

**BEFORE THE AJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD**


C.P. (I.B) No.272/NCLT/AHM/2019

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 26.11.2019**

Name of the Company: Clematis Trading Co Pvt Ltd & Ors
V/s
ACTIF Corporation Ltd

Section of the Companies Act : Section 7 of the Insolvency and Bankruptcy Code

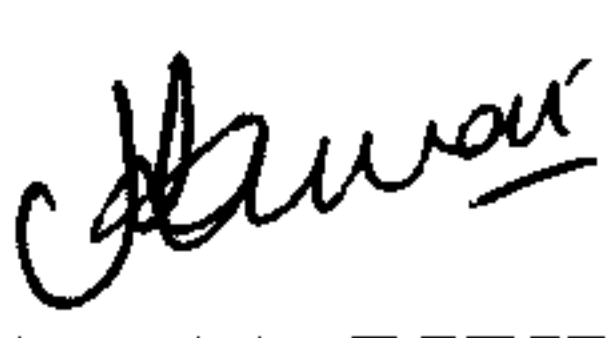
<u>S.NO.</u>	<u>NAME (CAPITAL LETTERS)</u>	<u>DESIGNATION</u>	<u>REPRESENTATION</u>	<u>SIGNATURE</u>
1.	NAYASHA DHIRUMAN SHAH	ADV	APPLICANTS	
2.				

ORDER

The Petitioner is represented through learned counsel.

The Order is pronounced in the open court vide separate sheet.


CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL


MANORAMA KUMARI
MEMBER JUDICIAL

Dated this the 26th day of November, 2019

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AHMEDABAD BENCH
AHMEDABAD**

C.P. No. (IB) 272/7/NCLT/AHM/2019

In the matter of:

Clematis Trading Company Private Limited

404, Silvass Complex
Behind Dan & Popular Hotel
Tokarkhada
SILVASSA (DNH) :

Petitioner No. 1
Financial Creditor

Alpha (India) Properties Limited

Gala No. 105,
Everest Industrial Estate
Nr. 66 kva Power Sub Station
Amlī
SILVASSA 396 230 (DNH) :

Petitioner No. 2
Financial Creditor

Glean Trading Private Limited

B-2/202, Vraj Darshan
Opp. Panchayat Bhavan
Masti Road
Samarvani
SILVASSA 396 230 :

Petitioner No. 3
Financial Creditor

Kanha Textile Private Limited

Paras Centre A
Offie No. 127
1st Floor, Tata Road No. 2
Opera House,
MUMBAI 400 004 :

Petitioner No. 4
Financial Creditor

Versus

Actif Corporation Limited

Plot No. 65/4,
Krishna Nagar
Village Samarvani
SILVASSA 396 230 (DNH) :

Respondent
Corporate Debtor

Shakadegat

Shakadegat

Order delivered on 26th November, 2019.

**Coram: Hon'ble Ms. Manorama Kumari, Member (J)
Hon'ble Mr. Chockalingam Thirunavukkarasu, Member (T)**

Appearance:

Advocate Mr. Arjun Padhiyar for Ms. Natasha Dhruman Shah for petitioners

Advocate Mr. Harmish K. Shah for respondent

ORDER

[Per: Ms. Manorama Kumari, Member (Judicial)]

1. Ms. Divya B. Jain, being authorised signatory of the Financial creditors M/s. Clematis Trading Company Private Limited, M/s. Alpha (India) Properties Ltd., M/s. Glean Trading Private Limited and M/s. Kanha Textile Private Limited filed this Petition on 4th April, 2019 under section 7 of The Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the Rules") seeking reliefs under Section 7(5)(a) and Section 13(1)(a)(b)(c) of the Code.
2. The applicant No. 1 is a registered private limited company incorporated on 23.03.2010 having identification No. U51900DN2010PTC000316 and having registered office at Silvassa.
3. The applicant No. 2 is a registered private limited company incorporated on 31.03.2006 having identification No.

