



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-I**

CP (IB) NO. 467 of 2024

Under Section 10 of the Insolvency and
Bankruptcy Code, 2016 read with Rule 7(1)
of the Insolvency and Bankruptcy
(Application to Adjudication Authority)
Rules, 2016

In the matter of

**Phalcomm Infra Solutions Private
Limited**

CIN: U45202MH2014PTC258316

Having its Registered Office at -

Office No.1307, 13th Floor, Ellora Fiesta,
Sector-11, Opp. Jui Nagar Railway
Station, Sanpada Navi Mumbai-400705

... Corporate Applicant

Order Delivered On : 05.08.2024

Coram:

Hon'ble Member (Judicial) : Justice V.G. Bisht, (Retd.)

Hon'ble Member (Technical) : Prabhat Kumar

Appearances:

For the Corporate Applicant : Mr. Rohit Giri ,Advocate.



ORDER

Per: Virendrasingh Gyansingh Bisht, Member (Judicial)

1. This Company Petition is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 (“**Code**”) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rules, 2016 by the Corporate Applicant, seeking to initiate its own Corporate Insolvency Resolution Process (“**CIRP**”). The said application is being preferred by the Corporate Applicant owing to financial stress faced by it, consequent to which it is not in a position to repay the debts due to its creditors.

Brief Facts

2. The Corporate Applicant was incorporated on 25.09.2014 under the Companies Act, 1956. Its Corporate Identity Number (“**CIN**”) is U U45202MH2014PTC258316. Its registered office is at Having its Registered Office at -Office No.1307, 13th Floor, Ellora Fiesta, Sector-11, Opp. Jui Nagar Railway Station, Sanpada Navi Mumbai-400705. Therefore, this Bench has jurisdiction to entertain and decide the Petition.
3. The Corporate Applicant is registered as “Small” industry as per the certificate issued under MSME Act, 2006 as on 24.01.2018
4. The company is engaged in business of providing marketing, sales and post sales services to various real estate developers. In marketing services, the company carries out lead generation activities viz; Print advertisement, hoarding, digital marketing, road shows, etc. The Corporate Debtor arranged site visits for customers to the respective developer site and thereafter collected booking amount from customers.
5. The Corporate Debtor is desirous of initiating Corporate Insolvency Resolution Process under Section 10 of the Insolvency and Bankruptcy



Code, 2016 because of the default in repayment of the debt due to the Financial Creditors.

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6. The Corporate Applicant submits that the Company has suffered a tremendous loss of money. The Corporate Applicant was suffering consistent losses and difficulty in continuing its business operation. There are Operational Creditors to whom the Corporate Debtor owes total debt amounting to default is for Rs. 7,92,92,002/- (Rupees Seven Crore Ninety Two Lakhs Ninety Two Thousand and Two Only) as on 31.03.2023.
 7. Thereafter in the year 2016, demonetisation was announced and the real estate sector which was the backbone of the country faced significant drop in real estate sector. The real estate industry was improving post demonetisation but then entire country in the year 2020, was hit by COVID-19 pandemic. Lockdown was imposed and due to such lockdown, every business was hampered and so as the Applicant's business. The real estate sector faced a massive toll in the first wave of COVID. The uncertainty of projects and the chaos created due to the pandemic resulted in huge economic loss, projects came to a standstill, due to which not only developers but it impacted all the connected business viz; marketing and sales business.
 8. The Corporate Applicant has produced audited financial Statement as on 31.03.2023. These debts are duly reflected therein, thus constituting acknowledgement of debt and notes to accounts and auditor's report appended to financial statements clearly acknowledges the default in payment of debt.
 9. The Corporate Applicant has produced Unaudited financial Statement as on 31.03.2024

Statutory Compliances



10. The Corporate Applicant has enclosed a copy of Special Resolution passed by the shareholders of the Company in their Extra-Ordinary General Meeting of the Members held on 01.03.2024 for initiating Corporate Insolvency Resolution Process u/s 10 of the Code.
11. The Board of Directors of the Corporate Applicant in their meeting held on 03.02.2024 authorised Mr. Vishwanath Waman Phalke, Director of the Company to take all necessary steps, which includes engaging legal counsel and preparing and filing all necessary documents, to initiate and pursue the corporate insolvency resolution process and submit all documents and pleadings as may be necessary in connection with the corporate insolvency resolution process on behalf of the Company
12. Further, the Corporate Applicant has also enclosed the Audited Financial Statement for the year 2023 , along with Copy of statement of assets and liabilities of Corporate Applicant.
13. The Corporate Applicant has suggested the name of Mrs. Bharati Manoj Daga for appointment as the Interim Resolution Professional (“**IRP**”). The proposed IRP has also submitted his Consent in Form 2 confirming eligibility and that there are no disciplinary proceedings pending against him.
14. This application is filed as per Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016 in Form-6. Required information is also furnished therein.
15. The Corporate Applicant have duly served the copy of the application to the IBBI on 04.06.2024 as per rule 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016.
16. After hearing the submissions and upon perusing the supporting documents annexed with the Petition, this Bench is of the considered view that the application made by the Corporate Applicant is complete in all respects as required by law. It clearly shows that the Corporate



Applicant 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, at the relevant time. Therefore, the 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 Applicant.

17. During the course of hearing, vide order dated 08.07.2024, the Corporate Applicant was asked to give undertaking by way of affidavit to this Tribunal that they will make availability of all the necessary funds to the Resolution Professional, in case the Corporate Insolvency Resolution Process is initiated against the Corporate Applicant herein and they will make available all the necessary documents/effect/records to the Resolution Professional for smooth running of the Resolution Process.

Order

18. The above CP(IB) No. 467 of 2024 is hereby **Admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Aberdeen Foods Private Limited.
19. Mrs. Bharati Manoj Daga having Registration No. IBBI/IPA-001/IP-P-01963/2020-2021/13070, Email Id: : bharteedaga1008@gmail.com, is hereby appointed as the IRP of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.
20. 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.

21. 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;

22. 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.

23. 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.

24. 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.

25. The Corporate Applicant shall deposit a sum of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only) till the formation of Committee of Creditors plus out of pocket expenses 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).
26. The Registry is directed to communicate this Order to the Corporate Applicant and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
27. A copy of this Order be sent to the Registrar of Companies, Mumbai, Maharashtra, 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.
28. Ordered accordingly.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Sd/-

JUSTICE V. G. BISHT
MEMBER (JUDICIAL)