

**IN THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI
BENCH-VI**

IB-2661/ (ND) /2019

Section: Under Section 7 of the Insolvency and Bankruptcy Code, 2016 and Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

In the matter of:

M/s HBN Dairies and Allied Limited

Registered office at:

303, Vardhman Chamber
IIIrd Floor, Sonia Complex,
Vikaspuri,

New Delhi- 110018

Through Mr. Rohit Sehgal

Resolution Professional

...Financial Creditors/Applicant

Versus

M/s Viraman Buildcon and Developers Pvt. Ltd.

Registered Office at

Business Unit No. 530, 5th Floor,
HBN Office D Mall,

Plot D, District Centre, Paschim Vihar,

New Delhi- 110087

...Corporate Debtor/ Respondent



Coram:

SHRI. P.S.N. PRASAD
Hon'ble Member (Judicial)

SHRI. RAHUL BHATNAGAR
Hon'ble Member (Technical)

Counsel for Applicant: Mr. Shashwat Anand and
Mr. Shashwat Parihar (Advocates)
Counsel for Respondent: None

ORDER

Per – P.S.N. PRASAD, MEMBER (JUDICIAL)

Date:12.01.2022

1. This is an application filed by M/s HBN Dairies and Allied Ltd. (through Resolution Professional) to initiate corporate insolvency resolution process (“CIRP”) against M/s Viraman Buildcon and Developers Private Limited under Section 7 of the Insolvency and Bankruptcy Code 2016 (“the Code”) for the alleged default on the part of the Respondent in




settling an amount of Rs. 1,58,92,71,675/- paid to the Applicant. The details of transactions leading to the filing of this application as averred by the Applicant are as follows:

- a. The financial debt has accrued in favour of Financial Creditor on account of the unsecured loans granted from time to time to the Corporate Debtor by the applicant.
- b. As per the Balance sheets of the Corporate Debtor for the Financial Years from 2008-2009 till 2014-15, the Financial Creditor granted the following loans to the Corporate Debtor: -

Year of Disbursement (Financial Year)	Amount Disbursed (In Rs)	Amount Repaid	Interest Due	Total Claim
2008-2009	32,17,43,118/-		38,60,91,741.6	70,78,34,859.6
2009-2010	95,011,879/-		10,26,12,829.3	19,76,24,708.3
2010-2011	12,82,30,660/-		12,31,01,433.6	25,13,32,093.6
2011-2012	12,02,99,156/-		10,10,51,291	22,13,50,447
2012-2013	14,57,10,232/-		10,49,11,367	25,06,21,599
2013-2014	2,91,76,826/-	2,91,87,960/-	1,75,06,095.6	1,74,94,961.6
2014-2015	1,60,03,025/-	8,06,71,471/-	76,81,452	-5,69,86,994
			84,29,56,210.2	1589271675/-



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- c. The Corporate Debtor is a subsidiary company of the Financial Creditor and is engaged in the business of building and developing residential and commercial properties.
- d. Applicant (HBN Dairies) had been collecting money from the depositors who are mostly poor farmers, under its various unauthorized collective investment schemes.
- e. Pursuant to a complaint made by RBI, SEBI conducted a detailed investigation against the applicant (HBN Dairies) and its promoter and passed an order which directed the promoters to repay the sums collected along with the assured returns.
- f. The matter was challenged before Securities Appellate Tribunal (SAT) and order was passed in which ex-directors/promoters of the applicant were directed to submit the title deeds of the properties belonging to the applicant with SEBI.
- g. SEBI was directed to sell off the properties belonging to the applicant and repay the funds to the investors within a period of six months.
- h. A group of investors, frustrated by the long delay by SEBI to refund their money had filed the insolvency petition under section 7 of IBC against the applicant (HBN Dairies). The said application was admitted vide order dated 14.08.2018 whereby IRP was appointed and



CIRP was initiated against the Corporate Debtor (HBN Dairies) in that matter.

- i. During the first meeting of COC that took place on 25.09.2018, and after reviewing and analyzing the records of the Corporate Debtor (HBN Dairies) who is the applicant through RP in this matter, it came to the knowledge of the Resolution Professional that the applicant (HBN Dairies) had extended loan facilities from time to time to Viraman Buildcon and Developers Pvt. Ltd. (Corporate Debtor in this matter) which have not been repaid till date.
- j. As per the balance sheet of HBN Dairies, of Financial Year 2008-2009, the applicant granted a loan to the tune of Rs 32,17,43,118/- to the Corporate Debtor whereafter the Corporate Debtor (Viraman Buildcon and Developers Pvt. Ltd.) was advanced further loans from time to time.
- k. As per the balance sheet of the applicant (HBN Dairies) and respondent (Viraman Buildcon and Developers Pvt. Ltd.) it is evident that the applicant (HBN Dairies) has granted an unsecured loan on various occasions and the unsecured loan was payable on the expiry of 12 months from date of grant of loan. The default in payment so far as the loan is concerned, occurred at the expiry of the term i.e., in the Financial Year 2016-17 and the same continue till date.



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2. Since the application filed by the Applicant fulfilled all the conditions required under Section 7 of the Code, this Tribunal ordered issue of notice to the Respondent (Viraman Buildcon and Developers Pvt. Ltd.) by all modes. Except a few appearances no one represented on behalf of the respondent on most occasions. Consequently, the Respondent was proceeded ex-parte by order dated 12.08.2021. The Corporate Debtor had not filed reply from 4.02.2021 to 12.08.2021. He has also not complied with the order dated 23.01.2020 in which he was directed to pay Rs 20,000/- for not filing the reply for so long.
3. The Respondent was absent even on the hearing on 23.11.2021. We have heard the arguments made by the counsel for the Applicant and perused the documents filed by him. The Applicant has established the existence of debt and default on the part of the Respondent and the Respondent has not availed the opportunities provided by this Tribunal to defend the arguments made by the Applicant. In view of the above situation, this Tribunal admits this petition and initiates CIRP on the Respondent with immediate effect.
4. A moratorium in terms of Section 14 of the Code is imposed forthwith in following terms:

“(a) the institution of suits or continuation of pending suits
or proceedings against the Respondent 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 Respondent 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 Respondent 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 Respondent.

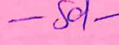
(2) The supply of essential goods or services to the Respondent as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.



- (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process.”
5. The interim resolution professional (“IRP”) proposed by the Applicant is Mr. Pawan Garg, Reg. No: IBBI/IPA-002/IP-N01011/2020-21/13267 and was confirmed by this Bench vide order dated 09.11.2021. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report within 30 days before this Bench.


(RAHUL BHATNAGAR)
Member (Technical)


(P.S.N. PRASAD)
Member (Judicial)