

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD
Court 2**

CP(IB) 300/NCLT/AHM/2020

**Coram: HON'BLE Ms. MANORAMA KUMARI, MEMBER JUDICIAL
HON'BLE Mr. CHOCKALINGAM THIRUNAVUKKARASU, MEMBER TECHNICAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD BENCH
OF THE NATIONAL COMPANY LAW TRIBUNAL ON 22.03.2021**

Name of the Company: Vrundavan Residency Pvt Ltd
V/s
Mars Remedies Pvt Ltd

Section 7 IBC,2016

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

- 1.
- 2.

ORDER

(through video conferencing/physical)

None appeared on behalf of parties.

The order is pronounced in the open court, vide separate sheet.



**CHOCKALINGAM THIRUNAVUKKARASU
MEMBER TECHNICAL**

Dated this the 22nd day of March, 2021



**MANORAMA KUMARI
MEMBER JUDICIAL**

BEFORE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

C.P.(IB) No. 300/NCLT/AHM/2020

In the matter of:

M/s Vrundavan Residency Pvt. Ltd.

Registered Office at:

NR. Polytechnic College
Mota Bazar V V Nagar
Gujarat-388120.

....Petitioner
(Financial Creditor)

Versus

M/s Mars Remedies Pvt. Ltd.

Registered Office at:

635, G.I.D.C. Estate,
Waghodia- 391760

.... Respondent
(Corporate Debtor)

Order delivered on 22.03.2021.

Coram:

Hon'ble Ms. Manorama Kumari, Member (J)

Hon'ble Mr. Chockalingam Thirunavukkarasu, Member(T)

Appearance:

Mr. Alay Bhartkumar Vasavada and Mr. Ronak Ladhawala,
PCSS ... for the Petitioner.

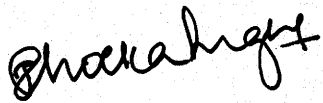
Mr. Pavan S Godiawala, Advocate ... for the Respondent.

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ORDER**[Per se: Mr. Chockalingam Thirunavukkarasu, Member (T)]**

1. Shri. Vishal Jitendra Patel, Director of M/s Vrundavan Residency Pvt. Ltd. on behalf of the Petitioner/Financial Creditor has filed this Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 [hereinafter referred to as "the IB Code"] read with Rule 4 of the Insolvency and Bankruptcy Application to Adjudicating Authority Rules, 2016 (hereinafter referred to as "the Rules") for the purpose of initiating corporate insolvency resolution process [hereinafter referred to as "CIRP"] against M/s Mars Remedies Pvt. Ltd. , the Respondent company, the Corporate Debtor.
2. M/s Mars Remedies Pvt. Ltd., the Respondent Company incorporated on 05.11.1999, under the provisions of the Companies Act, 1956 having its Registered Office at 635, G.I.D.C. Estate, Waghodia 391760.
3. The Authorised Share Capital of the Respondent Company, the Corporate Debtor is Rs.4,50,00,000/- (Rupees Four Crore Fifty Lakh Only). The Paid-Up Share Capital of the Respondent Company, the Corporate Debtor is



Rs.4,50,00,000/- (Rupees Four Crore Fifty Lakh Only). The Respondent is having its CIN: U24231GJ1999PTC036869.

4. As per Part IV of the application, the total amount of unsecured loan sanctioned in many tranches amounted to Rs. 70,00,000/- (Rupees Seventy Lakhs Only) by M/s Vrundavan Residency Pvt. Ltd., the Financial Creditor. It is further stated that the total amount of default continuing from 31.03.2017 to 31.12.2019 amounted to Rs. 89,24,630/- (Rupees Eighty-Nine Lakh Twenty-Four Thousand Six Hundred Thirty Only), including Principal and Interest amount. The date of default is 29.09.2015.
5. It is submitted by the Petitioner/Financial Creditor that total amount of Rs. 68,10,000/- had been disbursed on various dates to the Corporate Debtor. The copy of the relevant disbursement made from the Account No. CBCA/01/000040 maintained with Corporation Bank Limited by the Financial Creditor to the Account of the Corporate Debtor marked and annexed as **Exhibit "H"**.
6. It is further submitted by the Petitioner that the Corporate Debtor had paid Rs. 34,00,000/- (Rupees Thirty-Four Lakh Only) on various dates as for the unsecured loan (towards Principal and Interest) which is marked as **Exhibit "H" (Colly)**.

