

IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
COURT - IV *By*

CP(IB) 2503/ND/2019

*[An application filed under Section 7 of the Insolvency and
Bankruptcy Code, 2016]*

In the Matter of:

Ambrane India Private Limited

...Applicant/Financial Creditor

Versus

MKMG Jewel Developers Private Limited,

...Respondent/Corporate Debtor

Order Pronounced On: 12/01/2022

Coram:

**DR. DEEPTI MUKESH,
HON'BLE MEMBER (JUDICIAL)**

**MS. SUMITA PURKAYASTHA,
HON'BLE MEMBER (TECHNICAL)**

MEMO OF PARTIES

Ambrane India Private Limited
CIN No.- U72200DL2012PTC243949
Having Registered Office at:
Unit No. AN-203, D Mall, Plot No. A1,
Netaji Subhash Place, Pitampura,
New Delhi-110034.

.....Applicant/Financial Creditor

Versus

MKMG Jewel Developers Private Limited

CIN No.- U27205DL2012PTC233291

Having Registered Office at:

13/3, Second Floor,

Shop No. 211, WEA, Karol Bagh,

New Delhi – 110005

.... Respondent/Corporate Debtor

Present:

For the Applicant: Mr. Ashok Kumar Jeneja, Adv.

For the Respondent: Mr. Naveen Kumar, Adv.

ORDER

Per: Dr. Deepti Mukesh, Member (Judicial)

1. The instant Application is filed by Ambrane India Private Limited (hereinafter referred to as **“the Applicant”**) 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”**) to initiate corporate insolvency resolution process (hereinafter referred to as **“CIRP”**) against M/s. MKMG Jewel Developers Private Limited (hereinafter referred to as **“the Corporate Debtor”**) for the default amount of



Rs.1,42,49,431/- inclusive of applicable interest and the default occurred dated on 01.01.2019.

2. The Applicant is a private limited company incorporated under the provisions of the Companies Act, 1956 as on 23.10.2012 with CIN No. U72200DL2012PTC243949 and its registered office is located at Unit No. AN-203, D Mall, Plot No. A1, Netaji Subhash Place, Pitampura, New Delhi - 110034. The Applicant is engaged in the business of buying and selling of computer and computer peripherals, hardware and software, mobile and mobile accessories, electronic data storage and recording device and software development, computer designing etc.
3. The Applicant company submits that it operates its business in the name of BJ Infotech. In support of the same the Applicant has annexed its Goods and Services Tax (GST) registration certificate which shows that Trade Name of the Applicant company is BJ Infotech.
4. The Corporate Debtor is a private limited company incorporated under the provisions of the Companies Act, 1956 on 22.03.2012 with CIN No.-

U27205DL2012PTC233291 and the registered office is located at 13/3, Second Floor, Shop No. 211, WEA, Karol Bagh, New Delhi – 110005. The authorized and paid-up share capital of the Corporate Debtor is Rs. 1,00,000/-, as per the information available on Master Data. The Corporate Debtor is engaged in business of gold, silver, platinum, pearls, bullions, diamond, clock, watched fitted with gold and diamonds and other precious and semi-precious metals, stones, ornaments, jewelry and articles and goods made partly or fully of the said material.

5. It is the case of the Applicant that in the month of January, 2018, Mr. Mukesh Kumar, on the behalf of the Corporate Debtor approached the Applicant for financial assistance. After passing of the board resolution by the applicant company on 10.01.2018, an amount of Rs. 1,25,00,000/- as unsecured loan was disbursed to the Corporate Debtor against an interest at the rate of 9% per annum to be compounded on 31.03.2018 and to be repaid on or before 31.12.2018. The said amount was disbursed through NEFT made by the name BJ Infotech

on 30.01.2018. The disbursement of said loan amount is reflecting in financial statement as well as director's report of the Corporate Debtor for the financial year ended on 31.03.2018 annexed with the Application. Also, the certificate issued by the National E-Governance Services Limited shows the status of the transaction between the Applicant and Corporate Debtor as "deemed to be authenticated". The copy of certificate issued by NeSL annexed.

6. The Applicant submits that due to non- repayment of loan amount till 01.01.2019, a legal notice dated 06.08.2019 was issued by the Applicant to the Corporate Debtor but the Corporate Debtor has not replied to the said legal notice. Thus, the Applicant filed the present Application under Section 7 of IB Code, 2016.
7. The Corporate Debtor has filed its reply and submits that the applicant has not produced any written agreement in respect of transaction, entered between the Applicant and the Corporate Debtor with respect to the grant of unsecured loan. Thus, averment made by

the Applicant is false. It is further submitted that amount was disbursed by BJ Infotech, which is a unit of the applicant and not by the applicant himself.

8. Heard the submission and pursued the record. The financial statement of the Corporate Debtor annexed with the Application prima facie establish the disbursement of amount of Rs. 1,25,00,000/- to the Corporate Debtor by the trade name of the applicant, BJ Infotech. The Corporate Debtor has not made any averment with respect to such entry in its financial statement. The certificate issued by the National E-Governance Services Limited, shows the unsecured loan issued by the applicant company to the corporate debtor. Also, with respect to the contentions made by the respondent that loan amount was disbursed by BJ Infotech and not by the applicant, the applicant had already produced the GST registration certificate and bank account transaction details which establish that BJ Infotech is only the trade name of the applicant company and not a separate legal entity. In view of forgoing, it can be said that the default has taken place

in the payment of outstanding loans. Considering the facts and circumstances of the case, we opine that the application filed u/s 7 deserves to be admitted.

9. The Registered Office of the Corporate Debtor is situated in New Delhi and therefore this Adjudicating Authority has jurisdiction to entertain and try this Application.
10. The date of default is mentioned as 01.01.2019. The present Application is filed in September 2019. Hence the debt is not time barred and the Application is filed within the period of limitation.
11. The present application is complete in terms of Section 7(5) of IB Code, hence we admit the application and initiate corporate insolvency resolution process of the corporate debtor.
12. The Applicant has proposed the name of Mr. Durga Das Agrawal to be appointed as Interim Resolution Professional (IRP), who is hereby appointed as IRP of the Corporate Debtor having Registration No. IBBI/IPA-001/IP-P00557/2017-2018/10987 and address at KBL Agrawal & Co., 413, Vikasdeep Building, Laxmi Nagar, District- Centre, New Delhi-110092, Mobile No.- +91-

9811075092, Email id- cadda.ip@gmail.com. The written consent of IRP in Form-2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 is filed.

13.As a consequence of the Application being admitted, the moratorium as envisaged under the provisions of Section 14(1) shall follow in relation to the Corporate Debtor prohibiting all of the actions mentioned under Section 14(1)(a) to (d).

14.We direct the Applicant to deposit a sum of Rs. 2,00,000/- with the Interim Resolution Professional, namely Mr. Durga Das Agrawal to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation, 2016. The needful shall be done within one week from the date of receipt this of order by the Financial Creditor.

15.Copy of the order shall be communicated to the Applicant, Corporate Debtor as well as to the IRP appointed herein, by the Registry. In addition, a copy of

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the order shall also be forwarded to IBBI for its records and also to RoC for updating the Master Data. RoC shall send compliance report to the Registrar, NCLT.

Application is allowed and disposed of.

-Sd-

**Ms. Sumita Purkayastha
Member (Technical)**

-Sd-

**Dr. Deepti Mukesh
Member (Judicial)**

Abhishek/LRA