

**THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH-IV**

**Company Petition No. (IB) 259 (ND)/2021**

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

**In the matter of:**

REMOTEBULLION AND JEWELS PRIVATE LIMITED

... FINANCIAL CREDITOR

VERSUS

MHG LAND STOCKLIST PRIVATE LIMITED

...CORPORATE DEBTOR:

**Order delivered on: 10.06.2022**

**CORAM:**

**SH. DHARMINDER SINGH, HON'BLE MEMBER (J)**

**MS. SUMITA PURKAYASTHA, HON'BLE MEMBER (T)**

**ORDER**

**Per: SUMITA PURKAYASTHA, MEMBER, (T)**

1. The Remotebullion and Jewels Private Limited, has filed the instant application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') with a prayer to trigger Corporate Insolvency Resolution Process in respect of respondent Company M/s. MHG Land Stockist Private Limited, referred to as the corporate debtor.

2. It is appropriate to mention that the applicant M/s Remotebullion And Jewels Private Limited is a company registered under the provisions of the Companies Act, 1956 on 31.12.2007 having its registered office situated at H.No- 1065, Kucha Natwa Chandini Chowk, Opposite Town Hall Delhi- 110006. Mr. Ashok Kumar Gupta, duly authorized on behalf of applicant vide Resolution dated 23.03.2021 has preferred the present application on behalf of the applicant for initiation of insolvency resolution process against the respondent corporate debtor.

3. The Respondent Company M/s MHG Land Stockist Private Limited is company incorporated on 21.09.2007 under the provisions of the Companies Act, 1956, against whom initiation of Corporate Insolvency Resolution Process has been prayed for, having its registered office situated at, Mangal Apartments, Plot No.-16, Vasundhara Enclave, New Delhi- 110095. Since the registered office of the respondent corporate debtor is in New Delhi, this Tribunal having territorial jurisdiction over the NCT of Delhi is the Adjudicating Authority in relation to the prayer for initiation of Corporate Insolvency Resolution Process in respect of respondent corporate debtor under sub-section (1) of Section 60 of the Code.

4. The case of the applicant precisely is that the corporate debtor had availed financial facility from the financial creditor, Remotebullion And Jewels Private Limited by way of

loan agreement. The corporate debtor has agreed to repay the amount but the corporate debtor has defaulted in payment of the said loan. Therefore, as per part IV of the application it is claimed that a sum of Rs. 2,03,39,000/- is due and payable by the respondent company.

5. Despite service of notice, none appeared on behalf of the corporate debtor and the corporate debtor was proceeded ex-parte vide order dated 06.05.2021 passed by this Tribunal.

6. Sub-section (3) (b) of Section 7 mandates the financial creditor to furnish the name of an Interim Resolution Professional. In compliance thereof the applicant has proposed the name of Mr. Anil Tayal, for appointment as Interim Resolution Professional having registration number IBBI/IPA-001/IP-P01118/2018-2019/11818 resident of 201, Sagar Plaza, District Centre, Laxmi Nagar, New Delhi-110092 with email - id [caaniltayal@gmail.com](mailto:caaniltayal@gmail.com) . Mr. Anil Tayal has agreed to accept the appointment as the Interim Resolution Professional and has signed a communication in Form 2 in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that no disciplinary proceedings are pending against him in Insolvency and Bankruptcy Board of India or elsewhere. In addition, further necessary disclosures have been made by Mr. Anil Tayal as per the requirement of the IBBI

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Regulations. Accordingly, it is seen that the requirement of Section 7 (3) (b) of the Code has been satisfied.

7. The applicant has placed following documents on record to prove its claim:

- i. Copy of Statement of Bank Account of DCB Bank and Union Bank of India where deposit are made and credits are received by the financial creditor in respect of Corporate debtor.
- ii. Copy of Form 26AS depicting the deduction of the TDS on interest paid to the financial creditor.
- iii. Copy of Audit report for the F.Y -2018-2019.
- iv. Copy of Financial Statement for F.Y-2017-2018,2018-2019, 2019-2020 of the corporate debtor.
- v. Copy of the ledger account of the financial creditor.
- vi. Copy of the demand letter along with speed post receipt sent by the financial creditor to corporate debtor on 12.03.2021.

8. Needless to say, that an application under Section 7 of the Code is maintainable if the debt is proved to be due and there is default. In view of the Section 4 of the Code, the moment default is of Rupees one hundred lakhs or more, an application to trigger Corporate Insolvency Resolution Process under the Code is maintainable.

9. The applicant clearly comes within the definition of Financial Creditor. The material placed on record as stated in

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the paras above further confirms that respondent has debt due and has committed default in repayment of the outstanding financial debt. On a perusal of Form – I filed under Section 7 of the Code read with Rule 4 of the Rules shows that the form is complete and there is no infirmity in the same. It is also seen that there is no disciplinary proceeding pending against the proposed Interim Resolution Professional.

10. We are satisfied that the present application is complete in all respect. The applicant financial creditor is entitled to move the application against the corporate debtor in view of admitted outstanding financial debt and default of the same by the corporate debtor. The default in repayment of the financial debt is not refuted by the Corporate Debtor.

11. As a sequel to the above discussion and in terms of Section 7 (5) (a) of the Code, the present application is hereby, admitted.

12. Mr. Anil Tayal, having registration number IBBI/IPA-001/IP-P01118/2018-2019/11818 is appointed as an Interim Resolution Professional for corporate debtor.

13. In pursuance of Section 13 (2) of the Code, we direct that public announcement shall be made by the Interim Resolution Professional immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations, 2016) with regard to admission of this application under Section 7 of the Insolvency & Bankruptcy Code, 2016.