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U70100DN2006PLC000194 and having registered office at Silvassa.

4. The applicant No. 3 is a registered private limited company incorporated on 23.03.2010 having identification No. U51900DN2010PTC000323 and having registered office at Silvassa.
5. The applicant No. 4 is a registered private limited company incorporated on 12.10.2009 having identification No. U17120MH2009PTC196395 and having registered office at Mumbai.
6. The respondent/corporate debtor is a limited company incorporated on 06.06.2006 having identification No. U45201DN2006PLC000197 and having registered office at Village Samarvani, Silvassa. Authorised share capital of the respondent company is Rs. 75,00,00,000/- and paid up share capital is Rs. 71,25,72,000/-.
7. As per the joint petition filed by the aforesaid four petitioners, on the basis of note, unsecured loan as per the table (Annexure 3) have been sanctioned to the corporate debtor of which details are given below: -

Shoukath

Shoukath

Name of financial creditor	Amount of loan	Date of sanction	Rate of interest per annum	Date of default	Total amount of claim including interest
Clematis Trading company	2,24,31,000	31.12.2013	17.5 %	31.12.2017	5,43,58,081
Alpha (India) Properties	3,45,24,000	30.04.2012	18%	31.03.2018	11,50,07,720
Glean Trading	32,00,000	02.11.2011	15%	31.12.2017	94,23,236
-do-	25,00,000	31.03.2014	15%	31.12.2017	51,57,484
Kanha Textile	50,00,000	31.12.2011	17%	31.12.2017	1,64,90,495
Gr. Total	6,76,55,000				20,04,37,016

8. As per the details submitted by the petitioners, a total sum of **Rs. 20,04,37,016/- (Rupees twenty crores four lacs thirty-seven thousand sixteen only)** has fallen due and payable on different dates as per the promissory notes executed by the corporate debtor in favour of the financial creditors on different dates.
9. In support of its claim, the petitioners have submitted copy of the following documents: -

Sr. No.	Particulars	Page No.
1	Board resolution passed by Board of Directors of the applicant companies authorising Ms. Divya B. Jain to submit application on behalf of financial creditors.	11-14
2	Authorisation in favour of Ms. Divya B. Jain to submit application on behalf of financial creditors and to accept the service of process.	15-18
3	Computation sheet of claim as on 28.02.2019	19
4	Latest and complete copy of the financial contract reflecting all amendments and waivers Entries in bankers book in accordance with the Bankers Books Evidence Act, 1891	20-45
5	Entries in the bankers book in accordance with the bankers book evidence act, 1891	46-49
6	List of other documents attached to this application in order to prove the existence of financial debt, the amount and date of default	50-152
7	Written communication from proposed IRP in form 2	153-155

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Findings

10. Heard learned lawyers appearing for both the sides and also seen the documents annexed to the application.
11. On perusal of the records it is found that during the course of hearing the learned lawyer appearing on behalf of the respondent filed an additional affidavit admitting that an amount of Rs 20,04,37,016/- inclusive of contractual interest is due to the petitioners.
12. In view of the above, while going through the documents so filed by the petitioner, it is found that, corporate debtor admitted and acknowledged liability by filing additional affidavit.
13. In the instant application, from the material placed on record by the Applicant, this Authority is satisfied that the Corporate Debtor committed default in paying the financial debt to the Applicants and the respondent company has acknowledged the debt.
14. In the instant case, the documents produced by the Financial Creditors clearly establish the 'debt' and there is default on the part of the Corporate Debtor in payment of the 'financial debt'.

