

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

**CP (IB)/2531/2019**

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

*In the matter of*

**Arihant Multi Commercial Ltd**

Having registered office at: - 204, B Wing,  
New Prabhat SRA CHS Ltd, Chikuwadi,  
W.E. Highway, Andheri (East), Mumbai-  
400099

**..... Applicant/ Financial Creditor**

**Versus**

**Vibgyor Vinimay Pvt Ltd**

9, A.K. Naik Marg, Near New Excelsior  
Cinema, Fort, Mumbai, Maharashtra-  
400001

**.... Corporate Debtor**

**Order Delivered on: - 23.02.2024**

***Coram:***

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

Hon'ble Member (Technical) : Sh. Prabhat Kumar

***Appearances:***

For the Financial Creditor: Mr. Rishi, Advocate.

For the Corporate Debtor: Ex-Parte.

## **ORDER**

*Per: - Justice V.G. Bisht, (Retd.)*

1. This Company petition is filed by Arihant Multi Commercial Ltd on 03.07.2019, hereinafter referred as "Financial Creditors" seeking to initiate Corporate Insolvency Resolution Process (CIRP) against Vibgyor Vinimay Pvt Ltd (hereinafter referred to as "Corporate Debtor") by invoking the provisions of Section 7 of the Insolvency and bankruptcy code, 2016 (hereinafter called "Code") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The Total Financial Debt is of Rs. 1,00,00,000/- including the interest accrued. The Date on which default occurred is 29.07.2016.
2. The Corporate Applicant/Financial Creditor with CIN: L51909MH1982PLC028972 where the Date of Incorporation is 24.12.1982 and they are engaged in various business activities such as textile, shares, financing, money lending, investing etc. Having its Registered office in 204, B wing, New Prabhat SRA CHS Ltd, Chikuwadi, W.E. Highway, Andheri (East), Mumbai-400099.
3. The Corporate Debtor is a Private company limited by shares and incorporated on 21/06/2005 under the Companies Act, 1956, with the Registrar of Companies, Maharashtra, Mumbai with CIN: U51109MH2005PTC252896. Its registered office is at 9, A.K. Naik Marg, near New Excelsior Cinema, Fort, Mumbai City Maharashtra, India Pincode-

400001.

**The submissions of the Financial Creditor are as follows:**

4. That both the Parties entered into a term, where Financial Creditor extended an amount of Rs.1 Crore to Corporate Debtor drawn on ICICI Bank dated 29.04.2014 which is the date of disbursement.
5. The Corporate Debtor was making payment of interest on regular basis and the last payment of interest was received by the Financial Creditor on **11.04.2016**, thereafter the next interest was due and payable on 10.04.2017, otherwise than the quarterly payment which was payable on July,2017 by the Corporate Debtor.
6. The Financial Creditor submits that the Corporate Debtor was making the interest payment on quarterly basis which was due on 30<sup>th</sup> June, 30<sup>th</sup> September, 30<sup>th</sup> December and 31<sup>st</sup> March according to the repayment chart. The detail of loan and interest to be received from Corporate Debtor annexed herewith as Annexure-H which forms the basis of repayment of loan and interest in tabular chart, as when and how much amount will the corporate Debtor has to repay. The Year in which the repayment was scheduled are as follows:
  - 2014-15
  - 2015-16
  - 2016-17

- 2017-18
- 2018-19
- 2019-2020

7. The Corporate Debtor made a payment Rs 7,47,863 towards Interest of 9% per annum on 31.03.2015.
8. On 07.04.2016 the Corporate Debtor made a payment of Rs.8,10,000/- towards interest of 9% per annum.
9. The Financial Creditor submits that on 01.04.2016 it was agreed by both the parties to reduce the interest rate from 9% to 8% per annum.
10. The Financial creditor had served a Legal Notice to the Corporate Debtor vide notice dated 18.02.2019 and 18.03.2019. Both the letters were duly acknowledged by the Corporate Debtor as per the acknowledgment received from Postal Authorities. Corporate Debtor through their Advocates sent a reply vide dated 30.03.2019 to the Financial Creditor. It is to be noted that the financial creditor claims that the Corporate Debtor orally agreed to repay the money along with Interest which was not paid yet.
11. The Total Financial Debt is of Rs. 1,00,00,000/- including interest. The Interest rate was calculated @9% per annum and said interest was subsequently reduced to 8% per annum from 01.04.2016.

## **FINDINGS:**

12. We have heard learned Counsel for the parties and have gone through the records.
13. The Corporate Debtor has been proceeded Ex-parte by virtue of the order dated 31.01.2024, following a thorough examination of the records, it has come to light that despite the Corporate Debtor's repeated pleas for adjournment, citing ongoing settlement negotiations, no substantial progress has been made toward reaching any settlement. This court finds a discerning pattern of delay tactics by the Corporate Debtor, in failing to submit their Reply to the records, has consequently revoked their privilege to file such a reply.
14. It is an admitted fact that a loan was granted by Financial Creditor to the Corporate Debtor which was not repaid. Both the Parties entered into a term, where Financial Creditor extended an amount of Rs.1 Crore to Corporate Debtor drawn on ICICI Bank dated 29.04.2014 which is the date of disbursement. The Total Financial Debt is of Rs. 1,00,00,000/- including the interest accrued and the date of default is 29.07.2016.
15. From a perusal of the record and the documents relied upon by the Applicant, it stands proved that there has been a financial debt in respect of which default has been committed by the Corporate Debtor and further that the Application has

been filed within the period of limitation. Therefore, the Application u/s 7 of the Code, deserves to be Admitted. It is ordered accordingly in the following terms:

### **ORDER**

- a. The petition bearing CP (IB) 2531/MB/C-I/2019 filed by **Arihant Multi Commercial Ltd**, the Financial Creditors, 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 **M/s Vibgyor Vinimay Private Limited [CIN: U51109MH2005PTC252896]**, the Corporate Debtor, is admitted
- b. This Bench hereby **appoints Anil Sanklecha, Registration No: IBBI/IPA-001/IP01091/2017-18/11801 as the Interim Resolution Professional** having **email:- anil\_sanklecha@yahoo.com** , to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- 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. The Financial Creditor shall deposit an amount of Rs. Three Lakhs towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- 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.3,00,000/- (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/-**

**PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**  
SR

**Sd/-**

**JUSTICE V. G. BISHT**  
**MEMBER (JUDICIAL)**