

**IN NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH, COURT- V**

**C.P. 554/IB/MB/2020**

Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

*In the matter of*

**Mr. Sumeet Arora**

C1/317, Palam Vihar, Gurugram,  
Haryana – 122 017

**..... Operational Creditor/  
Petitioner**

**Vs**

**Quant Capital Advisors Private  
Limited**

6<sup>th</sup> Floor, Sea Breeze Building,  
Appasaheb Marathe Marg,  
Prabhadevi, Mumbai, Maharashtra-  
400 025

**..... Respondent**

**Order Reserved On: 20.12.2022**

**Order Pronounced On: 25.01.2023**

**Coram:**

Hon'ble Shri. Kuldip Kumar Kareer, Member (Judicial)

Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

*Appearances (via Videoconferencing)*

**For the Petitioner:** Mr. Dhruv Suri (Advocate)

**For the Corporate Debtor:** Mr. Devanshu Desai (Advocate)

*Per: Shri. Kuldip Kumar Kareer, Member (Judicial)*

## **ORDER**

1. The above Company Petition is filed by Mr. Sumeet Arora hereinafter called as the (“**Operational Creditor**”) seeking to initiate Corporate Insolvency Resolution Process (**CIRP**) against Quant Capital Advisors Private Limited herein after referred to as the (“**Corporate Debtor**”) by invoking the provisions of Section 9 Insolvency and Bankruptcy code (hereinafter called “**Code**”) read with Rule 6 of the Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of Operational Debt of Rs. 9,69,207/-.
2. The Petitioner has attached the following documents to demonstrate the existence of Debt:
  - a. Employment Agreement dated 01.08.2018;
  - b. Copies of the pay slips for the months June, July and August 2019;
  - c. Resignation Letter dated 11.09.2019;
  - d. Copies of email correspondences between the Respondent and Corporate Debtor;
  - e. Copies of Bank Account statement of the Petitioner;
  - f. Demand Notice dated 22.01.2020.

### **Facts of the case**

1. Briefly stated the case of the Petitioner/Operational Creditor that he was employed by the Corporate Debtor vide employment agreement dated August 1, 2018 and was entitled to an annual gross pay of Rs. 47,36,988 along with certain other benefits. After the statutory deductions, the Applicant used to receive a monthly salary of Rs. 2,91,703. However, on September 11, 2019, the Applicant tendered his resignation and served 3 months prior notice i.e, up to December 10, 2019. However, the Corporate Debtor has failed to pay the salary of the Applicant for the period from September 10, 2019 to December 10,

2019 amounting to Rs. 9,69,207/-. The Applicant sent emails dated 30<sup>th</sup> December 2019 and 6<sup>th</sup> January 2020 to one Mr. Tarun Koshi, HR Head of the Corporate Debtor but despite that the payment was not made to him. The Applicant sent demand notice dated 22<sup>nd</sup> January 2020. In this manner, the Corporate Debtor has admitted a default of Rs. 9,69,207/-, being net monthly salary of the Applicant for the period from September 19, 2019 to December 10, 2019. The default took place on 1<sup>st</sup> October 2019, when the salary became due and payable. Hence, the Application under Section 9 of the Code.

2. The Respondent has resisted the Petition. In the reply, filed by the Respondent/Corporate Debtor, it has been, inter alia, pleaded that the Petition is not maintainable and is nothing but a gross abuse of the process of law. According to the Respondent, the Applicant, Mr. Sumeet Arora along with Mr. Anurag Seth, Mr. Raman Grover, Mr. Amit Jain, Mr. Vikas Puri, Mr. Varun Malhotra, Mr. Rohit Verma and Ms. Nidhi Sharma (hereinafter referred to as the said persons) were the employees of the Respondent. The Applicant was employed as Senior Vice President of the Wealth Team of the Respondent. The said persons in collusion with each other, perpetrated a massive fraud on the Respondent causing huge loss to the Company. The said persons were associated with the Quant Group for several years. The Applicant resigned from the services of the Group in October 2017 and he was appointed as a Consultant by the Corporate Debtor on 1<sup>st</sup> August, 2018. The Applicant was the third highest paid employee of the entire Quant Group and since April, 2018 was paid an aggregate amount of Rs. 1,05,57,000/-. The Applicant along with Anurag Seth and Raman Grover constituted Wealth Management Business of the Corporate Debtor and were also responsible for the day to day operations of the Respondent. They had access to the confidential information of the Corporate Debtor including client's data base, detail of portfolio of investments of individual clients and customised investments solutions created for the clients. In the year 2018, the Respondent/Corporate

