

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing platform)**

CP (IB) No.523/Chd/Hry/2019

**Under Section 7 of the Insolvency
and Bankruptcy Code, 2016.**

In the matter of:

Sentinel Consultants Pvt. Ltd.

with its registered office at
504, Ashok Bhawan
93, Nehru Place, New Delhi -110019.
CIN: U74899DL1990PTC038927

....Applicant-Financial Creditor

Versus

Nestor HR Services Pvt. Ltd.

(Formerly known as Hyper Network)

with its registered office at
SCO-18, 2nd Floor, Sector-16
Faridabad Haryana-121003
CIN: U00898HR2005PTC035762

...Respondent-Corporate Debtor

Judgment delivered on: 20.09.2021

**Coram: HON'BLE MR. AJAY KUMAR VATSAVAYI, MEMBER (JUDICIAL)
HON'BLE MR. K.K. VOHRA, MEMBER (TECHNICAL)**

Present through video-conferencing:

For the Financial Creditor : Mr. Vaibhav Sahni, Advocate

For the Corporate Debtor : Mr. Kartar Singh, Advocate.

Per: Ajay Kumar Vatsavayi, Member (Judicial)

JUDGMENT

The present petition is filed, under the Section 7 of the Insolvency and Bankruptcy Code, 2016 (**hereinafter referred to as 'IBC'/'Code'**) by **Sentinel Consultants Pvt. Ltd.** through its Authorized

Representative Mr. Subhash Chander Bhatia to initiate the Corporate Insolvency Resolution Process ('CIRP') against Nestor HR Services Private Ltd. (hereinafter referred to as 'Corporate Debtor'). The Board Resolution authorising Mr. Subhash Chander Bhatia to represent the financial creditor in the instant petition has been attached as Annexure P-1 of the application. The Corporate Debtor namely, Nestor HR Services Private Limited is a Company incorporated on 07.06.2005 under the provisions of the Companies Act, 1956 with CIN No. U00898HR2005PTC035762 having its registered office at SCO-18, 2nd Floor, Sector-16 Faridabad Haryana-121003 which falls within the territorial jurisdiction of this Adjudicating Authority.

2. The Authorized Share Capital of the Respondent Company is ₹5,00,000/- and Paid-Up Share Capital of the Company is ₹1,00,000/- as per the Company Master Data attached at page 40A of the application.

3. It is submitted that the corporate debtor approached the applicant and by mutual understanding, the applicant advanced a friendly loan to the respondent- corporate debtor for 6 months. The details of the transaction are as follows:

RTGS No.	Date	Amount (₹)	Bank
SBINR52018113000035165	30.11.2018	25,00,059/-	State Bank of India
TOTAL		25,00,059/-	

4. It is further stated that after the expiry of 6 months of the above stated transaction, the applicant sent a reminder letter dated 10.06.2019 (Annexure P-3), addressed to the Corporate Debtor, to repay the loan

amount but the corporate debtor did not honour the payment. Further, the applicant sent another reminder letter dated 08.07.2019 (attached as Annexure P-4) but the corporate debtor did not reply to that either. A third reminder through e-mail (attached as Annexure P-7) is stated to be sent but no response to that has been received either.

5. It is further submitted that the learned counsel for the financial creditor has issued a statutory recalling notice dated 10.08.2019 upon the Corporate Debtor and the same is stated to be received by the corporate debtor on 14.08.2019 (Annexure P-8).

6. In Part-III of Form No.1, Mr. Alok Kaushik, Registration No. IBBI/IPA-002/IP-N00253/2017-18/10767 has been proposed as Interim Resolution Professional (IRP). Form No.2 dated 02.09.2019 along with the Certificate of Registration issued by the Insolvency and Bankruptcy Board of India are found at Page Nos.41-44 of the petition.

