



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT No. I  
KOLKATA**

**Company Petition (IB) No. 63/KB/2024**

*Application under section 7 of the Insolvency & Bankruptcy Code, 2016  
read with rule 4 of the Insolvency and Bankruptcy (Application to  
Adjudicating Authority) Rules, 2016.*

In the matter of:

BDas Web Sys Pvt. Ltd.

...Applicant/Financial Creditor

Versus

Payabhi Payments Pvt. Ltd.

...Respondent/Corporate Debtor

**Coram:**

**Bidisha Banerjee, Member (Judicial)**

**Balraj Joshi, Member (Technical)**

**Appearances: (via video conferencing/physically)**

Mr. Shaunak Mitra, Adv.

] For Financial Creditor

Mr. Dripto Majumdar, Adv.

Mr. Gopal Khetan, PCA

Mr. Aman Agarwal, Adv.

] for Corporate Debtor

Ms. Saloni Agarwal, Adv.

Date of pronouncement: 15.10.2024.

**ORDER**

**Per: Bidisha Banerjee, Member (Judicial)**

1. This Court congregated through a hybrid mode.
2. By way of the Company Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016, for brevity "I&B Code", **BDas Web Sys Pvt. Ltd.**, hereinafter referred to as "Financial Creditor"/ "Applicant" has sought to initiate CIRP proceedings against **Payabhi Payments Pvt. Ltd.**, hereinafter referred to as "Corporate Debtor"/ "Respondent". The

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amount in default is mentioned 1.25 crores and the date of default is claimed as 7/10/2023.

**3.** The Financial Creditor, namely, BDas Web Sys Pvt. Ltd., claims that Payabhi Payments Pvt. Ltd., the Corporate Debtor was in need of urgent funds for its business due to which it approached the Financial Creditor for a grant of loan of Rs.1.25 crores at the interest rate of 18% per annum payable at the end of every quarter and on demand. Considering the request of Payabhi Payments Pvt. Ltd./Corporate Debtor and its credentials and credit worthiness, the Financial Creditor or FC after approval from its Board; granted the said loan amount of Rs.1.25 crores on the terms as agreed to between the parties and transferred the payments in five tranches to the Corporate Debtor on 27.06.2023, 29.06.2023, 03.07.2023, 03.07.2023 & 06.07.2023 of amount being INR 20,00,000/- ; INR 15,00,000/-; INR 20,00,000/-; INR 20,00,000/- & INR 50,00,000/- respectively.

**4.** In support of its statements, the Financial Creditor has relied upon a loan confirmation statement dated 09.07.2023 confirming the receipt of the amount, as it appears from Page No.34 of the application wherefrom it appears one Annu Jaiswal, Director of Payabhi Payments Pvt. Ltd./Corporate Debtor has acknowledged the receipt of short-term loan amounting Rs.1.25 crores received by Payabhi Payments Pvt. Ltd./Corporate Debtor from B Das Web Sys Pvt. Ltd.

**5.** Further, the Financial Creditor has also relied upon the information utility statement in Page No.37 of the application confirming the total outstanding amount or total default of amount Rs.1,38,08,329/- as on 07.10.2023. The Bank Statements in confirmation of the disbursement have been annexed as Page No.38 of the application.

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**6.** The respondent in their reply-affidavit has admitted their default in their following words:

- i. *“The Corporate Debtor has admitted that it had a business relationship with Bdas Web Sys Private Limited and had asked them to arrange a short-term fund. However, due to challenging financial conditions brought on by adverse market scenarios, the CD has been unable to service the amount which it had taken for its temporary needs in the manner agreed upon.”*
- ii. *“In order to conduct the bill payments system it appointed agents across the country who would facilitate the bill payments service.”*
- iii. *“It has a very bad last financial year i.e., (2023-24), it incurred huge losses in the process to promote the business model and company.”*
- iv. *“That due to such losses, we have reduced the amount of commissions, cashbacks and other benefits and because of this the number of transactions and turnover affected badly.”*

**7.** The Corporate Debtor has further averred that:

*“Its business model is highly dependent on the volume of digital transactions and commissions earned from the successful transactions. This business model is highly competitive in nature and that it has given discounts, cashbacks, reduce charges and other benefits to its agents to promote and take edge over others to expand its business”.*

**8.** The Corporate Debtor has thus admitted that it had a very bad Financial Year 2023-24 when it incurred huge losses to promote

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business model and the Company due to which it reduced amounts of commissions, cashbacks and other benefits and as a result its turnover affected badly.

**9.** Hence, the debt and default stand admitted by the Corporate Debtor.

**10.** However, the Corporate Debtor at the same breath has also denied and disputed its liability to re-pay on the ground that the application is a premature one, without any substantiation thereof.

**11.** We have considered the rival conditions and perused the records.

**Analysis and Findings:**

**1.** Irrefutably and indisputably, there is an admission on the part of the Corporate Debtor of its debts and default and its liability to repay.

**2.** There is no written Financial Contract between the parties and the same is not necessary as neither of the parties fall under NBFC category.