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7. It is further submitted by the Petitioner that the Corporate Debtor had made the last payment towards the unsecured loan of Rs. 40,000/- (Rupees Forty Thousand Only) (Including Principal and Interest) on 29.09.2015 and thereafter defaulted of an amount of Rs. 54,71,783/- (Rupees Fifty-Four Lakh Seventy-One Thousand Seven Hundred Eighty-Three Only) as on 31.03.2017.
8. The Petitioner further submitted that the total claimed amount to be in default is Rs. 89,24,630/- (Rupees Eighty-Nine Lakh Twenty-Four Thousand Six Hundred Thirty Only) as per calculation sheet from 31.03.2016 to 31.12.2019, which is comprised of Principal Amount of Rs. 62,77,763/- (Rupees Sixty-Two Lakh Seventy-Seven Thousand Seven Hundred Sixty-Three Only) and interest amount of Rs. 26,46,867/- (Rupees Twenty-Six Lakh Forty-Six Thousand Eight Hundred Sixty-Seven Only). The said fact is reflected as **Exhibit-I** of the petition.
9. The Respondent has denied the entire alleged claims and allegations as made in the application. The Respondent submitted in his reply that the Petitioner has clearly stated the fact that it is not involved in money lending or giving loans but can lend or invest or deal with money belonging to or entrusted to the Company in securities and shares or

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other movable or immovable property and hence there is no object to lend the money to other companies. Hence, the alleged claim made by the Petitioner as financial creditor is not maintainable.

10. The Respondent has further submitted in his reply that the Petitioner has fairly mentioned that Respondent has been continuing making default from 31.03.2017 to 31.12.2019, but from page no. 166 of the petition itself shows that the last payment was made on 29.09.2015 and thereafter no payment was made. Hence the entire alleged claim is beyond the period of limitation and such alleged claim is barred by law of limitation.

11. The Petitioner submitted the following documents in support of his claim against the Corporate Debtor.

- Record of default, report dated 21.08.2020, from Information Utility, National E-Governance Services Limited.
- Copy of the Master data of the Corporate Debtor.
- Certified copy of the Board resolution passed dated 19th April, 2011 by the financial creditor sanctioning the financial assistance amount.
- Copy of the relevant disbursement made from the Account No CBCA/01/000040 maintained with

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Corporation Bank Limited by the financial creditor to the Account of the Corporate Debtor.

- Calculation sheet claimed to be in default.
- Certified copy of the Financial Statement ending as on 31.03.2016 and 31.03.2017 of the Corporate Debtor evidencing the acknowledge of the outstanding financial debt to be in default.
- Statement of FORM 26AS.
- Several email(s) on various date(s) exchanged by and between Financial Creditor and Corporate Debtor reminding to repay the financial assistance along with interest.
- Account ledger confirmation duly signed by the authorized signatory of the Corporate Debtor.
- Certificate from the Chartered Accountant about the outstanding debt due from the Corporate Debtor to the Financial Creditor.
- Copy of the ledger of the Corporate Debtor maintained by the Financial Creditor.
- Demand notice dated 3rd April, 2019 issued by Financial Creditor demanding to repay unsecured loan by the Corporate Debtor along with interest calculated till 31.03.2019 and speed post receipts.
- Copy(ies) of the income tax return(s) along with the annexure filed by the Financial Creditor.

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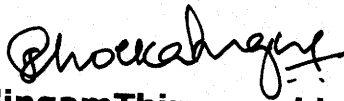
- Copy of the acknowledgement receipt toward the filing fee.
 - Memorandum of Appearance & Board Resolution.
 - Proof of dispatch sent to the Corporate Debtor.
12. The Petitioner has proposed the name of Mr. Prashant Bharatkumar Patel having Registration No. IBBI/IPA-002/IP-N00827/2019-20/12627 to act as IRP under Section 13(1)(b) of the IB Code and written communication in Form-2 of IBBI has been submitted by the proposed IRP.
13. Heard the learned counsels for both sides. Gone through the application filed and documents submitted by the Petitioner Company. The application is filed by Shri. Vishal Jitendra Patel, Director of the Petitioner Company with authorization papers. As per Section 7 of IBC, for an application preferred by the Financial Creditor for initiation of Corporate Insolvency Resolution Process, the Adjudicating Authority is required to see the existence of financial debt and ascertain the existence of default. As per the documents submitted by the Petitioner that there is a financial debt in the form of loans availed by the Corporate Debtor. The date of default is on 29.09.2015. The last date of payment by the Corporate Debtor is on 29.09.2015 and thereafter no payment was made. The last entry in 26AS of the Income Tax Statement for payment of interest is on 31.03.2016. The application is

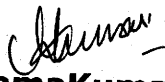
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Educational Society held that Limitation Act is applicable to the proceedings under IBC.

14. In view of the above, the petition is not maintainable as time barred. As a consequence, the instant petition is rejected in terms of Section 7 of the IB Code.
15. The petition stand disposed of accordingly with no order as to costs.
16. Registry is directed to communicate this order to both parties.


Chockalingam Thirunavukkarasu
Adjudicating Authority &
Member (Technical)


Manorama Kumari
Adjudicating Authority &
Member (Judicial)

SAPNA