 2020 and by way of interim relief;

Let appropriate order/s be passed prohibiting the action, proceedings, or measures taken or to be taken as stated in section 14(1) (a) to (d) of the Code by declaring the moratorium under section 14 of the Code.

- C. To pass such other and further orders as this Hon'ble Tribunal may deem just and proper.

12. In the IA filed by the Corporate Debtor, it is stated that apart from the default in payment to the petitioner, Bankers of the Corporate

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Debtor have initiated recovery proceedings, other creditors have also initiated proceedings for the alleged default before arbitration Court/ Tribunal / at several places. It is submitted by the Corporate Debtor that if a chance to resuscitate the company is not given, it may end into Liquidation. Further it is submitted that due to Pandemic, the value and prices of assets are affected adversely and distress sale is a strong possibility. It is also submitted that the restructuring the Corporate Debtor through Corporate Insolvency Resolution Process under the purview of the Code would be in the overall interest of the stakeholders.

13. Heard the Learned Counsel for both sides and also gone through the case records.
14. The counsel for the Respondent submitted that the Corporate Debtor company is not in a good financial position and accepts that there is a default in the repayment of the debt amount to the petitioner. It is further submitted that the restructuring of the Corporate Debtor Corporate Insolvency Resolution Process (CIRP) under the purview of the Code would be in the overall interest of the stakeholders.
15. In view of the above given facts and circumstances, it is clear that the Corporate Debtor itself accepts that there is a default, as the Corporate Applicant is unable to pay off its debts to the petitioner.
16. The petitioner has proposed the name of Mr. Navjit Singh, having Registration No. IBBI/IPA-001/IP-P00314/2017-18/10578 to act as IRP under Section 13(1)(b) of the IB Code and written communication in Form-2 of IBIBI has been submitted by the proposed IRP.
17. From the documents placed on record, this Adjudicating Authority is satisfied that default has been committed by the Corporate Debtor in repayment of loan amount to the Petitioner

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and the Corporate Debtor itself accepted the default. The petition is complete. As a consequence, the instant petition is admitted in terms of Section 7 of the IB Code and the moratorium as envisaged under the provisions of Section 14(1) of IB Code and extracted hereunder shall follow in relation to the Respondent Corporate Debtor.

(1) Subject to provisions of sub-Section (2) and (3), on the Insolvency Commencement date, the Adjudicating Authority herein declares moratorium for prohibiting all of the following viz;-


- (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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(54 of 2002);
- (iv) the recovery of any property by an owner as lessor where such property is occupied by or in the possession of the Corporate Debtor.


(2) The supply of goods and essential services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

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- (3) The provisions of sub-section (1) shall, however, not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.
- (4) The order of moratorium shall have effect from the date of receipt of authenticated copy of this order till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.
18. This Adjudicating Authority hereby appoints Mr. Navjit Singh, having Registration No. IBBI/IPA-001/IP-P00314/2017-18/10578 to act as "Interim Insolvency Resolution Professional" under Section 13(1)(b) of the IB Code.
19. The petition stands admitted.
20. Accordingly, IA No. 280 of 2020 is allowed and disposed of.
21. No order as to costs.
22. Communicate a copy of this order to the Petitioner, Respondent and to the Interim Insolvency Resolution Professional.


Chockalingam Thirunavukkarasu
Adjudicating Authority &
Member (Technical)


Manorama Kumari
Adjudicating Authority &
Member (Judicial)