



NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

(IB)-662(ND)/2021

IN THE MATTER OF:

Pragati Impex India Private Limited

Flat No. 216-B, Second Floor,
Devika Tower, 6, Nehru Place,
New Delhi – 110019

...Applicant/Financial Creditor

VERSUS

M/s. Vistar Construction Private Limited

Registered Office at:
C-23 Greater Kailash Enclave,
Part-I, New Delhi-110048

...Respondent/Corporate Debtor

Section: 7 of IBC, 2016

Order Delivered on: 05.08.2022

CORAM:

SHRI. DHARMINDER SINGH, HON'BLE MEMBER (JUDICIAL)

SHRI. L. N. GUPTA, HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Adv. Shohit Chaudhry

For the Respondent : None



ORDER

PER SHRI L. N. GUPTA, MEMBER (T)

M/s Pragati Impex India Private Limited (for brevity the '**Applicant/ Financial Creditor**') through its Authorised Representative Shri Dinkar Kumar Giri has filed the present application under the Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity '**IBC, 2016**') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 with a prayer to initiate the Corporate Insolvency process against M/s. Vistar Construction Private Limited (for brevity the '**Respondent/Corporate Debtor**').

2. The Corporate Debtor namely, M/s. Vistar Construction Private Limited is a Company incorporated on 09.10.1992, under the provisions of erstwhile Companies Act, 1956 with CIN U70109DL1992PTC050575, having its registered office at C-23 Greater Kailash Enclave, Part-I, New Delhi-110048, which falls within the jurisdiction of this Tribunal.

3. The Authorized Share Capital of the Corporate Debtor Company is Rs. 10,00,00,000/- and Paid-up Share Capital is Rs. 7,44,80,896/- as per the Master Data annexed with the Application.

4. It is stated by the Applicant that the Corporate Debtor along with other developers had entered into an agreement for developing a Project under name and style of "Delhi 1" on land admeasuring 40,000 Sq. Meters approximately at Plot No. C-001/A, Sector 16B NOIDA Uttar



Pradesh, (hereinafter referred to as the **Project**). It has been added that in the month of April-May 2018, the Corporate Debtor along with its directors, approached the Financial Creditor for sanction of loan amounting to Rs.1,76,00,000/- towards working capital needs for completion of the said Project.

5. The details of the total amount of default and the date of default as mentioned in the Part IV of the application, are reproduced below :

Part – IV		
PARTICULARS OF FINANCIAL DEBT		
1.	TOTAL AMOUNT OF DEBT GRANTED DATE(S) OF DISBURSEMENT	Rs.1,76,00,000 Further, details given below.
2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)	Rs.1,76,00,000 Further, details given below.

2. AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED

S.No.	Name of the Applicant	Date on which the default occurred	Total Amount Due (in Rs.)
1.	Pragati Impex India Private Limited	30.11.2019	1,76,00,000 (Principal) + Interest @ 2 % + 1 % Penal Interest (Till 30.11.2019) =95,30,383 Total Till 30.11.2019 = 2,71,30,383
		Interest From 01.12.2019 to (30.09.2021)	1,16,13,107
TOTAL			3,87,43,490



6. From perusal of the Part IV of the Application, it is observed that the Applicant has claimed an amount of Rs. 3,87,43,490/- as an unpaid financial debt. Further, 30.11.2019 has been relied as the date of default by the Applicant.

7. The Financial Creditor has relied on the following documents to prove the existence of financial debt :

- a) Copy of loan agreement dated 31.05.2018;
- b) Copy of the bank account statement and ledger account maintained by Financial Creditor along with confirmation of Account given by Corporate Debtor; and
- c) Copy of Record of Financial Information in FORM C registered with National E-Governance Services Limited (NESL).

8. Basing on the aforesaid documents, the Financial Creditor has prayed for initiation of CIRP against the Corporate Debtor.

9. This Adjudicating Authority has issued notice to the Corporate Debtor on 08.11.2021.

10. From perusal of the order sheet, it is observed that despite service, there was no representation by or on behalf of the Corporate Debtor on 03.12.2021, 22.03.2022 and 10.05.2022. Accordingly, the Respondent was proceeded ex-parte vide order dated 10.05.2022.