Debtor upgraded its existing software system and migrated from server based system to cloud based system in which the Applicant and along with the Mr. Anurag Seth and Mr. Amit Jain were involved. At the instance of the said Team, the Corporate Debtor shifted its office from Fort Mumbai to Prabhadevi Mumbai by leasing a large furnished premise at a rent of Rs. 13.50 lacs per month. As per the terms and conditions of the appointment letter, the Applicant was not to divulge or give out any information outside to any unauthorized person during the period of the service. The Applicant along with the said persons were also given complete autonomy and discretion in running the business of the Corporate Debtor right from the time of their appointment as consultants. However, despite all this and huge payments made to the Applicant and the said persons as salary and bonus, there were no increase in the revenue of the Corporate Debtor. On the contrary, the revenues and PBT declined substantially as the Applicant and the said persons were neglecting their duties.

3. It is further stated in the reply that alarmed by the decline in the revenues, the Corporate Debtor decided to get conducted an audit to ascertain lapses, revenue leakage and other violations and appointed an independent Audit Firm, i.e., M/s Gindodia and Associates for the purpose vide appointment letter, Exhibit- 7, dated 22<sup>nd</sup> July 2019. The work of audit was started in the month of August 2019 and the Auditor sought additional data and information which was available with the Wealth Team only. Mr. Anurag Seth assured the Group HR Head that the entire Team would cooperate with the Audit Work and also proposed that pending audit, the Respondent might withhold the remuneration of the Applicant as well as the said persons till they were cleared of any wrong doings by the Auditors as is evident from the email dated 07.10.2019 issued by Mr. Anurag Seth which is in Exhibit-9. Therefore, no remuneration was paid to the Applicant from September 1, 2019.

4. It is further stated in the reply that the Auditor submitted a draft report in December 2019 stating that there were chances of revenue leakage and the technical system deployed by the Corporate Debtor would require examination by an expert. The Auditor, therefore, recommended the special audit be conducted to ascertain the reasons for the fall in the revenue and to strengthen the process of the Respondent vide final report dated 3<sup>rd</sup> February, 2020 annexed as Exhibit-10. However, when the audit was being undertaken by the independent Auditor, Mr. Anurag Seth abruptly resigned on 10.09.2019 and there was a threat of mass resignations by the said persons to coerce the Corporate Debtor into accepting their demands. In fact, the resignations were tendered under the apprehension that findings of the Audit Report would expose the wrong doings committed by Mr. Anurag Seth and the said persons including the Applicant. On 10<sup>th</sup> December 2019, the Applicant and the said persons abandoned the appointment on the pretext that they had already tendered their resignations. In fact, all the resignation letters were not addressed to the Respondent and instead were addressed to Mr. Anurag Seth with a clear intention of suppressing the same from the Corporate Debtor and some of the resignations were found to be deliberately ante-dated.
  
