

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI RAGHU NAYYAR,
HON'BLE TECHNICAL MEMBER**

CP No. (IB)- 14/7/JPR/2021

(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:

SU 1 CAPITAL PRIVATE LIMITED

CIN: U65990RJ2018PTC061505

Registered Office: Floor No. 302, Plot
No. C-11, Moti Marg, Bapu Nagar,
Jaipur, Rajasthan – 302015

...Applicant / Financial Creditor

VERSUS

GRD TRUCK PRIVATE LIMITED

CIN: U50100RJ2012PTC072555

Registered Office: Cabin 1, 1st Floor, C-84, Janpath Lal
Kothi Scheme, Behind New Vidhan
Sabha Jaipur, Rajasthan – 302015

...Respondent / Corporate Debtor

For Petitioner (s) : Prakul Khurana, Adv.
Ankit Sareen, Adv.
Samay Maheshwari, Adv.

For Respondent (s) : Shretima Bagri, Adv.

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ORDER PRONOUNCED ON: 28.04.2022**ORDER**

Per: Shri Deep Chandra Joshi, Judicial Member

1. This Application is filed by SU 1 Capital Private Limited, a Non-Banking Finance Company ('Applicant/Financial Creditor'), through the director and authorised signatory, Mr. Niranjana Gupta, who is duly authorised to sign this Application *vide* Board Resolution dated 04.07.2019, attached as Annexure – 2 of the Application. The Applicant claims to be a Financial Creditor, and has filed the petition under Section 7 of the Insolvency and Bankruptcy Code ('IBC' / 'Code'), 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of Corporate Insolvency Resolution Process ('CIRP') against GRD Trucks Private Limited ('Respondent' / 'Corporate Debtor').
2. The Applicant, is a Private Limited Company incorporated under the Companies Act, 2013, having its registered office on Floor No. 302, Plot No. C-11 Moti Marg, Bapu Nagar, Jaipur-302015 and is engaged in providing Non-Banking Financial Services, having Registration No. B-10.00298 dated 28.05.2019 fully issued by Reserve Bank of India. Copy of Master Data and Board Resolution dated 04.07.2019 are annexed *vide* Annexures – 1 and 2 of the Application.

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3. The Applicant submitted that the Corporate Debtor approached the Financial Creditor on 23.01.2020 for availing a loan amounting to Rs. 2,50,00,000/- (Rupees Two Crores Fifty Lacs Only), for business purposes with a promise of bullet payment after one month with an interest at the rate of 15% per annum. Copy of the Loan Agreement is annexed as Annexure – 7 of the Application.
4. Further it has been submitted that, a Guarantee Deed was executed on 23.01.2020 whereby Mr. Mayank Agarwal, resident of 47, 3rd Floor, Kohat Enclave, Pitampura, New Delhi – 110034 and M/s Aliner Enterprises Private Limited, H.No. 57, Near Shiv Mandir, Govind Mohalla, Village Haiderpur, North West, Delhi, became the guarantor and the same is annexed as Annexure – 12 of the Application. Thereafter the loan amount became due on 23.02.2020, and the Corporate Debtor requested the Financial Creditor for an extension of time to repay the entire loan amount with the assurance that the Corporate Debtor shall continue to pay the monthly interest. Whereas the same has not been complied.
5. The Applicant stated that first demand notice dated 05.03.2020 was sent to the Corporate Debtor regarding re-payment of the principal amount of the loan. The Corporate Debtor *vide* its reply dated 09.03.2020 acknowledged the debt and stated the reason for delay as ‘unsystematic



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delay in the process of our arrangement of funds'. Accordingly, the Applicant communicated their discontentment and intent to take appropriate legal proceedings *vide* letter dated 18.03.2020. Copy of series of communication establishing existence and acknowledgement of debt is annexed with the Application as Annexure – 13.

6. The Applicant submitted that the Corporate Debtor failed to maintain financial discipline, by failing to repay the entire loan amount by 23.02.2020. Also, Corporate Debtor paid the interest on the loan amount monthly until July 2020, subsequent to which no payment has been received till date, be it in interest or principal amount, which is clearly substantiated by bank statements and ledger account of the Corporate Debtor attached with the Application.
7. The outstanding amount including interest as of 31.12.2020 stands at Rs. 2,68,90,410/- (Rupees Two Crores Sixty-Eight Lacs Ninety Thousand Four Hundred and Ten Only) and the same was acknowledged by the Corporate Debtor. Copy of amount confirmation by Corporate Debtor till 31.12.2020 is annexed in Annexure – 10 of the Application.
8. The Applicant again sent a demand notice via an email dated 23.01.2021 to the registered email address of the Corporate Debtor for clearing the outstanding principal amount with applicable interest. However, the

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Applicant did not receive any response from the side of the Corporate Debtor.

