

SL No.122

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

Video Conference

**CORAM: HON'BLE BHASKARA PANTULA MOHAN-MEMBER JUDICIAL
HON'BLE DR. BINOD KUMAR SINHA- MEMBER TECHNICAL**

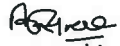
**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 04.02.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No.134/7/HDB/2020
NAME OF THE COMPANY	Patidhar Exim Pvt Ltd
NAME OF THE PETITIONER(S)	Indiabulls Consumers Finance Ltd
NAME OF THE RESPONDENT(S)	Patidhar Exim Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

Orders pronounced vide separate order.

This CP No. 134/7/2020 is admitted vide separate orders.



MEMBER (T)

Nileshe



MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, HYDERABAD**

CP (IB) No.134/7/HDB/2020
Under section 7 of the IB Code, 2016
Under rule 4 of the Insolvency and Bankruptcy
(Application Adjudicating Authority) Rules, 2016.

In the matter of
M /s PATIDAR EXIM PRIVATE LIMITED

Between:

M/s. Indiabulls Consumer Finance Limited,
(Formerly IVL Finance Limited)
Regd. Office: M-62 & 63, First Floor,
Connaught Place,
New Delhi – 110001.
Rep. by its Legal Head, Mr. Vipin Saroha,

...Petitioner/
Financial Creditor

And

M/s. Patidar Exim Private Limited,
Regd. Office: 6-2-124/A, New Bhoiguda,
Secunderabad,
Telangana – 500 003.

...Respondent/
Corporate Debtor

Date of Order: 04.02.2022

Coram: Shri Bhaskara Pantula Mohan, Member Judicial
Dr. Binod Kumar Sinha, Member Technical

Parties/Counsels present:

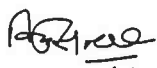
For the Financial Creditor: Mr. Harshavardhan Abburi, Counsel

For the Corporate Debtor: Mr. Abhishek Gupta, Counsel

Per: Bench

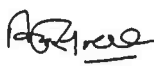
ORDER

1. Under consideration is a Company Application filed by M/s. Indiabulls Consumer Finance Limited (in short “*Petitioner/Financial Creditor*”) under section 7 of the Insolvency and Bankruptcy Code, 2016 (in short IB Code, 2016) read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for seeking to



initiate Corporate Insolvency Resolution Process (CIRP) in respect of M/s PATIDAR EXIM PVT. LTD under the Insolvency and Bankruptcy Code, 2016.

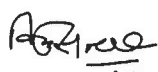
2. Brief facts of the case as submitted by the Financial Creditor are as follows:
 - a) That the Corporate Debtor, approached the Financial Creditor for availing business loan facilities to meet the business related requirements. Subsequently, upon acceptance of the offer of the aforesaid Loan facility, Loan agreement under Loan Account No.S000300976 was executed by and between the Corporate Debtor and the Financial Creditor for an amount of Rs.50,61,880/- (Rupees Fifty Lakh Sixty One Thousand Eight Hundred and Eighty only) under Loan Agreement dated 01.10.2017.
 - b) As per the Loan Agreement, loan facilities were repayable in 36 Equated Monthly Installments.
 - c) That the Corporate Debtor committed breach of the Loan Agreement inter-alia by defaulting in payment of the monthly installments due and payable by the Corporate Debtor to the Financial Creditor on various dates from 01.01.2019 to till date.
 - d) Hence, the Financial Creditor has decided to approach this Adjudicating Authority to initiate CIRP against the Corporate Debtor.
 - e) The total amount due as on 24.01.2020 is Rs. 46,10,268.99/-.
 - f) Reiterating the above, learned counsel for the Financial Creditor prayed to admit the instant Application.
3. It is seen from the record that during the initial phase of the instant proceedings, the Respondent was represented by their counsel Shri Prashant Kumar Jain on 19.03.2020. After 19.03.2020, the matter was posted on various dates i.e., 26.03.2021, 16.07.2021 and 25.08.2021 but there has been no representation on behalf of the Respondent and the matter was reserved for orders on 22.09.2021. Subsequently the matter was re-opened for service of proper notice to the Corporate Debtor. On 17.11.2021, Mr. Prashant Kumar Jain, learned counsel appeared and undertook to file counter and the matter was



