



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-II**

CP No. (IB) 4313/ MB/ 2018

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

Manish M. Shah & Ors.

Having address at: 404, Commerce House, 140, N M Road, Fort, Mumbai 400 023.

..... Financial Creditors

Vs.

United Fortune International Private Limited

Having its Registered Office at: G/F & 1/F, Trade Centre, Bandra Kurla Complex, Bandra (E), Mumbai- 400 051.

..... Corporate Debtor

Order delivered on:- 17.03.2023

Coram:

Hon'ble Member (Judicial) : Shri Kuldip Kumar Kareer

Hon'ble Member (Technical) : Shri Shyam Babu Gautam

Appearances:

For the Financial Creditor : Advocate Karishma Mungekar

For the Corporate Debtor : None

ORDER

Per: Shyam Babu Gautam, Member Technical

1. This Company Petition is filed by *Manish M. Shah & Ors.* (hereinafter called “Financial Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against *United Fortune International 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 of the 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. 3,05,04,843/-** (Rupees Three Crores Five Lakhs Four Thousand Eight Hundred and Forty-Three Only) including the outstanding **Principal amount** and **interest** at the rate of 12% per annum as on 31st May 2018 forming part of the Financial Debt.
3. The Directors of the Corporate Debtor enjoyed cordial relations with the Financial Creditors, namely Mr. Manish M Shah, Mr. Vipul Shah and Mrs. Nimisha R. Shah. On the request of the Directors of the Corporate Debtor, the Financial Creditors agreed to advance an aggregate Principal loan amount of **Rs. 3,85,00,000/-** (Rupees Three Crores Eighty-Five Lakhs Only)

to the Corporate Debtor. The amounts advanced by each Financial Creditor and the respective dates of disbursement have been reproduced hereinbelow:

Financial Creditor	Amount Disbursed (in Rs.)	Date of Disbursal
Manish Shah	50,00,000/-	18.03.2014
	1,00,00,000/-	19.03.2014
	50,00,000/-	20.03.2014
	25,00,000/-	20.03.2014
	75,00,000/-	24.03.2014
	3,00,00,000/-	
Vipul Shah	25,00,000/-	20.03.2014
Nimisha Shah	60,00,000/-	18.03.2014
Total	3,85,00,000/-	

4. After the disbursal of the above amounts, the Corporate Debtor made certain part payments to the Financial Creditors and thereafter, defaulted on the repayments on **11th December 2017**. The Financial Creditors addressed Letters dated 11th December 2017 to the Corporate Debtor calling upon them to repay the outstanding dues within 7 days but no such payments were made. The Financial Creditors further addressed Letters dated 19th June 2018 to the Corporate Debtor demanding repayment of the outstanding debt alongwith interest yet no payments were made by the Corporate Debtor. The Financial Creditor then filed this Petition on **19th November 2018**. Copies of the aforementioned Letters have been duly annexed to this Petition.


FINDINGS

5. We have heard the submissions of the Counsel appearing for the Financial Creditor. On perusal of the Petition and the



documents annexed, it is evident that the Corporate Debtor had availed the said loan facilities from the Financial Creditors and had subsequently committed default in repaying the same. On perusal of the records, it is seen that the Corporate Debtor has not filed any Reply to this Petition and has failed to appear before this Tribunal on every occasion that this matter was listed despite being duly served. As a result, the Corporate Debtor was set *ex-parte* vide **Order dated 15th September 2022**.

6. The Financial Creditor has thus successfully demonstrated and proved the debt and default in this case. It is noted that the Petition is not barred by Limitation. Therefore, this Bench is of the view that that this Petition satisfies all the necessary requirements for **admission** under Section 7 of the Code.
7. 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)- 4313 (MB)/2018 is hereby allowed** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **United Fortune International Private Limited**.
 - b. This Bench hereby appoints **Mr. S. Gopalakrishnan**, Insolvency Professional, Registration No: IBBI/IPA-002/IP-N00151/2017-18/10398 as the Interim Resolution Professional



having address at 203, The Ghatkopar Nilkanth CHS, Jethabhai Lane, Ghatkopar East, Mumbai, Maharashtra- 400 077 to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

- c. The Financial Creditor shall deposit an amount of Rs.5 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 the IRP immediately.

Sd/-

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER
(MEMBER JUDICIAL)

Anusha
17.03.2023