

BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH

Free of Cost Copy

C.P. (I.B) No.201/7/NCLT/AHM/2019

Coram: Hon'ble Mr. HARIHAR PRAKASH CHATURVEDI, MEMBER (JUDICIAL)
Hon'ble Mr. PRASANTA KUMAR MOHANTY, MEMBER (TECHNICAL)

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 04.12.2019**

Name of the Company: Girnar Extrusions Pvt Ltd
V/s
Jindal Alufoils Pvt Ltd

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

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
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1.

2.

ORDER

None for the Parties.

The Order is recorded separately.

The Petition is admitted.



(Signature)
(PRASANTA KUMAR MOHANTY)
MEMBER (TECHNICAL)

(Signature)
(HARIHAR PRAKASH CHATURVEDI)
MEMBER (JUDICIAL)

Dated this the 4th day of December, 2019.

BEFORE THE ADJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD

C.P. (I.B.) No. 201/7/NCLT/AHM/2019

Coram: Hon'ble Mr. Harihar Prakash Chaturvedi, Member (Judicial)
Hon'ble Mr. Prasanta Kumar Mohanty, Member (Technical)

In the matter of:

M/s. Girnar Extrusions Private Limited
Having its registered office at:
703, Sapath II, Opp. Rajpath Club,
S. G. Highway, Bodakdev,
Ahmedabad - 380015,
Gujarat.

.....Applicant-Petitioner-Financial Creditor

Versus

M/s. Jindal Alufoils Private Limited
B-3, Samir Apartment,
Jetalpur Road,
Baroda - 390007,
Gujarat.

.....Respondent-Corporate Debtor

Appearance:

Mr. Viral Shah, CA, for the Applicant/Financial-Creditor.
None for the Respondent/ Corporate Debtor.



Order delivered on 4th December, 2019.

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ORDER

[Per: Mr. Harihar Prakash Chaturvedi, Member (Judicial)]

1. The present I.B. Petition is preferred by the Financial-Creditor **M/s. Girnar Extrusions Private Limited** under **Section 7** of the Insolvency and Bankruptcy Code, 2016 (herein after referred to as a "Code"), **seeking initiation of Corporate-Insolvency-Resolution-Process** ("CIRP" in Short) against the Corporate-Debtor-Company namely, M/s. Jindal Alufoils Private Limited for the default committed by the Corporate Debtor in making repayment of the amount as availed to the Corporate Debtor Company, M/s. Jindal Alufoils Pvt. Ltd. The Applicant Financial-Creditor is a private limited company incorporated under the provisions Companies Act, 1956. The application has been filed by Mr. Anil Jain, the Director of the company duly authorised vide meeting of Board of Directors of the company held on 29.11.2018 (Page 8 of Annexure A).

2. The brief facts of the Financial Creditor Company M/s. Girnar Extrusions Pvt. Ltd. is that the company incorporated on 02.02.1983 with a CIN:U25209GJ1983PTC005870. As appears, the company is engaged in manufacturing and exports of printed aluminium collapsible tubes and rigid containers.



The registered office of the company is situated at: 703, Sapath-II, Opp. Rajpath Club, S. G. Highway, Bodakdev, Ahmedabad - 380015, Gujarat.

3. The Respondent/Corporate-Debtor-Company, namely M/s. Jindal Alufoils Private Limited was incorporated on 08.06.2006 with CIN: U27101GJ2006PTC048420. As submitted, the authorised share capital of the company is Rs.5,00,00,000/- (Rupees Five Crores only) and the paid up share capital is Rs.4,16,43,500/- (Rupees Four Crores Sixteen Lakhs Forty-Three Thousand Five Hundred only). As per the submitted details of MCA (Page , Annexure B), the directors of the company are Mr. Yashu Bhagwandas Jindal (DIN:00178374) and Ms. Nidhi Yashu Jindal (DIN: 07101928). It is submitted that the company is engaged in the manufacturing and selling of Aluminium Foils and Cut-Sheets. The registered address of the Respondent/Corporate-Debtor-Company is: B-3, Samir Apartment, Jetalpur Road, Baroda, Gujarat - 390007, India.

4. The facts on the present I.B. Petition are described in prescribed format of present application, which shows that the Petitioner/Financial-Creditor advanced interest free loan of rupees fifteen lakhs for a period of two years. As per the Memorandum of Understanding (Annexure E,



Page No. 37 & 38) entered between them on 28.09.2015 which was due and payable in two years. Thus, a total sum of Rs.15,00,000/- (Rupees Fifteen Lakhs) was transferred to the bank account on 26.09.2015 through RTGS to the Corporate-Debtor-Company, having its account in Bank of Baroda (A/c. No. 202032100000106). In support of such disbursement of loan, the Petitioner/Financial Creditor has annexed a statement of Bank of India showing appropriate details. (Page 36, Annexure D).