**3.** The confirmation of receipt of the payments is clearly evident from the records and the same has not been disputed by the Corporate Debtor.

**4.** The Information Utility (IU) statement or certificate is also not objected to by the Corporate Debtor.

**5.** The disbursal of the amount of Rs.1.25 crores is clearly evident from the Bank statements as in Page No. 38 of the petition which have not been denied or disputed.

**6.** However, the request made by the Payabhi Payments Private Limited to the BDas Web Sys Private Limited, as it appears from Page

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No. 35 of the petition as contained in Annexure-H clearly shows that the request for the short-term loan of Rs.1.25 crores was made with the promise to re-pay with interest within 60 to 90 days.

**7.** Record manifest that an interest of 18% being charged, and the principal sum of Rs.1.25 crores with the interest of Rs. 13,08,329/- found payable being added to the principal amount, the default is arrived at Rs. 1,38,08.329/-. The last tranche of the payments was received on 06.07.2023 and, therefore, the same was payable within three months (90 days) i.e., by 06.10.2023. Hence, the date of default has been correctly as mentioned as 07.10.2023.

**8.** The transactions between the parties establishes a “debt along with interest disbursed against the consideration for the time value of money” and appears to be “money borrowed against the payment of interest” which satisfies the definition of “**financial debt**” as in Sub-section 8 of Section 5 of the IBC.

**9.** This petition filed on 10.02.2024 appears to be within the limitation period and the plea of non-maintainability on the ground that it is premature does not appear to hold good.

**10.** We find that the NeSL Report annexed at page 37 to the petition shows that the total amount outstanding on part of the Corporate Debtor is of Rs. 1,38,08,329/- and the date of default is 07.10.2023.

**11.** We are supported by the views of Hon’ble Apex Court to define “Financial Debt” and to initiate Corporate Insolvency Resolution process as under:

**(a) In *Pioneer Urban Land and Infrastructure Ltd. v. Union of India reported in (2019) 8 SCC 416*, it was held that:**

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*“any debt to be treated as financial debt, there must happen disbursement of money to the borrower for utilization by the borrower and that the disbursement must be against consideration for time value of money.”*

**(Emphasis added)**

**(b)** In **Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Limited reported in (2020) 8 SCC 401**, it was held that:

*“the essential condition of financial debt is disbursement against the consideration for time value of money.”*

**(Emphasis added)**

**(c)** In **Indus Biotech Private Limited v. Kotak India Venture (Offshore) Fund** reported in **(2021) 6 SCC 436: MANU/SC/0231/2021 (para 14)** it was held that:

***“14. ... in order to trigger an application, there should be in existence four factors: (i) there should be a 'debt' (ii) 'default' should have occurred (iii) debt should be due to 'financial creditor' and (iv) such default which has occurred should be by a 'corporate debtor...”***

**(Emphasis added)**

**(d)** In **Innoventive Industries Ltd. v. ICICI Bank** reported in **(2018) 1 SCC 407: MANU/SC/1063/2017**, it was held that:

***“27. The scheme of the Code is to ensure that when a default takes place, in the sense that a debt becomes due and is not paid, the insolvency resolution process begins. ...”***

***“28. ... the corporate debtor is entitled to point out that a default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred,***

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**the application must be admitted unless it is incomplete, ...”**

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**“30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e., payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.”**

**(Emphasis added)**


**12.** Thus, in terms of the above discussions, we are of the view that the present petition is complete in all respect and not barred by limitation. Further, the amount claimed to be in default is far excess to the threshold limit as prescribed under Section 4 of the I&B Code.

**13.** In terms of the foregoing discussions, we **ALLOW** the application bearing **Company Petition (IB) No. 63/KB/2024** filed under **Section 7 of the I&B Code**, and accordingly, we order the initiation of **Corporate Insolvency Resolution Process (CIR Process)** in respect of the Corporate Debtor by the following **Orders**:

- i.** The Application filed by **BDas Web Sys Pvt Ltd. (Financial Creditors)**, under Section 7 of the Insolvency & Bankruptcy Code, 2016, is hereby, **ADMITTED** for initiating the **Corporate Insolvency Resolution Process** in respect of **Payabhi Payments Pvt Ltd. (Corporate Debtor)**.

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- ii.** As a consequence of this Application being admitted in terms of Section 7 of the I&B Code, moratorium as envisaged under the provisions of Section 14(1) of the Code, shall follow in relation to the Respondent/(CD) as per clauses (a) to (d) of Section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come into force.
- iii.** Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016, prohibits the following, as:

- 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 asset 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 (54 of 2002);*
- d)** *The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.*

*[Explanation.--For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a 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, shall not be suspended or terminated 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, concession, clearances or a similar grant or right during the moratorium period;]*

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- iv.** The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
- v.** The provisions of sub-section (1) of the Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vi.** The Applicant has proposed the name of **“Mr. Santanu Brahma”**, Address: AH - 276, Salt Lake City, Sector - II, Kolkata - 700091, Assam, Registration no. IBBI/IPA-001/IP-P01482/2018-2019/12251, Email id. [ip.santanubrahma@gmail.com](mailto:ip.santanubrahma@gmail.com), Contact: +91 9830072700, as the “IRP”. We have perused that there is a written communication and consent of IRP in Form 2 with Affidavit, annexed as Annexure “D” at pages 27-30 to the petition, as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that there are no disciplinary proceedings pending against him with the Board or IIP of ICAI. In addition, further necessary disclosures have been made by **“Mr. Santanu Brahma”** as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of Section 7(3)(b) of the code. Hence, we appoint **“Mr. Santanu Brahma”** as the **Interim Resolution Professional** (IRP) of the Corporate Debtor to carry out the functions as per the I&B Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the

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case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the I&B Code.