5. It is further stated in the reply that after the receipt of the Auditor's report, a meeting was convened on 09.12.2019 with Mr. Anurag Seth, Mr. Raman Grover, Mr. Amit Jain and Mr. Vikas Puri to discuss the observations of the Auditors. The said meeting was attended by the Applicant and the said persons and also the founder group, Group HR Head and others and it was observed that they had committed certain wrong doings. The records of the Corporate Debtor were found to contain certain emails sent by Mr. Vikas Puri to one Mount Wealth Advisory which had no connection with the Corporate Debtor and, therefore, there was no reason for Mr. Vikas Puri to create any record in respect of the said entity. On inquiry, it was found that an ARN Number was got issued to the said entity by association of Mutual

Funds of India. It was also discovered that Mount Wealth Advisory was an entity controlled by one Ms. Etika Puri who is the wife of Mr. Vikas Puri. The website details of Mount Wealth Advisory showed that it was owned by Ms. Etika Puri who was found to have been issued an EUIN Number as representative of Mount Wealth Advisory. The registrations had been sought to enable these persons to entertain the business of mutual fund distributions and provide advisory services directly in competition with the Corporate Debtor. It became apparent that Mr. Vikas Puri was carrying on an independent business through his wife using the resources of the Corporate Debtor under the guidance of Mr. Anurag Seth. It further proved that Wealth Team had started running parallel business while being in employment of the Corporate Debtor and the Applicant along with Mr. Raman Grover also used their position as directors of the Corporate Debtor to hide these non-compliances and violations. All these facts were also discovered in the FTI Independent Forensic Report. The entire records of the Corporate Debtor further showed that Mr. Anurag Seth, Mr. Raman Grover and Mr. Amit Jain in concert with the other persons were involved in setting up an independent website in investment portal for their independent business and Mr. Amit Jain in collusion with Mr. Anurag Seth, transferred the confidential client data base of the Corporate Debtor to an unauthorized personal email ID of Mr. Anurag Seth sometimes in September 2019. It was also found that the Corporate Debtor had not received income in respect of certain services which were provided to its clients and there was diversion of funds. Apart from this, the said persons including the Applicant have filed many inflated claims for reimbursement of expenses which were far in excess in the normal course of business.

6. The Corporate Debtor has further stated in the reply that since the Applicant and the said persons had not provided information desired by the Auditors Team, the Corporate Debtor in its EOGM held on 22<sup>nd</sup> January 2020 appointed three more directors as the Applicant and Mr.

Raman Grover were not attending the office. In the EOGM, a suggestion was put forward for the appointment of independent firm to carry out Forensic Audit to ascertain the wrong doings and illegalities committed by the said persons. Thereafter, the Board of the Corporate Debtor met on 23<sup>rd</sup> January, 2020 and decided to appoint M/s FTI Consulting to conduct a thorough inquiry vide appointment letter dated 27<sup>th</sup> January, 2020. Thereafter, the Corporate Debtor issued a legal notice dated 27<sup>th</sup> January 2020 to the Applicant and the said persons calling upon them to resume their services and stop doing wrongful actions to harm the business of the Corporate Debtor as they had already caused estimated loss of Rs. 9.25 crores to the Company.

7. In the reply dated 11<sup>th</sup> February, 2020, sent by the said persons through their lawyer, all allegations were denied. The Applicant and the said persons were aware that the Forensic Audit Team commissioned by the Board would expose their fraud. Therefore, they issued notices dated 22<sup>nd</sup> January, 2020 under the Code seeking payment of salaries for the period from September, 2019 to December 2019 just to create pressure upon the Corporate Debtor to drop the ongoing inquiry. The said notices were received by the Corporate Debtor on or around 27<sup>th</sup> January, 2020 but by then, the Corporate Debtor had already dispatched its own notice to the Applicant and the said persons. In the meanwhile, the Corporate Debtor received notice under Section 8 of the Code on behalf of the Applicant to which reply dated 03.02.2020 was sent. However, the Applicants have suppressed the facts in respect of the email and reply sent by the Corporate Debtor in response to the statutory notice under Section 8 of the Code. In the meanwhile, the Forensic Expert appointed by the Corporate Debtor sought meeting with the Applicant and the said persons regarding which emails were sent fixing appointment with them. But the Applicant and the said persons avoided participating in the process raising frivolous rejections. However, due to Covid-19 Pandemic, the Forensic Experts could not proceed with the finalization of the Report in Exhibit-25 which was

