

**NATIONAL COMPANY LAW TRIBUNAL  
“CHANDIGARH BENCH, CHANDIGARH”  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**

**CP (IB) No. 515/Chd/Chd/2019**

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

**In the matter of:**

**Parivartan Investment  
and Finance Company**

having its registered office at  
SCO 21, ICL Road Madhuban Colony,  
Rajpura, Patiala, Punjab-140401

....Applicant/Financial Creditor

Versus

**Haryana Telecom Limited**

having its registered office at  
SCO No. 175-176, Sector 8C,  
Madhya Marg, Chandigarh-160009

...Respondent/Corporate Debtor

**Judgement delivered on: 07.02.2020**

**Coram: HON'BLE MR. AJAY KUMAR VATSAVAYI, MEMBER (JUDICIAL)  
HON'BLE MR. PRADEEP R. SETHI, MEMBER (TECHNICAL)**

For the Financial Creditor: 1). Mr. G.S. Sarin, Practising Company Secretary  
2). Mr. Damandeep Singh Bhalla, Advocate

For the respondent : Mr. Ajay Bhagwati, Advocate

**Per: Ajay Kumar Vatsavayi, Member (Judicial)**

**JUDGEMENT**

The application in the prescribed Form No.1 is filed by Parivartan Investment and Finance Company (hereinafter referred to as **Petitioner**) for

initiation of Corporate Insolvency Resolution Process (**CIRP**) in the case of Haryana Telecom Limited (hereinafter referred to as **Corporate Debtor**). The application is filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (**Code**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (**Rules**). The application is signed by Ms. Sunaina Singh, Director of the petitioner. Her affidavit verifying the contents of the application is from pages 26 to 28 of the petition. The Board Resolution and Authority Letter in favour of Ms. Sunaina Singh as constituted attorney for the petitioner is at Page 203 to 204 of the petition.

2. The master data of the Corporate Debtor is stated to be filed at page 29 of the petition. The Corporate Debtor is stated to be incorporated on 03.04.1987 and the registered address is stated to be SCO 175-176, Sector 8-C, Madhya Marg, Chandigarh-160009. Therefore, the jurisdiction lies with this Bench of the Tribunal.

3. It is stated that an agreement dated 05.09.2003 was executed between the corporate debtor and the financial creditor where the corporate debtor was to redeem the debentures of the value of Rs.5 Crores. Copy of the said agreement is placed as Annexure A-8 of the petition. It is stated that as per the revival scheme of Board for Industrial and Financial Reconstruction (**BIFR**), debentures of the aggregate value of Rs. 416.67 lacs was paid by the corporate debtor and the debenture of the balance value of Rs. 83.33 lacs were purchased by financial creditor from CAN Bank Mutual Fund (CMF), SBI Capital Mutual Fund, Indian Bank Mutual Fund and LIC Mutual Fund. It is further stated that the corporate debtor reissued the debentures to bring to the total value to Rs.5,50,00,000/- vide agreement dated 23.06.2005. It is

submitted that the financial creditor subscribed to the debentures by making the balance payment of Rs. 4,66,66,664/- and the debentures were due for redemption on 31.12.2008. Copy of the agreement dated 23.06.2005 is found to be attached as Annexure A-9 of the petition.

4. It is submitted that the date of redemption of debentures has been extended on various occasions vide separate agreements and the last time the period of redemption of debentures was extended upto 31.12.2020 vide agreement dated 13.01.2016. All these agreements are a part and parcel of the petition.

5. The relevant para in Annexure A-8, regarding payment of interest reads as under:-

*“(ii) INTEREST*

*The Company shall with effect from the date of purchase and until the Extended Debentures are redeemed or paid off, pay to the Debentureholders for the time being thereof, interest at the rate of 12% (Twelve Percent) per annum on the amount of Extended Debentures held by the Debentureholders and such interest shall be payable quarterly 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September and 31<sup>st</sup> December till redemption of the Debentures.”*

6. It is represented that on 01.01.2019, the financial creditor due to financial crisis requested the corporate debtor to pay interest amounting to Rs.66 lacs @12% per annum for the period from 01.04.2018 to 31.03.2019 on or before 30.04.2019 and thereafter, to be paid quarterly. The corporate debtor is stated to have agreed for making the payment of interest amounting to Rs. 66 lacs for the period of 01.04.2018 to 31.03.2019 @ 12% by 30.04.2019 and thereafter, to be paid quarterly. Copy of the request letter addressed to the corporate debtor is marked as Annexure A-14 of the petition.

