

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II**

C.P. (IB) 111/MB/2024

Under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016)

In the matter of

Reliance Commercial Finance Limited

Having address at : The Ruby, 11th Floor, North-West Wing, Plot No. 29, Senapati Bapat Marg, Dadar (West), Mumbai- 400028

..... Petitioner/Financial Creditor

Versus

Edrishti Movies Private Limited

Having address at: - Manek Mahal, 6th Floor, 90 Veer Nariman Road, Churchgate, Mumbai- 400020

..... Respondent/Corporate Debtor

Order Delivered on :- 08.07.2024

Coram:

Mr. Anil Raj Chellan
Member (Technical)

Mr. Kuldip Kumar Kareer
Member (Judicial)

Appearances:

For the Financial Creditor : Adv. Siddha Pamecha a/w Nehal Rajput

For the Corporate Debtor : Adv. Yashwnt Dhanegave a/w
Adv. Harshvardhan Borse

ORDER

Per: - Mr. Kuldip Kumar Kareer, Member (Judicial)

1. The present petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "IBC") by **Reliance Commercial Finance Limited** (hereinafter called as "Financial Creditor") praying inter-alia for initiation of Corporate Insolvency Resolution Process (CIRP) against **Edrishti Movies Private Limited** (hereinafter called as "Corporate Debtor") by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code (hereinafter called "the Code") for resolution of an unresolved Financial Debt of Rs. 804,26,20,805/- (Rupees Eight Hundred Four Crore Twenty Six Lakh Twenty Thousand Eight Hundred Five Only).

The submissions of the Financial Creditor are as follows:

2. The Financial Creditor, formerly known as Reliance Gilts Limited, was incorporated on August 17, 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 45-1A of the Reserve Bank of India Act, 1934 vide Certificate of Registration No. N-13.01933.

3. It is submitted that the Financial Creditor advanced loan for working capital facility to the Corporate Debtor vide Sanction letters dated December 7, 2018; February 7, 2019 and February 20, 2019 for an amount of Rs. 35,00,00,000/- (Rupees Thirty Five Crore Only), Rs. 50,00,00,000/- (Rupees Fifty Crore Only) and Rs. 40,00,00,000/- (Rupees Forty Crore Only) respectively aggregating to Rs. 125,00,00,000/- (Rupees One Hundred and Twenty Five Crore Only) at an interest rate of 13.50% per annum. In view of the same, the Corporate Debtor entered into Facility cum Hypothecation Agreements dated December 7, 2018, February 7, 2019 and February 20, 2019 and also executed other documents with Financial Creditor.

4. It is further submitted that the Reliance Home Finance Limited ("RHFL") was incorporated on June 5, 2008 and is registered with National Housing Bank as Housing Finance Institution as per Certificate of Registration No. 07.0101.12 dated July 16, 2012 (Original Certificate of Registration No. 02.0069.09 dated January 6, 2009). RHFL advanced loan for working capital facility to the Corporate Debtor vide Sanction letters dated November 26, 2018 and December 6, 2018 for an amount of Rs. 120,00,00,000/- (Rupees One Hundred and Twenty Crore Only) and Rs. 80,96,00,000/- (Rupees Eighty Crore and Ninety Six Lakh Only) respectively aggregating to Rs. 200,96,00,000/- (Rupees Two Hundred Crore and Ninety Six Lakh Only) at an interest rate of 13.50% per annum. Accordingly, the Corporate Debtor entered into Facility cum Hypothecation Agreement dated November 26, 2018 and December 6, 2018 and executed other documents with RHFL.

5. It is submitted that later on, RHFL got into a financial stress and pursuant to the Resolution Plan implemented in terms of the RBI Circular No. RBI/2018-19/203, DBR.No.BP.BC.45/21.04.048/2018-19 dated June 7, 2019 on Prudential Framework for Resolution of Stressed Assets and the order of Hon'ble Supreme Court of India dated March 3, 2023, the Financial Creditor acquired the Business Undertaking of RHFL on a slump sale and going concern basis. The loans advanced by RHFL along with all rights and securities attached thereto were assigned to the Financial Creditor by way assignment deed dated March 31, 2023. Thus, in all, the Corporate Debtor owes Rs. 325,96,00,000/- Rupees Three Hundred Twenty Five Crore And Ninety Six Lakh Only) to the Financial Creditor.
6. It is submitted that, before acquiring RHFL, the Financial Creditor sent Demand Notice via Registered Post dated February 5, 2021 and requested the Corporate Debtor to make the outstanding payment of the debt due. However, no response was received from the side of the Corporate Debtor. But the Corporate Debtor acknowledged the debt owed to Financial Creditor by giving Balance Confirmation dated September 30, 2021 for an amount of Rs. 216,51,70,548/- (Rupees Two Hundred Sixteen Crore Fifty One Lakh Seventy Thousand Five Hundred And Forty Eight Only), including interest.
7. It is further submitted that the Corporate Debtor also acknowledged the debt owed to RHFL by giving Balance Confirmation dated September 30, 2021 for an amount of Rs. 362,69,86,696/- (Rupees Three Hundred Sixty Two Crore Sixty Nine Lakh Eighty Six Thousand Six Hundred And Ninety Six Only) including interest. Hence, the Corporate debtor has acknowledged the total amount of Principal debt and interest debt of Rs. 579,21,57,244/- (Rupees Five Hundred Seventy Nine Crore Twenty One Lakh Fifty Seven