eventually received on 30<sup>th</sup> November 2020 wherein various wrongful acts committed by the Applicant and the said persons were highlighted. In the Report, it has been found by the Forensic Auditors that the Applicant engaged in several illegal activities including data theft, data deletion, misrepresentation of facts and figures, running parallel competing business, making investments in competing business, personal profiteering and violation of contractual terms of employment as well as policies of the Respondent. The Report further showed that the trail of investments made by the Applicant in the company named M/s Datair Technology Private Limited sometimes in January 2019. The regular clients of the Corporate Debtor are also shown to have invested in the said Company which has, in fact, facilitated by the Applicant in collusion with the said persons, i.e., Mr. Anurag Jain, Mr. Raman Grover and Mr. Amit Jain and Mr. Varun Melhotra acting through his wife Ms. Priyanka Melhotra who have been allotted shares in the M/s Datair Technology Private Limited on or around the same time.

8. The Report in Exhibit-25 proves that the Applicant and the said persons diverted the business of the Corporate Debtor to enrich themselves while being in employment of the Corporate Debtor. The Forensic Report further showed that the Applicant had started a competing business in the name of Aevitas Capital Limited on 27<sup>th</sup> January, 2020, even though he was still bound by non-competing clause of the terms of his appointment which forbade the Applicant from being associated with any competing business for at least 6 months from December 11, 2019. It was also found that Mr. Anurag Seth also used his wife Ms. Ashima Seth's Proprietorship concern in collusion with Mr. Raman Grover and Mr. Amit Jain to divert the income of the Corporate Debtor and misappropriate the funds of the Corporate Debtor. Thus, the Applicant and the said persons have perpetrated a massive fraud upon the Corporate Debtor and abused the high faith reposed by the Corporate Debtor in them. The Applicant and the said persons were

also found to have raised inflated bills in respect of visit to Leh and Ladakh made by them along with family members in the month of June, 2018 for a period of 13 days. All these wrongful actions coincide with the Applicant and the said persons abruptly abandoning the employment of the Corporate Debtor. Thus, there has been a gross misconduct, breach of trust and breach of employment agreement on the part of the Applicant and the said persons. Besides, they have been found guilty of data theft as well as violation of non-competing clause of the employees' contract. Therefore, the salary of the Applicant was withheld pending the revenue audit. In view of the fact that fraud was committed by the Applicant and the said persons, the Corporate Debtor is entitled to recover significant damages for the breaches committed by them and, therefore, question of the Applicant being entitled to any salary does not arise. Therefore, the Applicant is not entitled to any payment nor the claim of the applicant can be treated as a debt, much less an operational debt. Moreover, there is a serious pre-existing dispute between the Applicant and the Respondent. In the end, a prayer for dismissal of the Petition under Section 9 has also been made.

9. The Applicant has filed rejoinder controverting the allegations made in the reply. According to the Applicant the internal Audit Report dated 03.02.2020 and Forensic Audit Report dated 30.11.2020 have been obtained from the Auditors through Profit Audit Agencies which have no sanctity in law and the allegations made therein, cannot be construed as a pre-existing dispute. Moreover, the Audit Report dated 03.02.2020 does not make a reference to the Applicant and the Forensic Audit Report dated 30.11.2020 was commissioned after 22.01.2020 when the Applicant had served under Section 8 demand notice upon the Respondent/Corporate Debtor. The Applicant has further referred to some transcriptions of two recordings of the conversation with one Mr. Sandeep and some of the said persons whereas Mr. Sandeep can be heard threatening that he would not give them relieving and would not allow to work in the industry unless he made his recovery etc.