7. It is further stated that the corporate debtor has been reminded about the payment of interest as agreed by the corporate debtor vide four reminder letters dated 25.02.2019, 31.03.2019, 20.04.2019 and 03.05.2019. It was assured by the corporate debtor that vide letter of assurance dated 10.05.2019 that the payment of interest as mentioned before shall be made latest by 25.05.2019. Copy of reminder letter are found to be attached as Annexures A-16, A-17, A-18 and A-19 respectively.

8. On 15.05.2019, a final letter (Annexure A-21) was issued by the financial creditor to the corporate debtor stating that if they could not make the payment of interest due by 31.05.2019 then the appropriate action in the matter as may be considered shall be taken and hence, the present application.

9. It is stated in Part-IV of Form No.1 that the amount claimed to be in default is Rs. 66 lacs. The accumulated arrears of interest are stated to be from the period of 01.04.2018 till 31.03.2019. Working of the interest is also found attached vide computation chart being Annexure A-4 of the petition.

10. In Part-V of Form No.1, the particulars of security held are given. It is stated that 12% 5,50,000 Non-Convertible Debentures of Rs. 100/- each are secured by its movable plant and machinery, spares, tools and accessories and other movable both present and future (sale and except debts) whether installed or not and whether now lying loose or in cases or which are now plying or stored in or about or shall from time to time during the continuance of the security of these presents be brought into or upon be stored in or about the corporate debtor's factories premises and godowns. It is also stated that these Non-Convertible Debentures are also secured by various

immovable properties being described in the schedule attached as Page 123 of the petition. The certificate of Registration and Modification of the Charge to ROC is attached as Annexure A-6 of the petition. It is also stated that the estimated value of the property is worth Rs. 14,49,13,800/-.

11. In Part-III of Form No.1, Mr. Prakash Dev Sharma, Registration No.IBBI/IPA-002/IP-N00073/2017-18/10171 has been proposed as Interim Resolution Professional (**IRP**). Form No. 2 dated 31.08.2019 submitted by the proposed IRP is stated to be attached as Annexure A-3 of the petition.

12. The Corporate Debtor has filed reply vide diary No. 6430, dated 19.11.2019. It is submitted that the Corporate Debtor is making every effort to repay its outstanding debt to the Financial Creditor and if the proceedings under the Code are initiated, it would result in the corporate death of the corporate debtor without any fault of its own. It is also submitted that the corporate debtor has long been involved in several litigations which have adversely impacted on its ability to pay dues as well as the overall functioning of the production plant. It is also stated that the corporate debtor owing to the accumulated losses was constrained to file a reference application with the BIFR under Section 15(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 seeking its registration as a Sick Industrial Company as well as asking for appropriate measures to revive it. It is also submitted that the corporate debtor has therefore, made every possible effort to ensure that its operations were ongoing and continuing, albeit the same could not be ensured owing to reasons beyond the control of corporate debtor. It is also found mentioned that failure to arrive at One Time Settlement with Haryana Government with regard to the payment of outstanding sales tax and dispute

relating to sales tax with the Department of Telecom and MTNL have also contributed to the miseries of the corporate debtor.

13. Rejoinder was filed vide Diary No. 6698 dated 29.11.2019 wherein the contents of the application have been reiterated and it is submitted that since the respondent has already admitted its liability to the petitioner, it is a fit case wherein petition for insolvency ought to be outrightly admitted on the ground of acceptance of the financial debt by the corporate debtor.

14. On the last date of hearing, the learned counsel representing corporate debtor submitted that the respondent has no objection if the CP is admitted as the respondent is not in a position to pay the debt of the petitioner.

15. We have heard the authorized representative for the petitioner & learned counsel for the Corporate Debtor and have also perused the record carefully.

