



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

**CP (IB) No. 855/MB-IV/2022**

Under Section 7 of the I&B Code, 2016

In the matter of:

**Rohit Motilal Agarwal**

...Financial Creditor/Applicant

V/s

**Rajnigandha Suppliers Private Limited**

[CIN: U51909MH2009PTC311830]

...Corporate Debtor/Respondent

Order Dated: 29.03.2023

*Coram:*

Mr. Prabhat Kumar

Hon'ble Member (Technical)

Mr. Kishore Vemulapalli

Hon'ble Member (Judicial)

*Appearances (via videoconferencing):*

For the Petitioner(s) : Mr. Shadab S. Jan a/w Mr. Mufaddal Paperwala i/b Crawford Bayley & Co., Advocates.

For the Respondent(s) : Mr. Aniket Worlikar i/b Sujit Lahoti & Associates, Advocate.

***Per: Prabhat Kumar, (Member Technical)***

1. This is an Application being C.P. (IB) No. 855/MB/C-IV/2021 filed on 27.06.2022 by Rohit Motilal Agarwal, the Financial Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code)



- against Rajnigandha Suppliers Private Limited, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (CIRP).
2. The Financial Creditor executed a Loan Agreement dated 24.03.2022 with the Corporate Debtor wherein it was decided that the Financial Creditor shall disburse a total amount of Rs. 1,25,00,000/- to the Corporate Debtor on or before 31.03.2022 carrying interest @18% p.a. and the same was repayable on 02.05.2022.
    - 2.1. In accordance of the said agreement, the Financial Creditor disbursed Rs. 40,00,000/- and Rs. 85,00,000/- on 28.03.2022 and 31.03.2022 and respectively. The Financial Creditor has annexed its Bank Statement evidencing the disbursement of payment.
    - 2.2. The Corporate Debtor failed to repay the same on stipulated date i.e. 02.05.2022. A total amount of Rs.1,49,53,178/- along-with interest is due and payable by the Corporate Debtor as claimed by the Financial Creditor in the present petition.
    - 2.3. The date of default is therefore 02.05.2022 as per the Loan Agreement.
  3. The Corporate Debtor in its reply dated 12.11.2022 has opposed the contentions of the Applicant on the ground that the Financial Creditor has failed to furnish a copy of the Banker's Book Certificate from the financial institution maintaining the account of the Applicant.
  4. We have carefully gone through the pleadings available on records and considered the arguments of both the sides.
    - 4.1. In the present case, there is no dispute on the existence of debt and default committed by the Corporate Debtor in payment thereof. The Financial Creditor has filed Statement of Account reflecting the



disbursement of the claimed amounts which clearly shows the amount having been disbursed to the Corporate Debtor and this establishes the liability on the part of the Corporate Debtor as undertaken by the Corporate Debtor in the Loan Agreement executed by it with the Financial Creditor.

- 4.2. We therefore find that there exists a “financial debt” within the meaning of Sec. 5(8) of the Code and the default in repayment of such debt thereof.
- 4.3. On perusal of the documents submitted by the Applicant, it is clear that financial debt amounting to more than Rs.1,00,00,000/- (Rupees One Crore Only) is due and payable by the Corporate Debtor to the Applicant and there is default by the Corporate Debtor in payment of debt amount. We do not have any other objection on record against the application filed for initiation of CIRP against the Corporate Debtor.
- 4.4. In view of the above, we find that the present case is fit for admission under Section 7 of the Code for initiation of CIRP against the Corporate Debtor.
5. The Applicant has proposed the name of Mr. Arun Kishanlal Bagaria, a registered insolvency resolution professional having Registration Number [IBBI/IPA-002/IP-N00278/2017-18/10836] as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code and has also given his declaration that no disciplinary proceedings are pending against him.



**ORDER**

This Application being C.P. (IB) No. 855/NCLT/MB/C-IV/2022 filed under Section 7 of I&B Code, 2016, filed by Rohit Motilal Agarwal, Financial Creditor/ Applicant against Rajnigandha Suppliers Private Limited, Corporate Debtor for initiating Corporate Insolvency Resolution Process is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

I. That this Bench as a result of this prohibits:

- a) 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;
- 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

II. That 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.



- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to
- a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
  - b. a surety in a contract of guarantee to a Corporate Debtor.
- IV. That the order of moratorium shall have effect from the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.
- VI. That this Bench appoints Mr. Arun Kishanlal Bagaria, a registered insolvency resolution professional having Registration Number [IBBI/IPA-002/IP-N00278/2017-18/10836], as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
- e) The Financial Creditor shall deposit a sum of Rs.5,00,000/- (Rupees five lakh 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).



- f) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor.
- g) The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-

Prabhat Kumar  
Member (Technical)  
/LRA-Akshata/

Sd/-

Kishore Vemulapalli  
Member (Judicial)