10. We have considered the contentions raised by the Counsel for the Parties and in the light of the same, we have gone through the record.
11. During the course of arguments, it has been contended by the Counsel for the Petitioner that admittedly, the Petitioner is an employee of the Corporate Debtor since August 1, 2018 when the employment agreement was executed and as per the said agreement, the Petitioner was entitled to an annual gross pay of Rs. 47,36,988/- which comes to Rs. 2,91,730/- per month. It has further been pointed out that the Petitioner tendered his resignation on 11th September, 2019 and also served 3 months' notice, the period of which expired on 10th December 2019. Therefore, the Corporate Debtor was liable to pay the salary of the Petitioner for the period from September 2019 to December 2019 amounting to Rs. 9,69,207/- but has not paid the same despite the fact that the demand notice dated 22nd January, 2020 was issued as required under Section 8 of the Code. Therefore, according to the Counsel for the Petitioner, the Petition under admitted Section 9 deserves to be admitted as the unpaid salary is duly covered under the definition of Operational Debt as per Section 5(21) of the Code.
12. On the other hand, the Counsel for the Respondent/Corporate Debtor has argued that the Petition is without any merit and the same has been filed by suppressing material facts. According to the Counsel for the Corporate Debtor, the Petitioner along with the other employees, namely Mr. Anurag Seth, Mr. Raman Grover, Mr. Amit Jain, Mr. Vikas Puri, Mr. Varun Malhotra, Mr. Rohit Verma and Ms. Nidhi Sharma have been working to the detriment of the Company and has also been found guilty of siphoning off the business of the Corporate Debtor. They have also been found guilty of committing theft of vital data of the Corporate Debtor which they were found using for their personal gains for running a parallel business in competition to the business of

the Corporate Debtor. In this regard, the Counsel for the Corporate Debtor has pointed out that to unearth the irregularities and fraud committed by the Petitioner and some other co-employees, an Audit was got conducted from M/s. an Gindodia & Associates and the said Auditors found irregularities committed by the employees including the Petitioner and keeping in view the gravity involved, also recommended that a Forensic Audit be got conducted to look into the matter and ascertain the wrongful acts of the delinquent employees. The Counsel for the Corporate Debtor further pointed out that a Forensic Audit was got conducted from M/s FTI Consulting which has given its report, i.e., Final Forensic Report annexed as Exhibit-25 with the reply wherein the irregularities and violations committed by the Petitioner and the other employees have been highlighted. According to the Counsel for the Corporate Debtor, the resignation was submitted by the Petitioner as well as the other employees involved in the fraud as they were aware that a probe was being conducted by the Auditors and eventually their misdeeds would come to the fore. The Counsel for the Corporate Debtor/Respondent has further pointed out that from the Auditor's Report and other record attached with the written reply, it becomes evident that the Corporate Debtor has no liability towards the Petitioner much less payment of the salary considering the egregious nature of the fraud committed by the Petitioner and the other employees. Therefore, there is definitely a pre-existing dispute with regard to the fact as to whether or not, the Petitioner is entitled to any salary or anything in lieu of the salary and that being so the Petitioner under Section 9 of the Code cannot be maintained and is liable to be dismissed. In support of this contentions, the learned Counsel for the Respondent relied upon *Mobilox Innovations Private Limited Vs. Kirusa Software Private Limited, (2018) 1 SCC 353* whereby it has been held by the Hon'ble Supreme Court that all that the Adjudicating Authority is to see at the stage of admitting/rejecting the Application under Section 9 of the Code as to whether there is a plausible contention which requires investigation

and that 'the dispute is not abundantly feeble legal argument or an assertion of fact not supported by an evidence'.

13. Broadly speaking, it has not been disputed by the Corporate Debtor that the Petitioner has been in its employment since April, 2018, when he joined the Respondent/Corporate Debtor as Consultant and was eventually appointed as its employee on 1<sup>st</sup> August, 2018. It has also been admitted in the reply that since April, 2018, the Applicant was paid an aggregate of Rs. 1,05,57,000/-. In Para No. 30 of the reply filed by the Respondent/Corporate Debtor, it has further been admitted that no remuneration was paid to the Applicant from 1<sup>st</sup> September, 2019 till December, 2019 and in this regard, no protest was made by the Applicant till second week of December 2019. However, it has been admitted that the Applicant has been in employment of the Respondent from 1<sup>st</sup> September, 2019 till the second week of December 2019.
  