9. The Applicant submitted that it was provided in the Loan Agreement that in the event of default, the full re-payment of the Financial Assistance shall be required to be made immediately as when it becomes due and payable. The total outstanding amount of the aforesaid financial debt along with interest, as enumerated under Part IV, is as follows:

Part IV

Particulars of Financial Debt

1.	Total amount of debt granted Date(s) of Disbursement	<u>Amount of Debt Granted:</u> Total Principal Amount: Rs. 2,50,00,000/- (Rupees Two Crore Fifty Lacs Only) 23.01.2020
2.	Amount claimed to be in default and the date on which the default occurred	<u>Amount Claimed:</u> Rs. 2,68,90,410/- [#] Total Principal Amount: Rs. 2,50,00,000/- Total Interest Due: Rs. 18,90,410/-* Date from which Debt fell Due [^] : 23.03.2020

Rate of Interest is calculated at 15% per annum.

* Calculated as per the Terms & Conditions of the Loan Agreement.

[^] The date of default is the date on which the Corporate Debtor failed to honour the re-payment terms of the Loan Agreement.

10. The Corporate Debtor, in its reply, vide Diary No. 1926/2021 dated 23.09.2021, acknowledged the debt and stated that they did not wilfully

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default the re-payment of debt and always had the intention of repaying the said Loan Amount, which is evident from the fact that the Respondent continued to pay the interest on the said Loan Agreement. The Corporate Debtor further submitted that due to the global pandemic, the growth of the business has hampered a lot, and they are facing a significant financial crisis. They also stated that they do not want to shy away from their obligation and will repay the entire amount. However, they require an extension of time.

11. The Adjudicatory Authority has perused every document filed by the Corporate Debtor and Financial Creditor and has taken into consideration every argument made by the Counsels of both the parties.
12. The existence of financial debt and further the default in the payment of the debt should be established to initiate proceedings under Section 7 of the IBC. In the present matter, the Corporate Debtor has admitted and acknowledged the liability and its subsequent default, and as the default occurred on 23.02.2020 and the application was filed on 19.02.2021, the application is well within the Limitation period..
13. This Adjudicating Authority perused all the relevant papers and found them in order. The Registered Office of Corporate Debtor is situated in Jaipur, and therefore this Adjudicating Authority has jurisdiction to entertain and try this application.

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14. Hence, this Adjudicating Authority is inclined to commence CIRP against the Corporate Debtor as envisaged under the provisions of IBC, 2016.
15. The Applicant has named Mr. Prashant Agrawal with Registration No. IBBI/IPA-001/IP-P00053/2017-18/10127, duly registered with the Insolvency and Bankruptcy Board of India, to be appointed as the Interim Resolution Professional ('IRP'). The Applicant has filed Form 2 under Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016, stating that no disciplinary proceedings are pending against the named IRP *vide* Annexure – 14. The credentials of the proposed IRP have been checked from the IBBI website, and nothing adverse is found on record.
16. Consequences of initiation of CIRP shall be inter-alia as follows:
- (i) The Insolvency Resolution Professional proposed by the Applicant Mr. Prashant Agrawal, is hereby appointed as the IRP to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of IBC, 2016, including the issuance of publication in widely circulated Newspapers as contemplated under the provisions of IBC, 2016 and calling for claims from the creditors of Corporate Debtor and collation of the same shall be done.



- (ii) Further, as a sequel of admission, the moratorium as envisaged under Section 14 of IBC, 2016 is invoked concerning the Corporate Debtor, which will be in vogue during the Corporate Insolvency Resolution Process of the Corporate Debtor. The IRP shall carry out CIRP strictly as per the timelines specified and as envisaged under the provisions of IBC, 2016 in relation to the Corporate Debtor.
- (iii) The said IRP shall act strictly in accordance with the provisions of IBC, 2016, and to defray his expenses to be incurred and fees on the account, the Applicant is directed to deposit a sum of Rs. 2,00,000/- (Rs. Two Lakhs Only) to the bank account of IRP within three days from the date of this order. The IRP shall duly file a status report apprising this Adjudicating Authority about the progress of CIRP as unfolding in relation to the Corporate Debtor. In terms of Section 17 & 19 of IBC, 2016, all personnel of the Corporate Debtor, including promoters and Board of Directors, whose powers shall stand suspended, shall extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.
- (iv) In terms of Section 7 of IBC, 2016, this order shall be communicated at the earliest, not exceeding one week from today, to the Applicant, Corporate Debtor, and the IRP appointed by this Adjudicating

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Authority to carry out the CIRP. A copy of this order shall also be communicated to IBBI for its records.

17. CP No. (IB) 14/7/JPR/2021 is admitted in the abovementioned circumstances.

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DEEP CHANDRA JOSHI
JUDICIAL MEMBER

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RAGHU NAYYAR,
TECHNICAL MEMBER