IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP No. (IB) 87/ MB/ 2022

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. Implenia Services and Solutions Private Limited
Having its Registered Office at: 115, 11th Floor, Maker Chambers- 6, Plot No. 220, Nariman Point, Mumbai- 400 021

….. **Financial Creditor**

Vs.

M/s. Glance Investments (India) Private Limited
Having its Registered Office at: 2, Crescent Chambers, 3rd Floor, 56, Tamarind Lane, Fort, Mumbai- 400 023.

….. **Corporate Debtor**

Order delivered on:- 08.07.2022

Coram:

Hon'ble Member (Judicial)	**:**	**Justice P. N. Deshmukh (Retd.)**
Hon'ble Member (Technical)	**:**	**Shri Shyam Babu Gautam**

Appearances:

For the Financial Creditor	:	Mr. Avinash R. Khanolkar, Advocate
For the Corporate Debtor	:	Mr. Ruturaj Bankar, Advocate

ORDER

Per: Shyam Babu Gautam, Member Technical

1. This Company Petition is filed by *Implenia Services and Solutions Private Limited* (hereinafter called "Financial Creditor") seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *Glance Investments (India) Private Limited* (hereinafter called "Corporate Debtor") alleging that the Corporate Debtor committed default in making payment to the Financial Creditor. This Petition has been filed by invoking the provisions of Section 7 Insolvency and Bankruptcy Code, 2016 (hereinafter called "IBC") read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

2. The present Petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of an **aggregate amount** of **Rs. 2,50,65,319/-** (Rupees Two Crores Fifty Lakhs Sixty-Five Thousand Three Hundred and Nineteen Only) including the **Principal amount** of **Rs. 1,94,61,910/-** (Rupees One Crore Ninety-Four Lakhs Sixty-One Thousand Nine Hundred and Ten Only) and **interest** amounting to **Rs. 56,03,409/-** (Rupees Fifty-Six Lakhs Three Thousand Four Hundred and Nine Only) till **31st October 2021** forming part of the Financial Debt.

3. The Corporate Debtor approached the Financial Creditor (earlier called "*InnovSource Private Limited*") for availing a

corporate loan for business purpose. The Corporate Debtor wrote to the Financial Creditor requesting funds to the tune of **Rs. 6,00,00,000/-** (Rupees Six Crores Only) vide Letter dated **25th April 2018**. After having perused the audited Annual Reports of the Corporate Debtor for the last 2 years i.e. 2015-16 and 2016-17 and after holding a physical meeting between the parties, the Financial Creditor accepted the request of the Corporate Debtor and agreed to advance a Loan of Rs. 6,00,00,000/- in multiple tranches based on the requirement of the Corporate Debtor and availability of funds with the Financial Creditor vide Letter dated **31st May 2018**.

4. Subsequently, the parties executed a **Loan Agreement** on **29th June 2018** on terms mutually agreed between the parties for disbursement of the loan in tranches as per requirement. The Loan was then disbursed on different dates in the following manner:

Sr. No.	**Date of Disbursement**	**Loan Amount (in Rs.)**
1.	25th April 2018	60,01,880/- (Opening Balance)
2.	14th January 2019	25,00,000/-
3.	20th February 2019	50,00,000/-
4.	1st April 2019	59,60,030/-
	TOTAL	**1,94,61,910/-**

A copy of the Loan Agreement, copies of the Letters requesting the disbursal of the said amounts and Ledger records of the Corporate Debtor in the books of the Financial Creditor as on 9th November 2021 are duly annexed to this Petition.

5. Meanwhile, the name of the Financial Creditor was changed from "*InnovSource Private Limited*" to its present name, "*Implenia Services and Solutions Private Limited*" on 18th October 2018. Also, the Financial Creditor merged with M/s. European Aviation Holding Company Private Limited (EAHCL) vide Order dated **28th March 2019** passed by NCLT Mumbai Bench. The Corporate Debtor was indebted to EAHCL for an amount of Rs. 59,60,030/- prior to the merger which now stood transferred to the Financial Creditor as a result of the merger. The Corporate Debtor requested the Financial Creditor to consider this amount as part of the Loan advanced under the Loan Agreement dated 29th June 2018 and agreed to make payment of this consolidated sum amounting to Rs. 1,94,61,910/- vide Letter dated 1st April 2019. A copy of the Order approving the scheme and the relevant communications regarding transfer of such Loan amount are annexed to this Petition.

6. The said Loan was due for repayment on **29th December 2019** and the Financial Creditor sent notices on 2nd December 2019, 17th December 2019 and 14th January 2020 demanding payment of the outstanding dues. The Corporate Debtor replied to these Notices on 15th January 2020 requesting additional time to arrange the funds to repay the same. However, it is stated that despite several follow ups and Reminders, the Corporate Debtor

failed to make any payments. Consequently, a Final Call Notice was sent by the Financial Creditor to the Corporate Debtor on **20th February 2020** demanding both the Principal amount and the interest due on the outstanding sum yet no payment was made by the Corporate Debtor. Hence, this Petition.

7. The Corporate Debtor filed a Reply to the Petition on **30th March 2022** stating that the Corporate Loan being availed from the Financial Creditor is an undisputed fact and that there have been defaults in making repayments. It is further claimed that these repayments were affected due to the Pandemic and the subsequent lockdown and that the business of the Corporate Debtor is not viable at present and largely dependent on the long-term improvement in economic conditions.

FINDINGS

8. We have heard the submissions of the Counsel appearing for the Financial Creditor. The Financial Creditor has satisfactorily established the existence of debt of Principal Loan Amount of **Rs. 1,94,61,910/-** and default of the outstanding dues aggregating to **Rs. 2,50,65,319/-** as evidenced by the records of the Financial Statements attached to this Petition. The amount of debt due and default in repayments is not disputed by the Corporate Debtor. The **date of default** is **20th February 2020** and this Petition was **filed on 25th January 2022** therefore it is noted that the Petition is not barred by Limitation. We have perused the relevant documents, particularly the Letter dated

15th January 2020 addressed by the Corporate Debtor to the Financial Creditor in respect of which the admission of the outstanding dues is noted and the liability of the Corporate Debtor is established beyond doubt. Further, we find that the argument of the Corporate Debtor about the delay in repayments being caused due to the Pandemic is flawed as the date on which the debt was originally due and date of actual default are much prior to the declaration of national lockdown in view of the pandemic and therefore, this argument cannot be sustained.

9. The Financial Creditor has thus successfully demonstrated and proved the debt and default in this case. It is noted that the Corporate Debtor admits the said outstanding debt. Therefore, this Bench is of the view that that this Petition satisfies all the necessary requirements for **admission** under Section 7 of the Code.

10. For the foregoing reasons, the instant Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

a. **The above Company Petition No. (IB) -87 (MB)/2022 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against M/s. Glance Investments (India) Private Limited.

b. This Bench hereby appoints **Mr. Manoj Kumar Jain**, Insolvency Professional, Registration No:

IBBI/IPA-001/IP-P00535/2017-2018/10960 as the Interim Resolution Professional having address at 11, Friends Union Premises Co-operative Society, 227, P.D. Mello Road, 2nd Floor, Fort, Mumbai- 400 001 and email address manojj2102@gmail.com to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Financial Creditor shall deposit an amount of Rs.2 Lakh towards the initial CIRP cost 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 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 concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-	**Sd/-**
SHYAM BABU GAUTAM	**JUSTICE P. N. DESHMUKH**
(MEMBER TECHNICAL)	**(MEMBER JUDICIAL)**