16. 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.”*

17. In the present case, the occurrence of default is evidenced by the details furnished by the petitioner including various agreements been executed between both the parties placed at Annexures A-8, A-9, A-10, A-11, A-12 and A-13 respectively, copy of the bank statements of the financial creditor ranging from 01.04.2017 to 19.09.2019 reflecting that no interest amount has been received (Annexure A-7), list of all agreements executed between the parties (Annexure A-8), request letter addressed to the corporate debtor to pay the interest dated 01.01.2019 (Annexure A-14), letter of acceptance for payment

of interest dated 20.01.2019 by the corporate debtor (Annexure A-15), four reminder letters by the financial creditor for releasing of the payment (Annexures A-16, A-17, A-18 and A-19) respectively, letter of assurance dated 10.05.2019 by the corporate debtor being Annexure A-20 and final reminder letter dated 15.05.2019 by the financial creditor at Annexure A-21 of the petition.

18. It is evident from the contents of the petition that the Corporate Debtor has defaulted in the repayment of interest as have been requested by the financial creditor according to the terms of agreement. It is also observed that the corporate debtor in its reply has admitted its default in making the payment of the interest to the petitioner-financial creditor. It can be also seen that on the last date of hearing, the corporate debtor has submitted that it is unable to pay the debt due of the petitioner and the present CP may be admitted.

19. The application filed in the prescribed Form No. I is found to be complete.

20. IA No. 5/2020 has been filed by the petitioner seeking to propose a new name as the IRP as the proposed IRP in Part-III of Form 1 i.e. Mr. Prakash Dev Sharma has attained the age of 70 years and eventually has become ineligible w.e.f. 01.01.2020 in view of Clause 12A of Bye Law 6 of IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 and Bye-Laws of Insolvency Professional Agency of Institute of Cost Accountants of India. Mr. Sanyam Goel, having Registration No. IBBI/IPA-002/IP-N00138/2017-18/10397 has been proposed as IRP in

place of Mr. Prakash Dev Sharma and the same has been allowed while disposing of IA No. 5/2020 vide order dated 28.01.2020.

21. The proposed Interim Resolution Professional, Mr. Sanyam Goel, Registration No. IBBI/IPA-002/IP-N00138/2017-18/10397 has filed Form No.2 (Annexure 1 of Diary No. 749 dated 27.01.2020) certifying that there are no disciplinary proceedings pending against him with the Board or Indian Institute of Insolvency Professionals. It is also stated that he is currently not serving as a Resolution Professional in NIL proceedings.

22. The conditions provided for by Section 7(5)(a) of the Code being satisfied in the present case, we direct that the application for initiation of CIRP against Haryana Telecom Limited be admitted. The directions regarding moratorium and appointment of IRP are given below.

23. We declare the Moratorium in terms of sub-section (1) of Section 14 of the code as under:-

(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.

24. 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. 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.

25. 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 pass an order for liquidation of corporate debtor under Section 33 as the case may be.

26. The Law Research Associate of this Tribunal has checked the credentials of Mr. Sanyam Goel and there is nothing adverse against him. In view of the above, we appoint Mr. Sanyam Goel, Unit No. 110, First Floor, JMD Pacific Square, Sector 15, Part II, Gurugram, Haryana-122001 having Registration No. IBBI/IPA-002/IP-N00138/2017-18/10397 and email address [goelsanyam@gmail.com](mailto:goelsanyam@gmail.com) Mobile No. 9810868515, the Interim Resolution Professional, with the following directions:-

- i) The term of appointment of Mr. Sanyam Goel shall be in accordance with the provisions of Section 16(5) of the Code;
- ii) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the Corporate Debtor;
- iii) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his

profession and as an Insolvency Professional with high standards of ethics and morality;

- iv) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;
- v) It is hereby directed that the Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;
- vi) The Interim Resolution Professional shall after collation of all the claims received against the 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; and

- vii) The Interim Resolution Professional is directed to send regular progress report to this Tribunal every fortnight.

A copy of this order be communicated to both the parties. The authorized representative and 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 email address forthwith.

Sd/-  
(Pradeep R. Sethi)  
Member (Technical)

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

February 7<sup>th</sup>, 2020  
Yashpal