

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

CP(IB)/99/MB-IV/2024

Under Section 7 of the IBC, 2016

In the matter of

RELIANCE COMMERCIAL FINANCE LIMITED
[CIN: U66010MH2000PLC128301]

... Financial Creditor

v/s.

ARION MOVIE PRODUCTIONS PRIVATE
LIMITED
[CIN: U74110MH2018PTC317458]

...Corporate Debtor

Order Delivered on 19.07.2024.

Coram:

Ms. Anu Jagmohan Singh
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Financial Creditor:

Mr. Siddha Pamecha i/b
Thodur Law Associates, Ld.
Counsel.

For the Corporate Debtor:

None Appeared.

The present Company Petition is filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 by Reliance Commercial Finance Limited ("Financial Creditor") in the matter of Arion Movie Productions Private Limited Corporate Debtor") for default totalling Rs. 459,75,09,234/ (Principal amount is Rs. 187,50,00,000/- plus interest amounting to Rs. 134,06,66,289/-as on 31.08.2023, plus penal interest as per the terms of the loan agreement amounting to Rs. 138.18.42.945/-as on 31.08.2023) The date of default as specified in Part IV of the petition are as follows:

Sr. No	Loan Amount (in Rs.)	Date of default
1	Rs. 202,39,00,000	01.12.2019
2	Rs.200,00,00,000	01.03.2020

Submissions of the Financial Creditor:

1. The Financial Creditor formerly known as Reliance Gilts Limited, was incorporated on 17.08.2000 with the Registrar of Companies (RoC). Maharashtra, Mumbai Subsequently, on May 21, 2009 the Financial Creditor was registered as a Non- Banking Financial Institution with Reserve Bank of India, as defined under Section 45- IA of the Reserve Bank of India Act, 1934, Certificate of Registration No. N-13.01933.

1.1. The Corporate Debtor entered into Faciling com Hypothecation Agreement dated 11.12.2018 and 25.03.2019 and executed other documents with RHFL

- 1.2. The Corporate Debtor acknowledged the debt owed to Financial Creditor by giving Balance Confirmation dated 30.09.2021 for an amount of Rs. 330,29,88,686/-including interest.
- 1.3. That later on, RHFL got in financial stress, the loan advanced by RHFL, alongwith all rights and securities was assigned to the present Financial Creditor by way assignment deed dated 31.03.2023
- 1.4. In view of the said circumstances, the Financial Creditor now claims the Principal amount of Rs. 187,50,00,000/-plus interest as per the terms of the loan agreement dated 11.12.2018 and 25.03.2019 amounting to Rs. 134,06,66,289/- as on 31.08.2023, plus penal interest as per the terms of the loan agreement 11.12.2018 and 25.03.2019 amounting to Rs. 138,18,42,945/-as on 31.08.2023. Hence, the Financial Creditor claims Rs 459,75,09,234/-, as the total amount of debt from the Corporate Debtor.
- 1.5. It is further, submitted that the Corporate Debtor has not paid a single penny to the Financial Creditor or RHFL, for the amount of loan disbursed In view of the same, the Financial Creditor is filing the instant petition against the Corporate Debtor

Submissions of the Corporate Debtor:

2. The Corporate Debtor submits that, Financial Debt arises out of a working capital loan facility extended to Corporate Debtor by one entity viz. Reliance Home Finance Limited (RHFL), who has disbursed working loan facilities, vide Sanction Letters and Facility com Hypothecation Agreement in following manner

a) Rs. 202,39,00,000/- (Rupees Two Hundred and Two Crores And Thirty Nine Lakhs Only) vide sanction letter dated 11.12.2018.

b) Rs. 200,00,00,000/- (Rupees Two Hundred Crome Only) vide Santine letter dated 25.03.2019

3. That due to certain unforeseen and unexpected circumstances owing to the downturn in the business environment which was further compounded by the world wide Covid-19 Pandemic, the Corporate Debtor faced severe financial stress and liquidity crunch due to which it was unable to repay the aforementioned working capital loan facilities extended Reliance Home Finance Limited (RHFL). However there was no deliberate intention on the part of the Corporate Debtor to default on repayment and in fact Corporate Debtor not only made repayments toward loan amounts the Rs. 201,89,00,000/ was repaid on 19.03.2019 and further Rs 13 crores was repaid on 04.04.2020 but Corporate Debtor made several efforts to negotiate a settlement with Reliance Home Finance Limited but the same did not materialise.
4. That the present Petition has in fact been filed by Reliance Commercial Finance Limited which is an entirely distinct entity from Reliance Home Finance Limited and on this ground alone the above Petition deserves to be dismissed with costs.
5. That there is no privity of Contract between the Corporate Debtor and the Financial Creditor insofar as the loans advanced by the RHFL to the Corporate Debtor.

6. That in respect of the loan facilities advanced by the Financial Creditor to Corporate Debtor, the same is barred by limitation.