Thousand Two Hundred And Forty Four Only) as on September 30, 2021 respectively, which is liable to be paid to the Financial Creditor. Before the assignment of loan to the Corporate Debtor, RHFL had also sent a Loan Recall Notice/Termination of Agreement Notice via Registered Post dated November 30, 2021 and requested the Corporate Debtor to make the outstanding payment. However, no response was received from the side of the Corporate Debtor.

8. It is submitted that the Financial Creditor, on August 3, 2023, sent a Loan Recall Notice/Termination of Agreement Notice via Registered Post and requested the Corporate Debtor to make the outstanding payment but the Corporate Debtor failed to give any response. In view of the aforesaid circumstances, it is submitted that there is due, owing and payable Principal amount of Rs. 325,96,00,000/- (Rupees Three Hundred Twenty Five Crore And Ninety Six Lakh Only) which the Corporate Debtor has defaulted to pay despite demands for payment by the Financial Creditor.
9. It is further submitted that the Financial Creditor claims Interest on the outstanding Principal amount calculated @ 13.50% per annum at Rs. 206,29,29,600/- (Rupees Two Hundred Six Crore Twenty Nine Lakh Twenty Nine Thousand Six Hundred Only) from due date, as per the terms of the Loan Agreement dated November 26, 2018; December 6, 2018; December 7, 2018; February 7, 2019 and February 20, 2019 till the Principal amount is paid and liquidated in full.
10. It is submitted that the Financial Creditor also claims Penal Interest on the outstanding Principal amount calculated @ 22.50% per annum at Rs. 272,00,91,205/- (Rupees Two Hundred Seventy Two Crore Ninety One

Thousand Two Hundred and Five Only) from due date, as per the terms of the Loan Agreement dated November 26, 2018; December 6, 2018; December 7, 2018; February 7, 2019 and February 20, 2019 till the Principal amount is paid and liquidated in full. Therefore, this Company Petition has been filed for commencement of CIRP against the Corporate Debtor. Hence the Petition.

Reply filed on behalf of the Corporate Debtor:-

11. In reply, the Corporate Debtor has denied all allegations and/ or contentions and/or submissions made by the Petitioner in the Petition which are inconsistent with and/or contrary to what has been stated herein. Further, nothing shall be deemed to have been admitted for the reasons of non-traverse. The Corporate Debtor states that no part of the Petition and the Affidavit in Support therein should be deemed to be admitted for want of specific traverse.
12. It is submitted that the Corporate Debtor Company is a Private Limited Company registered under the Companies Act, 2013 and is engaged in the business of Film production and distribution
13. It is further submitted that the present Petition has been filed in respect of a Financial Debt of Principal amount of Rs. 325,96,00,000/- (Rupees Three Hundred And Twenty Five Crores and Ninety Six Lakhs Only), plus interest as per the respective agreements which is amounting to Rs. 206,29,29,600/- (Rupees Two Hundred And Six Crore Twenty Nine Lakh Twenty Nine Thousand Six Hundred Only), plus penal interest which is amounting to Rs.272,00,91,205/- (Rupees Two Hundred Seventy Two Crore Ninety One

Thousand Two Hundred And Five Only) up to August 31, 2023. Hence, the total amount of Financial debt is Rs.804,26,20,805/- (Rupees Eight Hundred And Four Crore Twenty Six Lakh Twenty Thousand Eight Hundred And Five Only).

