



**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH-IV**

CP (IB) No.516/MB-IV/2021

Under Section 7 of the I&B Code, 2016

In the matter of:

V.B Industries Limited

[CIN: L51909WB1982PLC035222]

...Financial Creditor/Petitioner

V/s

**Attribute Shares and Securities Private
Limited**

[CIN: U67120MH1996PTC098226]

...Corporate Debtor/Respondent

Order pronounced on: 03.02.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner(s) : Mr. Aman Kacheria

For the Respondent(s) : None Present.

ORDER

Per: Kishore Vemulapalli, Member (Judicial)

1. This is a Company Petition being C.P. (IB) No. 516/NCLT/MB/C-IV/2022 filed by V.B Industries Limited, the Financial



Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Attribute Shares and Securities Private Limited, Corporate Debtor.

2. The Corporate Debtor has availed the loan of Rs.2,00,00,000 in terms of Loan Agreement dated 15.04.2021. The said loan was repayable on demand and the interest thereon was payable monthly on or before last date of the month as per Schedule I of the Loan Agreement. The Financial Creditor states that the Corporate debtor defaulted for making payment towards interest for the month of July and August 2021. Vide letter dated 25.10.2021 and thereafter vide letter dated 21.11.2021, the Financial Creditor gave last opportunity to make payment of overdue interest. Finally, the Financial Creditor through its lawyer recalled the Principal Loan amount of Rs.2,00,00,000/- vide notice dated 21.12.2021 asking the Corporate debtor to pay principal along with interest of Rs8,74,998/- within 7 days from the date of this notice. However, the Corporate Debtor failed to pay the amount. Though the Financial Creditor has not stated the specific date of default in Part IV but from the facts stated in Part IV and exhibit attached to the petition the date of default would work out to be 31.12.2021(Excluding 48 hours for service of notice.)
3. As per the terms stated in the Loan Agreement, the entire loan amount along with interest for the entire period shall immediately become due and payable. As per Part IV, the Principal outstanding is Rs. 2,00,00,000 and default interest amount of Rs. 8,74,998.
4. On 13.05.2022, Court Notice was served on the Corporate Debtor. However, the Ld. Counsel for the Financial Creditor submits that there was no representation on behalf of the Corporate Debtor. Therefore, this



Bench inclined to issue directions to take out substituted service in two daily leading newspapers. Despite paper publication, the Corporate Debtor neither appeared nor filed reply in rebuttal. Therefore, the Corporate Debtor was set *ex-parte* vide order dated 14.11.2022. On perusal of letter dated 30.10.2021 written by the Corporate Debtor to the Financial Creditor(annexed with the petition), the Corporate Debtor had informed the applicant that we are in grave financial crunch presently and not in the position to continue the ongoing monthly interest schedule in terms of the loan agreement dated 15.04.2021 and requested the Financial Creditor to grant the extension of 3 months for resuming the interest payment.

Findings:

5. On perusal of records it reveals that the Petition in complete in all aspects and the debt, claimed in the Petition, falls under the definition of Financial Debt provided in section 5(8) of the Code. Further, the letter dated 30.10.2021 referred above leads to conclusion that the debt in default is not in dispute and the Corporate Debtor acknowledges the liability. Thus, in view of the above admission of debt by the Corporate Debtor, this Petition deserves to be admitted.
6. The Financial Creditor has proposed the name of Mr. Vimal Kumar Agrawal, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P00741/2017-2018/11247] as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code. The proposed interim resolution professional has given his consent and a declaration that no disciplinary proceedings are pending against him.



ORDER

This Application being C.P. (IB) No. 516/NCLT/MB/C-IV/2022 filed by V.B Industries Limited, the Financial Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Attribute Shares and Securities Private Limited, Corporate Debtor is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:

- I. That this Bench as a result of this prohibits:
 - 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 possession of the corporate debtor.
- II. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.



- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to
- a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
 - b. a surety in a contract of guarantee to a Corporate Debtor.
- IV. That the order of moratorium shall have effect from the date 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 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.
- VI. This Bench appoints Mr. Vimal Kumar Agarwal, a registered insolvency resolution professional having Registration Number [IBBI/IPA-001/IP-P00741/2017-2018/11247] as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
- VII. The Financial Creditor shall deposit a sum of Rs.5,00,000/- (Rupees five lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).



- VIII. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor.
- IX. The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or WhatsApp. Compliance report of the order by Designated Registrar is to be submitted today.

Sd/-
Prabhat Kumar
Member (Technical)
03.02.2023

Sd/-
Kishore Vemulapalli
Member (Judicial)