- vii.** In pursuance of Section 13 (2) of the Code, we direct the IRP or the RP, as the case shall cause a public announcement immediately with regard to the admission of this application under Section 7 of the Code and **call for the submission of claims** under Section 15 of the Code. The public announcement referred to in Clause (b) of sub-section (1) of Section 15 of the Insolvency & Bankruptcy Code, 2016, shall be made immediately. The expression immediately means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- viii.** During the CIR Process period, the management of affairs of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of Section 17 of the I&B Code. 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 one week from the date of receipt of this Order, in default of which coercive steps will follow. There shall be no future opportunities in this regard.
- ix.** The Interim Resolution Professional is also free to take police assistance to take full charge of the Corporate Debtor, its assets and its documents without any delay, and this Court hereby directs the concerned **Police Authorities** and/or the

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**Officer-in-Charge** of Local Police Station(s) to render all assistance as may be required by the Interim Resolution Professional in this regard.

- x.** The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIR Process in respect of the Corporate Debtor.
- xi.** The Financial Creditors shall be liable to pay to IRP a sum of **Rs. 3,00,000/-** (Rupees Three Lakh Only) as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment. The expenses relating to the CIRP are subject to the approval of the Committee of Creditors (CoC).
- xii.** In terms of sections 7(5) and 7(7) of the Code, the **Registry of this Adjudicating Authority** is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by Speed Post and through email immediately, and in any case, not later than two days from the date of this Order.
- xiii.** Additionally, the **Registry of this Adjudicating Authority** shall serve a copy of this Order upon the Insolvency and Bankruptcy Board of India (IBBI) for their record and also upon the Registrar of Companies (RoC), to whom the company is registered with, by all available means 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.

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- xiv.** The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- xv.** The IRP/RP shall be liable to submit the periodical report including the minutes of the CoC of the Corporate Debtor, with regard to the progress of the CIR Process in respect of the Corporate Debtor to this Adjudicating Authority from time to time.
- xvi.** The order of moratorium shall cease to have effect as per Section 14(4) of the I&B Code.

**14.** Certified copies of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.

**15.** Post the Company Petition on **25/ 11/ 2024** for filing the Periodical Progress Report by the IRP/RP as appointed herein.

**Balraj Joshi  
Member (Technical)**

**Bidisha Banerjee  
Member (Judicial)**

**This Order is signed on the 15<sup>th</sup> Day of October 2024.**

BD/ Bose, R. K. [LRA]



Payabhi Payments Pvt. Ltd. in CIRP &lt;payabhi.cirp@gmail.com&gt;

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**Fwd: Company Petition (IB) No. 63/KB/2024 in the matter of BDas Web Sys Pvt. Ltd. -Vs- Payabhi Payments Pvt. Ltd.**

1 message

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**CA IP Santanu Brahma** <ip.santanubrahma@gmail.com>  
To: payabhi.cirp@gmail.com

Fri, Oct 18, 2024 at 11:04 PM

Forwarding...

Thanks &amp; regards,

**CA Santanu Brahma**Chartered Accountant | Insolvency Professional | Registered Valuer - Securities & Financial Assets  
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----- Forwarded message -----

From: **Mr. Vivek Srivastava** <[registrar-kol@nclt.gov.in](mailto:registrar-kol@nclt.gov.in)>

Date: Wed, Oct 16, 2024 at 5:21 PM

Subject: Company Petition (IB) No. 63/KB/2024 in the matter of BDas Web Sys Pvt. Ltd. -Vs- Payabhi Payments Pvt. Ltd.

To: bdas02 <[bdas02@gmail.com](mailto:bdas02@gmail.com)>, artistannu1993 <[artistannu1993@gmail.com](mailto:artistannu1993@gmail.com)>, ip.santanubrahma <[ip.santanubrahma@gmail.com](mailto:ip.santanubrahma@gmail.com)>, khetangopalk <[khetangopalk@gmail.com](mailto:khetangopalk@gmail.com)>, payabhipaymentspvtltd <[payabhipayments.pvt.ltd@gmail.com](mailto:payabhipayments.pvt.ltd@gmail.com)>

Sir/Madam,

Please find the attached herewith a copy of the order dated 15.10.2024 in the above-mentioned matter, for your information &amp; compliance.

With Regards,  
Court Officer  
Court-I

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168K