7. It is stated in Part-IV of Form No.1 that the applicant advanced ₹25,00,000/- to the corporate debtor vide RTGS transfer on 30.11.2018 for a term of six months. The total amount claimed to be in default is ₹25,85,068/- (including interest @18% p.a. amounts to ₹85,068/-) from 01.06.2019 to 09.08.2019. A copy of the working of computation has also been attached as Annexure P-5 of the petition.

8. In Part-V of Form No.1, a copy of the bank statement dated 30.11.2018 of the financial creditor showing the transaction of ₹25,00,059/- has been attached as Annexure P-6 of the application.

9. Notice was issued to the Corporate Debtor as to why this petition not be admitted on 22.01.2020.

10. On 12.03.2020, Mr. Kartar Singh, Advocate appeared on behalf of the Corporate Debtor and sought time to file reply along with the Power of Attorney and Board Resolution. It could be seen that no reply has been filed by the Corporate Debtor till date.

11. Further, on 09.08.2021, the learned counsel for the respondent-corporate debtor appeared before this bench via video-conferencing and accepted the debt. The learned counsel also submitted that the respondent corporate debtor is not in a position to pay the dues to the petitioner.

12. We have heard the learned counsels for the petitioner and the respondent-corporate debtor and have also perused the record carefully.

13. Section 7(5)(a) of the Code is as follows:-

“5) Where the Adjudicating Authority is satisfied that—

(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application.”

14. In the present case, the occurrence of default is evidenced by the details furnished by the petitioner including cheque bearing No.411621 dated 29.11.2018 amounting to ₹25,00,000/- as shown in ledger account attached at page 31 of the petition. It can be seen in the SBI account statement attached at page 32 that a transfer from the financial creditor to the corporate debtor was made vide RTGS (UTR No. SBINR52018113000035165) for ₹25,00,059/- on 30.11.2018. The financial creditor has also issued a statutory notice recalling debt (Annexure P-8) through its counsel demanding full payment of pending amount along with interest. Original postal receipt along with tracking report showing the

delivery of statutory demand notice on 14.08.2019 is attached at page 39 of the petition.

15. The other issue for consideration is whether present application is filed within limitation. The transaction involving the defaulted amount dates back to 30.11.2018 (as shown in bank statement attached as Annexure P-6) and the instant application was filed on 11.09.2019. Therefore, the petition has been filed within the period of limitation.

16. The application filed in the prescribed Form No.1 is found to be complete.

17. In the given facts and circumstances, the present petition being complete and having established the default in payment of the Financial Debt for the default amount being above ₹1,00,000/-, the petition is admitted in terms of Section 7(5) of the IBC and accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the moratorium in terms of Section 14, the following prohibitions are imposed, which must be followed by all and sundry:

- “(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.
- (e) It is further directed that 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.
- (f) The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a corporate debtor.
- (g) The order of moratorium shall have effect from the date of this order till 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.”

18. The Law Research Associate of this Tribunal has checked the credentials of Mr. Alok Kaushik and there is nothing adverse against him. In view of the above, we appoint Mr. Alok Kaushik, Registration No. IBBI/IPA-002/IP-N00253/2017-18/10767, r/o G-105 Sai Baba Apartments, Sector 9, Rohini Delhi-110085, Email: alok_kaush@yahoo.com, alok_kaushik@yahoo.com, Mobile No.9811470267 as the Interim Resolution

Professional. The IRP is directed to take the steps as mandated under the IBC, specially under Sections 15, 17, 18, 20 and 21 of IBC, 2016.

19. The Interim Resolution Professional shall after collation of all the claims received against Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filing the report of Constitution of the Committee. The Interim Resolution Professional is further directed to send regular progress reports to this Tribunal every fortnight.

20. A copy of order shall be communicated to both the parties. The learned counsel for the petitioner shall deliver copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send copy of this order to the Interim Resolution Professional at his e-mail address forthwith.

Sd/-
(K.K. Vohra)
Member (Technical)

Sd/-
(Ajay Kumar Vatsavayi)
Member (Judicial)

September 20, 2021
AV