5. As per the Financial-Creditor, the total amount of loan so transferred was required to be re-paid by the Respondent/Corporate-Debtor within two years. However, the said amount was ~~not~~ repaid to the Petitioner/Financial-Creditor as per the agreed date, i.e. on 25.09.2017. Thus, it has committed a default in payment of loan. Thus, the date of default is 26.09.2017, i.e. two years after the disbursal of amount to the Respondent /Corporate-Debtor-Company. While, the present petition is filed on 17.01.2019, hence, it is filed well within the limitation and thus, it is maintainable.



6. The present petition was initially listed in this Court on 28.03.2019 and this Adjudicating Authority directed the

Petitioner to serve the notice of date of hearing on Respondent along with the copy of order under acknowledgement and to file proof of service.

7. As the registry of this bench has also served a notice which was returned with a remark "Left". This Court during the course of hearing had ordered the Petitioner to effect a paper publication in widely circulated vernacular language newspaper, where the registered office of the Company is situated, by prescribing minimum seven days' of time from the date of publication. The Petitioner/ Financial Creditor has also attached / submitted a copy of despatch of notice to the Corporate Debtor by a registered post.

8. In compliance of which, the Petitioner has published the notice of hearing and submitted the proof of the same in local newspaper of "Divya Bhaskar" dated 17.07.2019 and submitted the proof on 17.07.2019. However, the Respondent/Corporate-Debtor did not file any objection to the present I.B. Petition nor made any representation.

9. We heard the Learned CA, Mr. Vivek Shah for the Petitioner and gone through the material available on record. The Petitioner/Financial Creditor proposed the



name of the Interim Resolution Professional ("IRP") along with a copy of declaration of IRP, Mr. Gordhanbhai Ratnabhai Godhani expressing his willingness to take charge as an Interim Resolution Professional, in case, the present Petition is admitted.

10. Since, the Corporate Debtor did not file any objection nor any adverse material is available on record that it did not receive the payment of loan amount through the RTGS in its account, which is rupees fifteen lakhs and the same is not refunded / returned by the Corporate Debtor as per the entered MOU, it is established that the Corporate Debtor availed unsecured loan of Rs.15 Lakhs from the Petitioner/Financial-Creditor and has failed in making repayment of the same. Hence, the default is occurred. Hence, filing of this I.B. Petition is found in order and is found complete. Therefore, the present I.B. Petition deserves for an admission with the following directions/ observations. The date of admission of this petition is 04.12.2019.

11. This Adjudicating Authority hereby appoints, as proposed, **Mr. Gordhan Ratnabhai Godhani**, having Insolvency Professional Registration No. **IBBI/JPA-001/IP/P-01201/2018-19/11921**, Email ID: **rgodhani@gmail.com**, Address: **16, Sakarta Society**,



**Kargil Chowk, Punagam, Surat, Gujarat - 395010,
Gujarat, India as an Interim-Resolution-Professional.**

The Interim-Resolution-Professional is further directed to make public announcement of moratorium in respect of Corporate-Debtor-Company soon after receipt of an authenticated copy of this order and to act further as per the order/direction issued by this Adjudicating-Authority and to follow the provisions Under Section 13 and 14 and other relevant provisions of the Insolvency and Bankruptcy Code.

12. As per the provisions of Section 13 and 14 of the I.B. Code on the date of commencement of insolvency, this **Adjudicating Authority declares moratorium with effect from today** for prohibiting all of the following, namely: -

- I. (a) *The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 Securitisation 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.

II. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

III. The provisions of sub-section (1) shall not apply to (a) such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

IV. The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process.

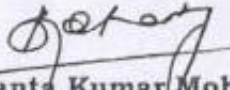
13. The **IRP is hereby advised to adhere the timelimit** as stipulated for completion of the Corporate Insolvency Resolution Process ("CIRP" in short) and perform the duties as specified Under Section 18, 20, 21 of I.B Code. Further the personnel of the Corporate Debtor are advised to extend co-operation to Interim Resolution Professional as required Under Section 19 of IB Code.

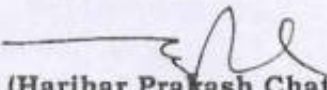
14. An authentic copy of this order to be communicated by the Petitioner as well as by this Registry to the Corporate-Debtor-Company, as well as to the Interim-Resolution-



Professional and the Registrar of Companies at the earliest.

15. The present IB-Petition is disposed of accordingly.


(Prasanta Kumar Mohanty)
Adjudicating Authority &
Member (Technical)


(Harihar Prakash Chaturvedi)
Adjudicating Authority &
Member (Judicial)