adjourned for filing counter which never came to be filed up to 10.12.2021. Therefore, on 10.12.2021, the right of filing counter was forfeited. Hence, there is no reply affidavit placed on record. During the hearing held on 03.01.2022, instead of arguing the matter, the Corporate Debtor kept on seeking time for arguing the matter. This Adjudicating Authority noted the fact that already sufficient time was granted to the Corporate Debtor but such opportunities had not been availed by them, and the matter was heard in detail.

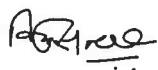
4. Since the Respondent has neither filed Counter nor availed these opportunities provided in accordance with principles of natural justice, we have no other option but to dispose of the instant application without their assistance.
5. Heard learned counsel of the Applicant and perused the record.
6. In view of the submissions made and documents placed on record by the Financial Creditor, and in the absence of any denial or rebuttal of the same on behalf of the Corporate Debtor, this Adjudicating Authority is satisfied that the Financial Creditor has proved its case by placing evidence that there exists a financial debt of an amount exceeding the threshold as provided in Section 4 of the IB Code, 2016 and that default has occurred for which the Corporate Debtor was liable to pay. The Financial Creditor has fulfilled all the stipulations as required under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. It is pertinent herein to note that Hon'ble Supreme Court, while deciding the matter in the case of INNOVENTIVE INDUSTRIES LTD. Vs. ICICI BANK & ANR., in Civil Appeal Nos. 8337-8338 of 2017, held as under:

".....The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is

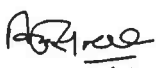


incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under subsection (7), the adjudicating authority shall then communicate the order passed to the operational creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be."

7. In view of the above ruling of the Hon'ble Supreme Court, and having satisfied with the submissions made by the Petitioner/Financial Creditor, this Adjudicating Authority is inclined to admit the instant Application.
8. Accordingly, the instant application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process (CIRP) in the case of Corporate Debtor/respondent herein, which shall ordinarily be completed within the timelines stipulated in the IB Code, 2016 (as amended), reckoning from the day of this order.
9. This Adjudicating Authority hereby appoints Mr. Arun Kumar Malani, having his Regn. No. IBBI/IPA-001/IP-P00275/2017-2018/10519 as IRP as his name has been proposed by the Applicant Financial Creditor. He has also filed his written consent in Form-2. He is directed to file his valid Authorization for Assignment within three (3) days from date of this order.
10. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IB Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.



11. We direct the Financial Creditor/Petitioner to pay a sum of Rs.2,00,000/- towards the advance fee of IRP, which shall be ratified and reimbursed later on by CoC.
12. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP in terms of Section 14 of the IB Code, 2016. It is hereby ordered to prohibit all of the following namely:-
- 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 or 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 rights 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 (54 of 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.*
 - e. Suspension or termination of any license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.*
13. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions,



agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority.

14. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.
15. The Petitioner/Financial Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.
16. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.
17. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.
18. The address details of the IRP are as follows:-

Mr. Arun Kumar Malani,
Regn. No. IBBI/IPA-001/IP-P00275/2017-2018/10519
6-1-68/3/33, Dream Valley, Shivarampally,
Pillar No. 306, Rajendra Nagar RR Dist.,
Hyderabad, Telangana – 500052
Email ID: arunkumarmalani@gmail.com

19. Accordingly, CP (IB) No.134/7/HDB/2020 is hereby admitted.



Dr. Binod Kumar Sinha
Member Technical

Santi/SKRathi



Bhaskara Pantula Mohan
Member Judicial