

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
SPECIAL BENCH, CHENNAI**

IBA/31/2020 filed under Section 7 of the
Insolvency and Bankruptcy Code, 2016 r/w Rule 4
of the Insolvency and Bankruptcy (Application to
Adjudicating Authority) Rules, 2016

In the matter of **M/s. Srivatsa International Private Limited**

LIGORI VALAN IRUDHAYARAJ

No. 363, Park Road,
Keezharaman Puthur,
Kottar -post, Nagarcoil,
Kaniyakumari Dist-629002

... *Financial Creditor*

-Vs-

SRIVATSA INTERNATIONAL PRIVATE LIMITED

No. 253/D-1, "SRIVASTA"
K.P Road, Nagarcoil,
Kaniyakumari Dist-629003

... *Corporate Debtor*

Order delivered on: 04.03.2020

CORAM :

R. VARADHARAJAN, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For Financial Creditor : *Shri. A Vijaykumar, Advocate*
For Corporate Debtor : *Shri. K. Boothalingam, Party in Person*
Director of the Corporate Debtor

ORDER

Per: R. VARADHARAJAN, MEMBER (JUDICIAL)

Order pronounced on: 04.03.2020

It is an Insolvency and Bankruptcy Application (in short
"IBA") filed under Section 7 of the Insolvency and Bankruptcy
Code, 2016 (in short, **IB Code, 2016**) r/w Rule 4 of the Insolvency

and Bankruptcy (Application of Adjudicating Authority) Rules, 2016 (for brevity, **AAA Rules 2016**) by M/s. Ligori Valan Irudhayaraj (hereinafter referred as "**Financial Creditor**") for initiate Corporate Insolvency Resolution Process (in short "**CIRP**") against M/s. Srivatsa International Private Limited (hereinafter referred as "**Corporate Debtor**") on the ground the Corporate Debtor defaulted in paying ₹47,63,046 as on 17.11.2019 for business loan availed by the Corporate Debtor. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP).

2. The Ld. Counsel for the Financial Creditor submitted that the Corporate Debtor avail a business loan from the Financial Creditor various actions on demand promissory notes which are as follows:-

SL No.	Date of Promissory note	Amount (₹)	Authorisation
1	06.02.2019	12,00,000	K. Boothalingam
2	09.05.2019	15,00,000	K. Boothalingam
3	14.05.2019	10,00,000	K. Boothalingam
4	15.05.2019	4,56,000	K. Boothalingam
	Total	41,56,000	47,36,046 as on 17.11.2019 which includes interest

3. On perusal of the application, we noticed that the Financial Creditor has made a payment by way of RTGS through Federal Bank

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on various dates. The Financial Creditor has placed all the proof of payments and counter foil in respect of aforesaid amounts transferred into the Corporate Debtor.

4. Thereafter, the Financial Creditor has issued Demand Notice under Sec. 8 of the I&B Code, 2016 to the Corporate Debtor on 20.11.2019, demanding the Corporate Debtor to repay a sum of ₹47,63,046/- within 10 days from the receipt of the notice, which was received by the Corporate Debtor on 21.11.2019. However, after receipt of the notice, the Corporate Debtor has chosen not to reply to the Demand Notice issued by the Financial Creditor.

5. The Financial Creditor has also filed Affidavit by complying with Section 9 (3) (b) of the I&B Code, 2016, along with the typed set of document, it has been deposed that the Financial Creditor has not received any payment or notice of dispute with regard to the unpaid Financial debt.

6. On 10.02.2020, on behalf the Corporate Debtor Mr. K. Boothalingam, Director of the Corporate Debtor having DIN No. 02733965 and Driving licence No. TN 7219920000296 represents that the claim has not been disputed and undertakes to file an affidavit along with the Board Resolution of the Corporate Debtor. Let the same be complied within 7 days from today. Post this matter for compliance on or before 19.02.2020.



7. Thereafter, hearing on 20.02.2020, the authorised person Mr. K Boothalingam who is present in person on behalf of the Corporate Debtor represented that the Corporate debtor will not have any objection, if CIRP is initiated and that they would extend full cooperation to IRP proposed the in the Application. To in this regard, as per directions of this Tribunal on 10.02.2020, Mr. K. Boothalingam Director of the Corporate Debtor has filed an affidavit along with true copy of Extract of Board Resolution dated 15.02.2020 of the Corporate Debtor on 19.02.2020.

8. By taking into consideration the facts and circumstances of the case as well as the position of Law, we are of the view that the Application as filed by the Applicant – Financial Creditor is required to be admitted under section 7(5) of the I & B Code, 2016 The Financial Creditor has proposed the name of **Mr. Lakshmanan Krishnan having Registration Number IBBI/IP-N00783/2019-2020/12511**, as Interim Resolution Professional (IRP) and a written communication in the format prescribed under Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 has been filed by the proposed IRP who is appointed as the IRP to take forward the process of Corporate insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this

Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIR Process in relation to the Corporate Debtor in terms of the provisions of I&B Code, 2016.

9. As a consequence of the Application being admitted in terms of Section 7 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- (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."

10. However during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

- (2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

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- (3) The provisions of sub – section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.”

11. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub – section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”

12. Based on the above terms, the Petition stands **admitted** in terms of Section 7 of the Code and the Moratorium shall come into effect as of this date. A copy of the order shall be communicated to the Petitioner as well as to the Respondent above named by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Further, the IRP above named be also furnished with copy of this order forthwith by the Registry.

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[S. VIJAYARAGHAVAN]
Member (Technical)

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[R. VARADHARAJAN]
Member (Judicial)

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