

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT-II)**

**(IB)-445(ND)/2020**

**IN THE MATTER OF:**

**Ms. Jasoda Gulliya,  
W/o Nishant Gulliya,  
R/o C-9, East of Kailash,  
New Delhi-110065**

**...Financial Creditor**

**VERSUS**

**M/ s. IDzire Hospitality Pvt. Ltd.  
145A/9, Kishangarh  
Vasant Kunj,  
New Delhi-110070**

**...Corporate Debtor**

**Section: 7 of IBC, 2016**

**Order Delivered on : 28.07.2021**

**CORAM:**

**SHRI. ABNI RANJAN KUMAR SINHA, HON'BLE MEMBER (J)**

**SHRI. L. N. GUPTA, HON'BLE MEMBER (T)**

**PRESENT:**

For the Financial Creditor : Mr. Dhruv Gupta, Advocate  
For the Corporate Debtor : None

(IB)-445(ND)2020  
Jasoda Gulliya Vs. IDzire Hospitality Pvt. Ltd.

## ORDER

### PER SHRI L. N. GUPTA, MEMBER (T)

The present Petition is filed, under the Section 7 of the Insolvency and Bankruptcy Code, 2016 ('**IBC, 2016**') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Ms. Jasoda Gulliya ('**Financial Creditor**'), with a prayer to initiate the Corporate Insolvency process against M/s IDzire Hospitality Private Limited ('**Corporate Debtor**').

2. The Corporate Debtor M/s IDzire Hospitality Private Limited is a Company incorporated with CIN No. U93000 DL 2014PTC265146 on 20.02.2014 under the provisions of the erstwhile Companies Act 1956, having its registered office at 145A/9, Kishangarh, Vasant Kunj, New Delhi-110070, which is within the jurisdiction of this Tribunal.

3. The Authorized Share Capital of the Corporate Debtor Company is Rs. 2,00,000/- and Paid-up Share Capital of the Company is Rs.2,00,000/- as per the master data annexed with the Application.

4. It is averred that the Applicant had entered into a Loan Agreement dated 07.08.2019 with the Corporate Debtor, through its Director, Mr. Achal Grover, thereby extending a loan amount of Rs.2,50,000/- @ 18% flat per annum, for a period of 1 year. The



Applicant had disbursed the loan amount of Rs.2,50,000/ vide RTGS dated 08.08.2019 and 09.08.2019 to the Corporate Debtor.

5. That it is stated that the Corporate Debtor had made the payment of initial EMI's on time. However, the Corporate Debtor failed to clear the EMI due on 15.09.2019. Thereafter, the Applicant sent a reminder email to the Corporate Debtor in this regard on 19.09.2019, which was replied by the Corporate Debtor on 20.09.2019 stating that its payment from other vendors got delayed and therefore, requested for some time for making payment of the due EMI.

6. That the Corporate Debtor also failed to pay the EMI due on 01.10.2019 to the Applicant. Hence, an email in this regard was sent by the Applicant to the Corporate Debtor on 09.10.2019, which was replied by the Corporate Debtor on 11.10.2019 stating that they are facing financial crisis and requested for some more time to clear the dues. However, the Corporate Debtor again failed to clear its EMIs, which fell due on 15.10.2019 and 01.11.2019.

7. It is further submitted that the Corporate Debtor again on 06.11.2019 vide email expressed its inability to clear the outstanding EMIs and asked for some more time to clear its dues.

8. It is the case of the Applicant that the Corporate Debtor has till date failed to clear the 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 10<sup>th</sup> (total 08) consecutive EMI's falling due on 15.09.2019, 01.10.2019, 15.10.2019,

15.11.2019, 01.12.2019, 15.12.2019 and 01.11.2019, 01.01.2020 respectively and thus, committed default in repayment of its financial debt.

9. It has been averred by the Applicant in the Part- IV of the Application that the total amount outstanding against the Corporate Debtor is Rs.2,71,909/- as on 08.01.2020 including late fees penalty and interest applicable.

10. That the applicant has annexed copy of the Loan Agreement dated 07.08.2019 as Annexure B to the Application, its Bank Account Statement showing proof of disbursement and E-mails exchanged between the parties. The financial creditor had also issued Loan Recall cum Demand Notice dated 09.11.2019 to the Corporate Debtor, which has not been replied by the corporate Debtor.

11. The Corporate Debtor has filed an Affidavit of reply through its Director and submitted that the Applicant has itself breached the terms of Loan Agreement dated 07.08.2019 and paid payments in parts instead of making one-time payment. However, in the reply, it is submitted that the Corporate Debtor is still willing to clear its dues but due to financial constraints the Corporate Debtor is unable to repay. The relevant part of the reply is reproduced below:

*“9. I say that irrespective of the above, the Answering Respondent had no malafide intention to stop or delay the payment of EMI's due to the Applicant under the loan*

*Agreement. However, due to poor business performance across the Hospitality Sector coupled with other financial obligations such as payment of salaries of employees, etc. lead to unintentional delay in payment of EMI's.*

10. *I further say that the Answering Respondent is still desirous and willing to clear the outstanding dues of the Applicant, but owing to the financial downfall across all sectors, especially the Hotels, Restaurant, Tourism and Hospitality sectors, due to COVID-19 and the subsequent lockdown, it has become a herculean task for the Answering Respondent to generate any revenue what-so-ever.”*

12. After hearing submissions of both the parties, perusing the averments made in the Application & reply, and documents placed on record, this Bench is of the view that the Corporate Debtor in its reply has clearly stated that “*due to poor business performance across the hospitality sector coupled with other financial obligations such as payment of salaries of employees etc. lead to unintentional delay in payment of EMIs.*” He has added that he is “*still desirous and willing to clear the outstanding dues of the Applicant...*”. Evidently, the Corporate Debtor has admitted its inability/liability to pay the dues and default committed. This Bench is, therefore, inclined to initiate the CIR Process against the Corporate Debtor.

13. 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 committed above the

threshold limit, **the present 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(1) (a), (b), (c) & (d), 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.”

14. As proposed by the Financial Creditor, this Bench appoints Mr. Manoj Kumar Singh as IRP having Registration No. IBBI/IPA-003/IP-N00050/2017-18/10443 (Email: [cma.msingh@gmail.com](mailto:cma.msingh@gmail.com)), subject to the condition that no disciplinary proceedings are pending against the IRP so named and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order.

15. This Adjudicating Authority orders that :

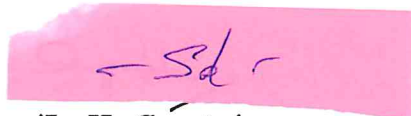
*“Mr. Manoj Kumar Singh, IP having Registration No. IBBI/IPA-003/IP-N00050/2017-18/10443 (Email: [ema.msingh@gmail.com](mailto:ema.msingh@gmail.com)) is directed to take charge of the CIRP of the Corporate Debtor with immediate effect. The Court Officer will inform the IRP so appointed by all modes.”*

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


16. The Financial Creditor is directed to deposit Rs.2,00,000 (Two Lakh) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

17. A copy of this Order shall be communicated to the Applicant, the Corporate Debtor and the IRP mentioned above by the Court Officer/Registry of this Tribunal.

18. A copy of the Order shall also be forwarded by the Court Officer /Registry to the IBBI for their records.



**(L. N. Gupta)**  
**Member (T)**



**(Abni Ranjan Kumar Sinha)**  
**Member (J)**