

NATIONAL COMPANY LAW TRIBUNAL
COURT NO. V, MUMBAI BENCH
Company Petition No. 434/(IB)-MB-V/2024

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

In the matter of

Billionaire Hospitality Services Pvt. Ltd.,

45, Mittal Chambers) Rajni Patel Marg, Nariman Point, Mumbai - 400021.

.... Petitioner/Financial Creditor

Vs.

S V Distributors Private Limited,

Unit No. 228) Keytuo Industrial Estate, Kondivita Road) Andheri East, Mumbai - 400059.

...Corporate Debtor/Respondent

Order Delivered On: 19.07.2024

Coram:

Hon'ble Reeta Kohli, Member (Judicial)

Hon'ble Madhu Sinha, Member (Technical)

Appearance through VC/Physical/Hybrid Mode:

For the Petitioner : Adv. Ryan D'Souza (PH)

For the Respondent : Adv. Harshavardhan G. Khambete (PH)

ORDER

1. The case of the Petitioner is that an amount of Rs. 2.94 Crores is due to them and the date of default is stated to be 08.01.2024. The Ld. Counsel for the Petitioner has drawn our attention to the Loan Agreement dated 07.06.2019 between the Petitioner and the Respondent wherein the Respondent already some of revision of Rs. 1,93,20,000/- and the rate of interest is stated to be 18% per annum and the duration of the loan was stated to be payable on demand (after giving a three days' notice). The case of the Petitioner further is that vide letter dated 05.01.2024, the demand was raised upon the Respondent to repay the loan amount which the Respondent failed to repay and hence the date of default is of 08.01.2024. The Ld. Counsel further submitted that another default notice dated 06.02.2024 was sent to the Respondent and the Respondent failed to respond to any of the notices, nor the stated amount has been paid. After adding the interest, the amount claimed through this petition is Rs. 2,94,57,410/-.
2. On the other hand, the case of the Respondent is that due to the Covid-19, the company has been doing no business and they are not in a position to repay the debt. There is no other reason provided for non-payment of debt. The Respondent further stated that the present petition has been filed by mis-using the IBC and it

is nothing but recovery process which the Petitioner is using to get back the amount. The case of the Respondent is that the outstanding claims can at best said to be a delayed claim and that presently they are not in a position to repay the same.

3. After having heard the Ld. Counsel for the parties at length and on perusal of the documents which is placed on record, it is an admitted case that the above stated sum is due from the Respondent/Corporate Debtor. The Respondent's reply and also during the course of the argument, the Respondent has not disputed the stated due amount. The case of 'Debt' and 'Default' is thus established.
4. In view of the above stated, we are left with no other option to admit the petition with the following order:

ORDER

- a. The above Company Petition No. (IB) 434 (MB)/2024 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **S V Distributors Private Limited** under IBC, 2016.
- b. This Bench hereby appoints Mr. Manoj Kumar Agarwal, having Email Id: ipmanoj.agarwal@gmail.com, Insolvency Professional Registration No: IBBI/IPA-001/IP-P00714/2017-2018/11222, having Mobile No. 9820007825 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

- c. The Financial 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 of the IBC, as the case may be.
- h. That the public announcement of the corporate insolvency resolution process (CIRP) 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, this Petition is **admitted**.
- l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-
MADHU SINHA
Member (Technical)

Sd/-
REETA KOHLI
Member (Judicial)

Shubham