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15. There is no dispute in the case that the petitioners are the financial creditors. The application is also furnished in the prescribed form – 1 of the Rules and the prescribed fee has also been paid. Along with the application, the applicant proposed the name of the Resolution Professional. The applicant/operational creditor has proposed the name of Mr. Vinod Kumar Pukhraj Ambavat to act as Interim Resolution Professional. Therefore, the Adjudicating Authority hereby appoint Mr. Mr. Vinod Kumar Pukhraj Ambavat, 40/9/15, Morarji Velji Building, 1st Floor, Doc. MB Velkar Street, Kalbadevi Road, Mumbai 400 002 having registration No. IBBI/IPA-001/IP-P00420/2017-18/10743 to act as an interim resolution professional under Section 13(1)(c) of the Code. Form 2 of the proposed interim resolution professional has been annexed and placed at page No. 153-155 to the application where declaration is made that no disciplinary proceeding is pending against him with the Board or Indian Institute of Insolvency Professionals of ICAI.
16. On perusal of record and as also discussed above, it is held that there is existence of default and that the application under Section 7 (2) of the Code is also complete in all respect.
17. In view of the above, the petitioners/financial creditors having fulfilled all the requirements of Section 7 of the Code, the instant petition deserves to be admitted.

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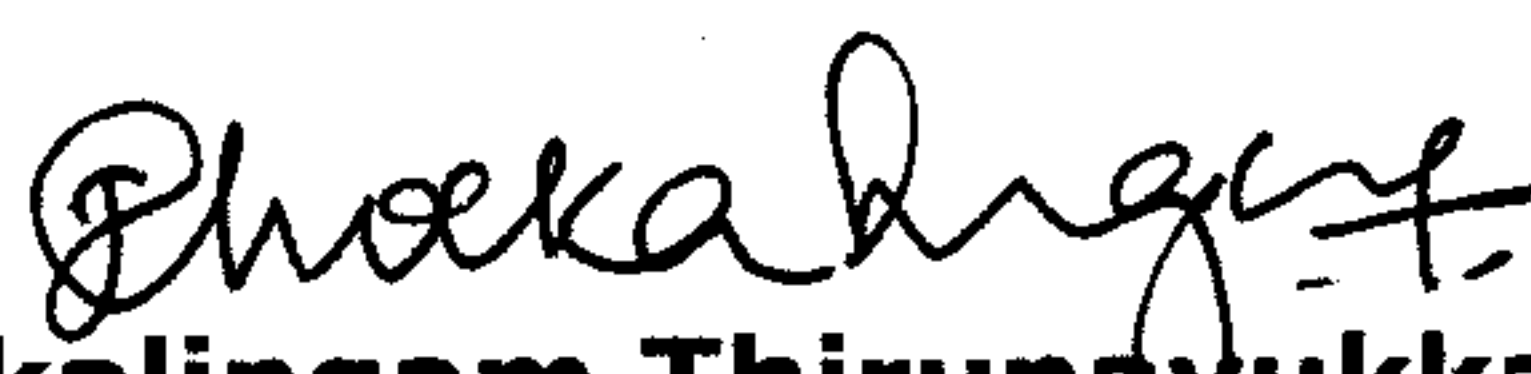
18. The petition is, therefore, admitted and the moratorium is declared for prohibiting all of the following in terms of sub-section (1) of Section 14 of the Code: -
- (i) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - (ii) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - (iii) 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
 - (iv) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
19. It is further directed that the supply of goods and essential services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period. The provisions of sub-section (1) shall, however, not apply to such transaction as may be notified by the Central Government in consultation with any financial sector regulator.
20. The order of moratorium shall have effect from the date of receipt of authenticated copy of this order till the completion


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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.

21. This Petition stands disposed of accordingly with no order as to costs.
22. Communicate a copy of this order to the Applicant, Financial Creditor, Corporate Debtor and to the Interim Resolution Professional.
23. Registry is directed to inform the office of Registrar of Companies that the respondent company is under corporate insolvency resolution process and, therefore, no proceedings for striking off name of the respondent company be initiated arising out of non-compliances of Sections 159 to 162 & 220 etc. of the Companies Act, 2013 as it would be detrimental to the process of the liquidation and sale of assets to realise the amount for all the stakeholders.


Chockalingam Thirunavukkarasu
Adjudicating Authority
Member (Technical)


Ms. Manorama Kumari
Adjudicating Authority
Member (Judicial)