

**THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI COURT III  
IB-133(ND)/2023**

Order under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

**IN THE MATTER OF:**

M/s. Saivi Finance Pvt Ltd.

... Applicant/Financial Creditor

**Versus**

M/s. Fusion Conbuild Pvt Ltd.

... Respondent/Corporate Debtor

**Order delivered on: 16.05.2023**

**CORAM:**

**SHRI BACHU VENKAT BALARAM DAS  
HON'BLE MEMBER (JUDICIAL)**

**SHRI ATUL CHATURVEDI  
HON'BLE MEMBER (TECHNICAL)**

For the Applicant : Mr. Shubham Jain, Advocate.

For the Respondent : Mr. Ashutosh Rana, Advocate

**ORDER**

**PER ORAL: BACHU VENKAT BALARAM DAS, MEMBER (JUDICIAL)**

**1.** The present petition has been filed under Section 7 of the IBC, 2016 with the prayer to initiate Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor viz, *M/s. Fusion Conbuild Pvt Ltd.*, declare Moratorium and appoint Interim Resolution Professional ("IRP").

**2.** It is submitted by the Learned Counsel appearing for the Applicant that the loan facility agreement was entered into between the parties on 02.06.2021. As per the loan facility agreement, the Applicant was required to give an advance of Rs.2,00,00,000/- to the Corporate

Debtor, of which Rs.1,10,00,000/- was disbursed on 04.06.2021 and 02.03.2022.

**3.** The Applicant sent a demand notice on 20.06.2022 to which the Corporate Debtor filed reply affidavit on 08.07.2022 in which the Corporate Debtor sought time to make the payment. Since, no payment was made, the Applicant sent a second demand notice on 03.10.2022, the Corporate Debtor did not give any reply to the said notice. Thereafter the Applicant sent a recall notice on 16.01.2023. The Corporate Debtor did not give any reply to the recall notice.

**4.** The Corporate Debtor has filed reply affidavit wherein it has been admitted that an amount of Rs.1,10,00,000/- has been disbursed and the only defence taken by the Corporate Debtor is that due to Covid-19 necessary payment could not be made. The Learned Counsel appearing for the Corporate Debtor further submitted as per the loan facility agreement an amount of Rs.2,00,00,000/- was to be disbursed. However, only partial payment has been made by the Applicant.

**5.** We have heard the submissions made by the Learned Counsel for both the parties. We are satisfied that the Applicant has been able to show that the amount in question has been disbursed to the Corporate Debtor and there is a default which has been admitted by the Corporate Debtor.

**6.** We, therefore, admit the present petition i.e., IB-133/ND/2023 and initiate the CIRP against the Corporate Debtor.

**7.** The Applicant has also proposed the name of the Resolution Professional for appointment as Interim Resolution Professional (IRP), therefore, ***Mr. Devendra Umrao, having Registration No. IBBI/IPA-003/IPA-ICAI-N-00223/2019-2020/12640, office address at B-43A, First Floor, Kalkaji, New Delhi, 110019, email ID devumraoibc@gmail.com,*** is hereby appointed. The IRP is directed to take charge of the Corporate Debtor's management immediately

including Bank accounts. The IRP is directed to cause public announcement as prescribed under Section 15 of IBC, 2016 within three days from the date the copy of this order is received and call for submissions of claim by the Creditors in the manner as prescribed.

**8.** The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is 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 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 (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.

Explanation below section - 14 (1) also stipulates “that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance 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”.

**9.** The supply of essential goods or services of the Corporate Debtor shall not be terminated, suspended, or interrupted during the moratorium period. The provisions of sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

**10.** We hereby direct the Applicant to pay a sum of Rs. 2,00,000/- to the IRP, as required under the provisions of the Code to meet the initial expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

**11.** The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the Corporate Debtor, its Promoters or any person associated with the management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the IBC, 2016.

**12.** The Learned Counsel for the Applicant and the Registry are directed to send the copy of this Order to the IRP with immediate effect, so that he could take charge of the CD's assets etc., and make compliance with this Order as per the provisions of IBC, 2016. On receiving the order, the IRP is directed to communicate this Order to the Applicant, the Corporate Debtor, and the concerned RoC.

**13.** The CP/IB-133(ND)/2023 is **admitted**.

Sd/-

**(ATUL CHATURVEDI)**  
**MEMBER (TECHNICAL)**

Sd/-

**(BACHU VENKAT BALARAM DAS)**  
**MEMBER (JUDICIAL)**