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14. We direct the applicant Financial Creditor to deposit a sum of Rs. 2 Lakhs with the Interim Resolution Professional namely Mr. Anil Tayal to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Financial Creditor. The said amount however is subject to adjustment towards Resolution Process cost as per applicable rules.

15. We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

16. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.

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17. The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day to day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing appropriate orders. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

18. The office is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, NCT of

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Delhi & Haryana at the earliest possible but not later than seven days from today.

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(SUMITA PURKAYASTHA)

MEMBER (T)

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(DHARMINDER SINGH)

MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI BENCH (COURT- IV)**

**IA/2567/ND/2022**  
**IN**  
**IB/259(PB)/2021**

**In the matter of :**

Remotebullion & Jewels Pvt. Ltd. .... Applicant/Operational Creditor

v.

MHG Land Stocklist Pvt. Ltd. .... Respondent/Corporate Debtor

**Order Delivered on: 10.06.2022**

**CORAM**

**SH. DHARMINDER SINGH, HON'BLE MEMBER, (JUDICIAL)**

**SH. RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)**

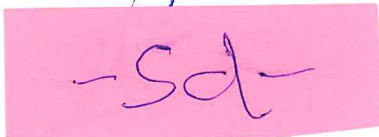
**ORDER**

**PER: SHRI RAHUL BHATNAGAR, HON'BLE MEMBER (TECHNICAL)**

The present interlocutory application has been filed by the Respondent i.e., M/s. MHG Land Stockist Private Limited ("Corporate Debtor") with a prayer to recall the orders dated 06.05.2022 & 13.05.2022 in the aforesaid Company Petition No. IB-259(PB) of 2021 filed by the abovementioned Corporate Creditor against the Respondent herein.

2. The submissions made by the respondent corporate debtor are stated in brief as follow:-

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- a. The Tribunal vide order dated 06.05.2022 in C.P.(IB) 1789/2019 had ordered the matter to be proceeded ex parte against the Respondent as none had appeared for the Respondent and therefore, listed the matter on 13.05.2022 for arguments.
- b. The respondent corporate debtor and its counsel submits that they did not realize that inadvertently vakalatnama for the captioned matter [(IB)-259 (PB)/2021] has not been filed. Since, the vakalatnama in the captioned matter was not filed, the counsel as well as the Respondent corporate debtor lost track of the matter.
- c. The respondent corporate debtor checked the status of the captioned matter and came to a realization that inadvertently the vakalatnama has not been filed. Therefore, the same was filed immediately on 11.05.2022. It was only in the evening of 12.05.2022 that the order dated 06.05.2022 was uploaded and the respondent realized that they have been proceeded ex parte.
- d. The Counsel for the respondent corporate debtor on the date fixed for final arguments on 13.05.2022 sought time to file application for setting aside the order dated 06.05.2022. Further, the counsel for the respondent corporate debtor submits that settlement talks between the parties are going on and he has no instructions to argue the matter.
- e. The respondent corporate debtor submits that apart from the captioned petition i.e., C.P.(IB)259/2021, a total of 5 other similar petitions were also filed before this Hon'ble Tribunal u/s 7 IBC against the Respondent and all the other pending five matters were settled between the parties. Further, it is submitted that the settlement talks were continuously going on between the corporate debtor and the operational creditor. Therefore, there is no reason to doubt the bona fide intention of the respondent corporate debtor.

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3. We have considered the facts of this case and the submissions made by the respondent corporate debtor. The respondent corporate debtor has filed the application (IA/2567/ND/2022) for setting aside the ex-parte order dated 06.05.2022 and 13.05.2022 on 27.05.2022 whereby the respondent corporate debtor was proceeded ex-parte vide order dated 06.05.2022 on account of consecutive non appearances on the last two hearings and further on 13.05.2022 the C.P.(IB)259/2021 was reserved for orders.
4. So far as the service of notice on the respondent corporate debtor of the captioned petition is concerned, affidavit of service dated 16.06.2021 and 28.10.2021 are placed on record evidencing that the date of hearing is duly communicated to the respondent corporate debtor.
5. So far as the ongoing settlement talks between the parties in Company Petition No. IB-259(PB)/2021, we observed that the respondent on 28.01.2022 had also submitted that the settlement talks are going on between the parties, however the petitioner stated that there is no settlement talk going on. Be that as it may, the operational creditor is at liberty to file the withdrawal application under the relevant provisions at any stage of the matter. But for that purpose, further proceedings in the matter cannot be deferred.
6. We have further observed that the order in Company Petition No. IB-259(PB)/2021 has been reserved on 13.05.2022 after providing the counsel of respondent corporate debtor an opportunity to argue the matter, whereas the counsel for corporate debtor was not ready to argue the matter. Considering the aforesaid, this tribunal is not inclined to set aside the ex-

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parte order dated 06.05.2022 in exercise of power inferred under Rule 49(2) of the NCLT Rules, 2016.

7. With the aforesaid, no interference is called for setting aside the order dated 06.05.2022 & 13.05.2022 in the aforesaid Company Petition No. IB-259(PB) of 2021,
8. Thus, the Interlocutory Application IA/2567/ND/2022 is dismissed, no order as to costs.

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**(RAHUL BHATNAGAR)**  
**MEMBER (T)**

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**(DHARMINDER SINGH)**  
**MEMBER (J)**

Pronounced today under Rule 151 of the NCLT Rules, 2016 as the Hon'ble Member (Technical) Shri Rahul Bhatnagar is not holding the court today.

**Court Officer**