Findings

7. This bench has perused the documents and pleadings available on record and considered the arguments of both the sides.

7.1. This bench sought clarification regarding the details of Financial Debt owed by the Corporate Debtor and the date of default committed by the Corporate Debtor Pursuant to which the Financial creditor filed an Additional Affidavit to clarify the same. The date of default to be considered 11.12.2019 for the following reasons

- a. The GPCL Loan of INR 202,39,00,000/- was granted on December 11 2018(Page 35 of the Petition).
- b. As per the terms of the said Loan, the same was granted for 12 Months and was to be repaid by Bullet Payment of Principal and Interest at the end of 12 Months
- c. The terms are further mentioned in the First Schedule to the Loan Agreement dated December 11, 2018 at page 118 of the Petition 2

Thus, in view of the terms of the said loan, the date of default will be 11.12.2019, however inadvertently the date of default in part IV of the application at page 11 is mentioned as 01.12.2019. In the circumstances it is

humbly prayed that for the purpose of present application the date of default may be considered as 11.12.2019.

8. The following facts are not in dispute

8.1. Based on the documents placed on record it is clearly evident, that the Corporate Debtor acknowledged its liability in respect of dues payable to the Financial Creditor. The Corporate Debtor acknowledged the debt owed to Financial Creditor by giving Balance Confirmation dated 30.09.2021 for an amount of Rs. 330,29,88,686/- including interest. Further, the Balance Confirmation is clearly signed by Mr Laxminarayan Ramlal Sharma, who is listed as a director of the Corporate Debtor on the master data of the Corporate Debtor maintained on the website of MCA. Further, the Corporate Debtor has acknowledged the Financial Debt in its Balance Sheet for the year ending 31.03.2021. Therefore, this bench is of the considered view that the Corporate Debtor has not disputed the loan facility which was provided by the Financial Creditor and this itself shows that debt is established and there is an admission of liability on part of the Corporate Debtor.

9. The Corporate Debtor further contented that the present petition is barred by limitation. Based on the documents placed on record the Balance Confirmation dated 30.09.2021 will lead to admission of liability on part of the Corporate Debtor, accordingly a fresh period of limitation will be computed same. Considering the aforesaid the limitation period stands extended. The captioned petition is therefore fit for admission. Therefore, this bench is of the considered view that plea raised by the Corporate Debtor has no substance and finds no merits in the contentions of the Corporate Debtor.

10. We are of the considered view that the present Application under Section 7 of the Code is within the limitation and is maintainable. It is a settled law that the pre-requisites for an application under Section 7 of the Code are the existence of 'financial debt ' and a 'default' . The Corporate Debtor owes the Financial Debt in excess of Rs.1 Crore, which is in default, this bench is of the view that in such circumstances, it is imperative that the Corporate Insolvency Process be initiated in the matter of the Corporate Debtor. The petition is complete in all aspects. In the light of the above facts and circumstances, the existence of debt and default is reasonably established by the Applicant as a major constituent for admission of the Application under Section 7 of the Code.

ORDER

11. The Petition bearing CP (IB) No.99/MB-IV/2024 filed under section 7 of the Insolvency & Bankruptcy Code, 2016 (IBC) by Reliance Commercial Finance Limited ("Financial Creditor") seeking initiation of Corporate Insolvency Resolution Process (CIRP) in the matter of Arion Movie Productions Private Limited ("Corporate Debtor") is Admitted.

- a) There shall be a moratorium under section 14 of the IBC, in regard to the following:
 - (i) 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;
 - (ii) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

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- (iii) 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;
- (iv) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- (c) Notwithstanding the above, during the period of moratorium, -
- (v) 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;
- (vi) That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;
- (d) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.
- (e) Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

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- (f) The bench hereby appoints **TRUUE IPE PRIVATE LIMITED**, an Insolvency Professional registered with Indian Institute of Insolvency Professionals of ICAI having registration number **IBBI/IPE-0151/IPA-1/2023-24/50052** and email- **jain_cp@yahoo.com**. He is appointed as IRP for conducting CIRP of the Corporate Debtor and to carry the functions as mentioned under IBC, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard. The IRP shall carry out functions as contemplated by Sections 15,17,18,19,20,21 of the IBC.
- (g) During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (h) The Financial Creditor shall deposit a sum of Rs.5,00,000/- (Rupees Five lakh only) with the IRP to meet the initial CIRP cost, if demanded by the IRP to fund initial expenses on issuing public notice and inviting claims. The amount so deposited shall be interim finance and paid back to the applicant on priority upon the funds available with IRP/RP. The expenses, incurred by IRP out of this fund, are subject to approval by the Committee of Creditors (CoC).
- (i) The Registry is directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.

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- (j) A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court **within seven days** from the date of receipt of a copy of this order.

Sd/-

ANU JAGMOHAN SINGH
MEMBER (TECHNICAL)
19.07.2024.

Sd/-

KISHORE VEMULAPALLI
MEMBER (JUDICIAL)