



**IN NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT- V**

C.P. No. 604/IBC/MB/2022

Under Section 7 of the Insolvency and
Bankruptcy Code, 2016 read with
Rule 4 of the Insolvency and
Bankruptcy (Application to
Adjudication Authority) Rule 2016)

In the matter of

Mr. Sagar Mohan Panchmatiya

Room No.-5, Halai Lohana Mahajan
Wadi Kharkar Ali, Near N.K.T.
College Thane, Naupada Thane,
Maharashtra- 400602

.....**Financial Creditor**

Vs

**Horizon Outsource Solutions
Private Limited**

01, Gr FLR, Navjivan CHS Block No.
02, 172, S.B. Marg Bhagwansingh
Colony, Matunga West, Mumbai -
400016

.....**Corporate Debtor**

Order Pronounced on: 15.03.2023

Coram:

Hon'ble Shri Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

For the Applicant: Ms. Suchita Poojary, Advocate

For the Respondent: Mr. Sumit Parikh, Advocate

Per: Anuradha Sanjay Bhatia, Member (Technical)

ORDER

1. This Company petition is filed by **Mr. Sagar Mohan Panchmatiya** (hereinafter called "**Financial Creditor**") seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **Horizon Outsource Solutions Private Limited** (hereinafter called "**Corporate Debtor**") by invoking the provisions of Section 7 Insolvency and bankruptcy code (hereinafter called "**Code**") read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for resolution of an unresolved Financial Debt of Rs. 1,47,00,000/-.
2. The counsel for the Financial Creditor submits that a business loan of Rs. 1.5 crores was sought by the Corporate Debtor as they were facing financial crunch and an amount of Rs. 1,47,00,000/ become due and payable, which includes Rs. 74,00,000/- against UTR-XUTR/BCBMH17156001642 and Rs. 73,00,000/- against UTR-XUTR/BCBMH17156001627. The date of disbursement was stated to be 06.06.2017. The Ld. Counsel of the Financial Creditor further submits that, the date of default is 08.06.2019 i.e. 2 years from the date of disbursement.
3. The counsel for the Financial Creditor pointed out that the Financial Creditor has sent a Reminder Letter dated 01.07.2019 to the Corporate Debtor and the Corporate Debtor has responded to the same, vide its letter dated 18.07.2019, that they are unable to make the payment as they are going through the financial crises. The Financial Creditor again sent a Reminder Letter 2, to the Corporate Debtor, dated 01.02.2021, and the Corporate Debtor again responded vide the letter dated 10.02.2021 stating that they are unable to make the payment, as they are going through severe financial crises.



4. The following documents categorically demonstrate the financial debt due and payable by the Corporate Debtor, to the Financial Creditor :-
 - a. Reminder Letter dated 01.07.2019 and 01.02.2021 sent by the Financial Creditor to the Corporate Debtor. Loan was taken for a period of 2 years.
 - b. Letter dated 18.07.2019 and 10.02.2021, sent by the Corporate Debtor to the Financial Creditor, acknowledging the said debt and stating their inability to pay back the said amount.

Reply filed by the Corporate Debtor

5. The counsel for the Corporate Debtor submits that the Corporate Debtor is involved in the business of providing services, such as media & marketing, consulting, animation, digital intermediate and grading and post production work and supplying manpower. The amount claimed by the Financial Creditor, amounting to Rs. 1,47,00,000/- is totally undisputable as the Corporate Debtor has availed the said finance from the Financial Creditor in the year 2017. However, on account of the financial crunch and instability in the market, and on account of COVID, the Corporate Debtor failed to pay the said outstanding amount to the Financial Creditor.
6. The Corporate Debtor further submits that Corporate Debtor was having active business operations as there was no financial crises. However, in the year 2017-18, a huge amount which was to be recovered by the Corporate Debtor from one of its clients, did not come and this led to liquidity crunch. As the said client has gone into liquidation, there was negligible chances of recovery of the outstanding amount. Thereafter, the Corporate Debtor had approached the above-mentioned Financial Creditor for a loan of


Rs. 1.5 crores, which was to be paid back within 2 years from the date of disbursal. However, the Corporate Debtor expressed its inability to pay this amount.

Findings

7. Heard the submissions of Ms. Suchita Poojary, counsel appearing for the Petitioner/ Financial Creditor and Mr. Sumit Parikh, counsel appearing for the Corporate Debtor and perused the material available on record.
8. After hearing the submission of both sides, this Bench notes that the Financial Creditor sent several reminders i.e. Reminder Letter No.1 dated 01.07.2019 and Reminder Letter No. 2 dated 01.02.2021, to the Corporate Debtor, demanding the outstanding dues, wherein the Corporate Debtor also replied to the aforesaid mentioned Reminder Letters stating that they are going through financial crises.
9. In the light of the above-mentioned correspondences between the Financial Creditor and Corporate debtor, it is clear that the Corporate Debtor has itself admitted the debt. The Petition is complete in all respects. The Financial Creditor suggested the name of Mr. Rajendra Jain as Interim Resolution Profession along with his consent letter in Form 2.
10. After hearing the submissions and upon perusing the material available on record, this Bench is of the considered opinion that the above company petition is liable to be admitted and accordingly the same is admitted by passing the following:

ORDER

- a. The above **Company Petition No.604/IBC/MB/2022** is hereby **allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Horizon Outsource Solutions Private Limited.

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- b. This Bench hereby appoints **Mr. Rajendra Jain**, Insolvency Professional, Registration No: IBBI/IPA-002/IP-N00623/2018-2019/12353, having Registered Address at: A - 1103 , Iscon Riverside, Nr. Dafnala, Opp. Police Stadium, Nr. Shilalekh, Shahibaug, Ahmadabad-380004, Gujarat as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Financial Creditor shall deposit an amount of Rs. 5 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; 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. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

- g. That the order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, as the case may be.
- h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
- i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
- j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- k. Accordingly, this Petition is admitted.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

Anuradha Sanjay Bhatia
Member (Technical)

Sd/-

Kuldip Kumar Kareer
Member (Judicial)