11. Financial Creditor has also placed on Record of Financial Information with the Information Utility viz., NeSL in support of and to establish default made by the Corporate Debtor. The scanned copy of the same is reproduced below :

NeSL NATIONAL E-GOVERNANCE SERVICES LIMITED
India's First Information Utility राष्ट्रीय ई-गवर्नेंस सर्विसेज लिमिटेड

Record of Financial Information - Form C

Unique Debt Identifier: AAACP1364K_NA
 Submission ID: 1
 Submitted by Pragati Impex India Private Limited
 Information as on 04/06/2021

ANNEXURE - A5

Submitter Information			
Name	Pragati Impex India Private Limited	UIN (PAN)	AAACP1364K
Relationship	creditor	Comm. Address PIN	110019
DOI / DOB	07/08/1980	Mobile No.	9xxxxxxx3
Telephone No.	9xxxxxxx3	Billing / Comm. Address	Flat No. 216-B, Second Floor, Devika Tower, 6, Nehru Place, New Delh-110019
Email ID	****@pragatigroup.in		

Other Party Details			
Debtor			
Name	Vistar Constructions Private Limited	Relationship	debtor
Party Type	Indian Entity	Regd. / Permanent Address	C-23 Greater Kailash Enclave, Part-I New Delhi
Regd. Address PIN	110048	Billing / Comm. Address	TECH BOULEVARD, CENTRAL BLOCK, PLOT NO. 6, SECTOR-127, NOIDA
Comm. Address PIN	201301	Legal Constitution	Private Limited Company
DOI / DOB	09/10/1992	CIN/LLPIN	U70109DL1992PTC050575
PAN / Other ID	AAACV1033H	Contact Person Name	Ravi Bhargav
Contact Person Designation	Director	Mobile No.	8802217181
Alternative Mobile No.	8802217181	Email ID	corporate_affairs@the3c.in

Debt Information			
Type of debt	financial	Debt Reference No.	na
Debt Contract Date	31/05/2018	Debt Start Date	23/05/2018
Debt Currency	INR	Sanction Currency	INR
Sub Type - Debt	credit facility	Funded Type	Funded
Sanctioned Amount	17600000	Facility Name	Term Loan
Repayment Frequency	others	Rate of Interest	3 % PM
Lending Arrangement	others	Total Outstanding Amount	36643063.00
Amount Overdue	36643063.00	Principal Outstanding	17600000
Interest Outstanding	19043063.00	Days Overdue	1104
Account Closed Flag	no	Tenure	18 Months

Shohit



Default Details			
Date Of Default	01/12/2019	Default Amount	36643063.00
Total Outstanding Amount	36643063.00		

12. In the given facts and circumstances as above, the Applicant having established the default by the Corporate Debtor in payment of the Financial Debt for an amount above the threshold limit and the present Application being complete, **the present Application is admitted in terms of Section 7(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code.** As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed by all and sundry:

- “(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 the possession of the corporate debtor.”

13. As proposed by the Financial Creditor, this Bench appoints Mr. Ankit Agrawal, as IRP having Registration No. IBBI/IPA-02/IP-N01070/2020-21/13514 (Email: ankitagarwalcs@gmail.com), subject to the condition that no disciplinary proceedings are pending against the IRP so named and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order. This Adjudicating Authority orders that :


“Mr. Ankit Agrawal, as IRP having Registration No. IBBI/IPA-02/IP-N01070/2020-21/13514, (E-mail ID: ankitagarwalcs@gmail.com) is directed to take charge of the CIRP of the Corporate Debtor with immediate effect. The IRP is directed to take the steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016.”

14. The Financial Creditor is directed to deposit Rs. 2,00,000/- (Two Lakh) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

15. A copy of this Order shall be communicated to the Financial Creditor, the Corporate Debtor and the IRP mentioned above by the Court Officer/Registry of this Tribunal.



16. In addition, a copy of the Order shall also be forwarded by the Court Officer/Registry to the IBBI for their records.


S. 08. 2022
(L. N. GUPTA)
MEMBER (T)


(DHARMINDER SINGH)
MEMBER (J)