14. In order to justify the non-payment of the salary which is covered under the definition of the Operational Debt as given under Section 5(21) of the Code, the Respondent/Corporate Debtor has tried to set up a defence of a pre-existing dispute. In this regard, it has been alleged on behalf of the Respondent/Corporate Debtor that the Applicant along with the said persons have been indulging in several illegal activities which included data theft, data deletion, engaging in competing business, making investments in competing businesses, personal profiteering and violation of the terms of employment and by doing so, the Applicant and the said employees have caused loss of business and revenue to the Corporate Debtor for which they are accountable to the Corporate Debtor and that being so, unless and until, the allegations against the Applicant and the said persons are not properly investigated and ascertained to quantify the loss caused by them to the Corporate Debtor which would ultimately be set off/adjusted against the salary demanded by the Applicant, it cannot

be said that the Company owes any Operational Debt to the Applicant or to the said persons who have also filed similar Application under Section 9 of the Code. In this regard, it has also been pointed out on behalf of the Respondent/Corporate Debtor that to unearth the misdeeds and the irregularities committed by the Applicant and the said persons, initially an audit was got done from M/s Gindodia & Associates and subsequent to that, a Forensic Audit was also got conducted and in these Reports, the misconduct and the irregularities committed by the Applicant and the said persons have been established to a great extent.

15. In our considered view, the entire defence raised by the Respondent/Corporate Debtor in this case hinges upon the Audit Report of M/s Gindodia & Associates which is in Exhibit-10 and the Forensic Audit Report in Exhibit-25 conducted by FTI Consulting. We have tried to minutely peruse the Audit Reports. In the Report, Exhibit-10, prepared by M/s Gindodia & Associates, no specific allegation has been made against the Applicant or the said persons. In Para 12 of the Report, it has simply been observed that 'there are chances of a revenue leakages on the basis of non-cooperation in providing date by the Team, fall in revenue compared to last year. The Auditors also recommended to the Board of Directors of the Corporate Debtor to get the matter further investigated to ascertaining the fall in revenue to strengthen the process and to create maker checker system. It is also observed in the report that due to specialized and technical nature of the business and complex system of software, it required technical knowledge and, therefore, a special audit be got done. Thus, there is no specific attribution of any wrong doing to the Applicant or the said persons in the Audit Report of M/s Gindodia and Associates.

16. Secondly, the Respondent/Corporate Debtor has relied upon the Report in Exhibit 25 conducted by FTI Consulting, Report Exhibit R

dated 25.10.2020 submitted by FTI Consulting which is a voluminous Report running into many pages. However, at the end of the report, some observations have been made against the applicant and the said persons who have been alleged to be operating in collusion with each other to cause benefit to themselves and further that they have been working against the interests of the Respondent Company and thereby causing loss of revenue to it. So far as the Applicant, Mr. Sumeet Arora is concerned, the observations against the Applicant are that he committed theft of data. In this regard, it has only been pointed out that on 16<sup>th</sup> October, 2018 and 25<sup>th</sup> August, 2019, the Applicant e-mailed from his official ID to Personal ID. However, the contents of the email and the documents sent through the e-mails have not been attached nor anything else has been explained as to how it caused any prejudice or financial loss to the Corporate Debtor or what data was transferred. Thereafter, it is insinuated against the Applicant that he purchased shares worth of Rs. 5,01,348 of M/s Datair Technology and he was shown to be a shareholder in the said Company as on 31<sup>st</sup> March, 2019, but no pre-approval of such investments were taken from the Corporate Debtor. It is further observed that Applicant, Mr. Sumeet Arora, being a Director of the Corporate Debtor, failed to report such investments in the competing business. It has not been explained in any manner as how the interest of the Corporate Debtor was affected with acquisition of shares by the Applicant of M/s Datair Technology. Apart from this, it has also been observed in the Report that the Applicant, Mr. Sumeet Arora along with few custodians and his family members collectively held shares aggregating to 10% of the money invested by a large client of the Corporate Debtor in M/s Datair Technology Private Limited. Again, in this regard, no record has been produced nor any detail of the other persons along with whom the Applicant held shares aggregating to 10% of the said company has been mentioned/explained in the Report.