14. It is submitted that out of above-mentioned Financial Debt, the Financial Creditor (formerly known as Reliance Gilts Ltd.) has advanced the following working loan facilities which were extended/disbursed by Financial Creditor, vide Sanction Letters and Facility cum Hypothecation Agreement of the same date in following manner :-
- a. Rs. 35,00,00,000/- (Rupees Thirty Five Crore Only) vide Sanction Letter and Facility cum Hypothecation Agreement dated December 07, 2018.
 - b. Rs. 50,00,00,000/- (Rupees Fifty Crore Only) vide Sanction letter and Facility cum Hypothecation Agreement dated February 07, 2019.
 - c. Rs. 40,00,00,000/- (Rupees Forty Crore Only) vide Sanction letter and Facility cum Hypothecation Agreement dated February 20, 2019.
15. It is further submitted that apart from the above stated facilities, the entity viz. Reliance Home Finance Limited has advanced working loan facilities extended/disbursed by Financial Creditor, vide Sanction Letters and Facility cum Hypothecation Agreement in following manner :-
- a. Rs. 120,00,00,000/- (Rupees One Hundred And Twenty Crores only) vide Sanction Letter dated 26/11/2018.
 - b. Rs. 80,96,00,000/- (Rupees Eighty Crore and Ninety Six Lakh Only) vide Sanction letter dated 06/12/2018.

16. It is submitted that due to certain unforeseen and unexpected circumstances owing to the downturn in the media business space 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 by Financial Creditor and Reliance Home Finance (RHFL). However, there was no deliberate intention on the part of the Corporate Debtor to default on repayment and, in fact, the Corporate Debtor made several efforts to negotiate a settlement with Financial Creditor and Reliance Home Finance Limited but the same did not materialise.
17. It is further submitted that despite the advanced level negotiations between Corporate Debtor, on the one hand, and Financial Creditor and Reliance Home Finance Limited (RHFL), to the shock and surprise of Corporate Debtor, Reliance Home Finance Limited (RHFL) issued loan recall notices dated 30th November 2021 calling upon the Corporate Debtor to pay the outstanding financial debt of Rs. 236,64,03,384/- including other charges due and payable as on 29.11.2021 within seven days of receipt of the said notice. Thereafter, it appears that the said Reliance Home Finance Limited has executed an assignment deed dated 31st March 2023 pursuant to which the subject loan facilities extended by Reliance Home Finance Limited to Corporate Debtor along with all its rights and securities attached thereto was assigned to the Petitioner i.e. Financial Creditor without any intimation to the Corporate Debtor.
18. It is submitted that the three working capital loan facilities extended by the Financial Creditor to the Corporate Debtor are barred by limitation inasmuch

as the relevant dates of default in respect of the said three loan facilities are 25/12/2019, 25/02/2020 and 25/02/2020 and the present petition has been filed beyond the period of limitation of three years in respect of the said three loan facilities extended by Financial Creditor. It is further submitted that with a view to make up for the lacunae in limitation, it appears that Financial Creditor on the basis of Deed of Assignment dated 31st March 2023 executed in respect of loan facilities extended by RHFL to the Corporate Debtor has issued loan recall/termination notice dated 03.08.2023 in respect of consolidated outstanding amount of Rs. 842,478,767.12/- which included the three loan facilities extended by Financial Creditor to Corporate Debtor which are barred by limitation and also the three loan facilities extended by RHFL on the basis of deed of assignment dated 31" March 2023 which was executed without consent or intimation to the Corporate Debtor.

19. It is further submitted that in view of what is stated hereinabove, it is submitted that there is no privity of contract between the Corporate Debtor and Petitioner/ Financial Creditor insofar as the loans advanced by Reliance Home Finance Limited to the Corporate Debtor are concerned for the following reasons:
 - a. That the Petitioner in present case seeks to initiate CIRP against the Corporate Debtor in respect of the loans advanced by Reliance Home Finance Limited to the Corporate Debtor on the ground that Reliance Home Finance Limited has executed an assignment deed dated 31st March 2023 pursuant to which the subject loan facilities extended by Reliance Home Finance Limited to the Corporate Debtor along with all its rights and securities attached thereto stand assigned to the Petitioner i.e. Financial Creditor.

- b. It is pertinent to note that the consent of the Corporate Debtor in respect of the said assignment was not obtained and as such the Corporate Debtor has privity of contract only with Reliance Home Finance Limited and not with the present Financial Creditor who claims to have acquired the said Reliance Home Finance Limited in respect of the three working capital loan facilities and as such the Corporate Debtor is not liable to pay the subject financial debt in respect of RHFL to the present Petitioner.
- c. Furthermore, it is pertinent to note that in respect of the three loan facilities advanced by the Financial Creditor to the Corporate Debtor, the same is admittedly barred by Limitation inasmuch as the dates of default in respect of the said three working capital facilities as per the own case of Financial Creditor are 25/12/2019, 25/02/2020 and 25/02/2020 respectively.