17. There is another observation in the Report against the Applicant, Mr. Sumeet Arora that as per his employment terms and conditions, he was not to engage in any competing business nor engage in any business as per non-competing clause of the terms of his employment. However, the Applicant as well as Mr. Anurag Seth and Mr. Raman Grover were found to be Director and shareholders of Aevitas Capital Private Limited as on 31<sup>st</sup> March, 2019. Information in this regard seems to have been collected from MCA website wherein the objectives of the said Company is stated to be to act as an Investment Consultant/Advisor. Apart from whatever was available on the MCA website, no further evidence is shown to have been collected by the Forensic Auditors to substantiate the allegation that the Applicant or his alleged accomplices have been indulging in a competing business being Directors and Shareholders of Aevitas Capital Private Limited.
  
18. There is further an observation in the Forensic Report that through an e-mail dated 12<sup>th</sup> November, 2018, the Applicant, Sumeet Arora e-mailed holding statements one of the client of the Corporate Debtor. Again, it is not mentioned as to whom the said email was addressed and how it affected the Corporate Debtor adversely. Apart from that, it has been observed that the discussions with the management of the Corporate Debtor revealed that Applicant, Sumeet Arora had taken power of attorney in his individual capacity from various clients of the Corporate Debtor. However, no such power of attorney has been attached with the Forensic Report. If such power of Attorneys were obtained by the Applicant, the same would have been in the records of the Company of the Corporate Debtor and could have been attached with Report. Therefore, the allegations made in the shape of observations in the Forensic Audit Report do not appear to have been even, prime facie, substantiated. Here one cannot be oblivious of the fact that the Audit Team was engaged by the Respondent/Corporate Debtor itself and it was not an independent investigating agency. Even otherwise, as highlighted above, only allegations have been made and

no documentary proof or evidence seems to have been collected by the Forensic Audit Team. Therefore, on the basis of the Report in Exhibit-25, it cannot not be said that there was a pre-existing dispute with the Applicant on the basis of which the non-payment or withholding of the salary of the Applicant/Operational Creditor on the part of the Corporate Debtor could be justified. Rather, it emerges that the Applicant remained in employment of the Corporate Debtor right from September, 2010 to December, 2010 and had also issued 3 months advance notice to the Corporate Debtor. Thus, the Applicant was entitled to receive Rs. 9,69,207/- from the Corporate Debtor on account of salary/Operational Debt

19. Therefore, in our considered view, the petition deserves to be **admitted** and it is ordered accordingly in the following terms.

**ORDER**

- A. The above Company Petition No. (IB) 554 of 2020 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Quant Capital Advisors Private Limited.**
- B. Since the Operational Creditor has not suggested the name of IRP to perform the duties of the Interim Resolution Professional (IRP) in the petition, this Bench is appointing the IRP from the list furnished by the Insolvency and Bankruptcy Board of India (IBBI). This Bench hereby appoints **Mr. Vijay Kumar Kulshrestha**, Insolvency Professional, Registration No: IBBI/IPA-003/IP-N00253/2019-2020/12905, having Email id- kulshrestav55@gmail.com and contact number- 9920711156 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- C. The Operational Creditor shall deposit an amount of Rs. (2) Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in

favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only towards expenses and not towards his fee till his fee is decided by COC.

- 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 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; 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 Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.
- K. Accordingly, the **C.P.(IB) 554 of 2020** is admitted.
- L. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

**ANURADHA SANJAY BHATIA**  
**MEMBER (TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER**  
**MEMBER (JUDICIAL)**