20. In the end, the Corporate Debtor has prayed for the dismissal of the Petition.

Analysis and Findings:-

21. We have heard the Counsel for the parties and gone through the record.
22. During the course of arguments, it has been contended by the Counsel for the Financial Creditor that the factum of debt and default stands established in this case, which have not been even disputed by the Corporate Debtor in the reply filed by it. It has further been contended by the Counsel for the Financial Creditor that in respect of the facilities granted by the Financial Creditor, the Corporate Debtor acknowledge its liability by virtue of balance confirmation

letter dated 30.11.2021 and, therefore, the Petition is well within the period of limitation. Counsel for the Financial Creditor has further been pointed out that in respect of the facilities originally granted by Reliance Home Finance Limited also, which were subsequently assigned to the Financial Creditor, the Corporate Debtor acknowledged its liability by way of balance confirmation letter dated 30.09.2021. Thus, the entire claim is well within the period of limitation.

23. On the other hand, Counsel for the Corporate Debtor has argued that the Petition is palpably barred by time. Counsel for the Corporate Debtor has further argued that even otherwise the assignment deed dated 31.03.2023 whereby Reliance Home Finance Limited is said to have assigned the loan facilities to the Financial Creditor, is also not valid and binding upon the Corporate Debtor as no intimation was ever given in respect of the proposed assignment and on this ground also, the Petition is liable to be dismissed.
24. We have weighed the contentions raised by the Counsel for the parties and have also carefully gone through the record.
25. So far as the question of advancement of different loan facilities are concerned, there appears to be not any dispute between the parties. In the reply filed by the Corporate Debtor, it has been admitted that the credit facilities of Rs. 35,00,00,000/-, Rs. 50,00,00,000/- and Rs. 40,00,00,000 were advanced by the Financial Creditor to the Corporate Debtor vide the Sanction Letter cum Hypothecation Agreements dated 07.12.2018, 07.02.2019 and 20.02.2019 respectively. Similarly, in para 6 of the reply, it has further been admitted that the Corporate Debtor was advanced and disbursed the credit facilities of Rs. 120,00,00,000/- and Rs. 80,96,00,000/-

by the entity called Reliance Home Finance Limited vide Sanction Letters dated 26.11.2018 and 06.12.2018 respectively. It has also been stated in the reply that due to unforeseen and unexpected circumstances owing to the downturn in the media business space 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 could not repay the outstanding dues and committed default.

26. So far as the question of limitation is concerned, the Financial Creditor has relied upon balance confirmation letter executed by the Corporate Debtor on 30.09.2021 wherein the liability in respect of the three loans facilities has been admitted and acknowledged. In view of the acknowledgment dated 30.09.2021 (Exhibit K), the loan facilities advanced by the Financial Creditor must be treated to have been filed within the period of limitation. Similarly, in respect of the facilities of Rs. 120,00,00,000/- and Rs. 80,96,00,000/- also, the Corporate Debtor vide letter dated 30.09.2021 acknowledged its liabilities. In view of the above referred acknowledgement letters, it cannot be said that the present Petition is barred by time.
27. So far as the objection raised by the Counsel for the Corporate Debtor that the deed of assignment is not valid on the ground that no intimation was sent to the Corporate Debtor is concerned, Counsel for the Corporate Debtor has not been able to refer to any clause in the assignment deed which might provide that the debt could not be assigned or that the Corporate Debtor was required to be made a party to the assignment deed or that any prior notice of assignment was required to be given to the Corporate Debtor. In these circumstances, the Corporate Debtor cannot be heard harping that the deed

of assignment is not valid or that the debt in question could not have been validly assigned to the Financial Creditor.

28. No other points have been raised by the Counsel for the Corporate Debtor.
29. As a result of above discussion, we hold that the Financial Creditor has been able to establish the existence of financial debt and its default having been committed by the Corporate Debtor and further that the Petition is filed within the period of limitation. Therefore, the Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 deserves to be admitted and it is ordered accordingly in following terms:-

ORDER

- a. **The above Company Petition No. (IB) 111/(MB)/2024 is hereby admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Edrishti Movies Private Limited.**
- b. This Bench hereby **appoints Truee IPE Private Limited, Registration No: IBBI/IPE-0151/IPA-1/2023-24/50052 as the Interim Resolution Professional having his address at D-501, Ganesh Meridian, Opp. High Court, S.G. Road, Ahmedabad, Pin code- 380060, ,Email :- jain_cp@yahoo.com;** to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

- c. The Financial Creditor shall deposit an amount of **Rs. 5,00,000/-** (Rupees Three Lakhs Only) towards the **initial CIRP cost** by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- 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 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 concerned Registrar of Companies, Mumbai for updating the Master Data of the Corporate Debtor.

30. **Accordingly, this Petition is admitted.**

31. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-
ANIL RAJ CHELLAN
(MEMBER TECHNICAL)
Sushil

Sd/-
KULDIP KUMAR KAREER
(MEMBER JUDICIAL)