



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

CP (IB) / 762 (MB) 2024

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

In the matter of

Tricon Infra Buildtech Private Limited

[CIN: U45200PN2006PTC128845]

... Operational Creditor/Applicant

Versus

**XRBLA North Hinjewadi Developers
Private Limited**

[CIN: U45200PN2006PTC128984]

... Corporate Debtor/Respondent

Order Pronounced On 02.01.2025

Coram:

Hon'ble Member (Judicial)	:	Justice V. G. Bisht (Retd.)
Hon'ble Member (Technical)	:	Sh. Prabhat Kumar

Appearances:

For the Operational Creditor	:	Mr. Aditya Sharma, Advocate
For the Corporate Debtor	:	Mr. Jill Rodricks, Advocate.



ORDER

Brief Facts:

1. This Company Petition is filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (“IBC”) by **Tricon Infra Buildtech Private Limited ("hereinafter referred to as Operational Creditor/OC/Applicant")**, seeking to initiate Corporate Insolvency Resolution Process (CIRP) against **XR BIA North Hinjewadi Developers Private Limited ("hereinafter referred to as Corporate Debtor /CD/Respondent")**.
2. The Applicant is incorporated on 03.08.2006 under the Companies Act, 1956, bearing CIN U45200PN2006PTC128845 and has its registered address at 2S3, First Floor, Indrayu Mall, Near Konark Puram, Kondhwa, Pune, Maharashtra, India-411048. The Authorised Share Capital of the Applicant is Rs. 16,50,00,000/- and the paid-up share capital is Rs. 15,43,50,000. The Operational Creditor is engaged in the business of contracting services for building construction. The present Application has been filed through Applicants Authorized Representative namely Mr. Rahul Ananda Shinde.
3. The Respondent is duly incorporated on 29.08.2006 under the Companies Act, 1956. Its CIN is U45200PN2006PTC128984. Its registered office is at Mantri House, 1st Floor, 929, F.C. Road, Pune, Maharashtra, India-411004. The Corporate Debtor is in the business of real Estate development. The Authorised Share Capital of the Respondent is Rs.2,00,00,000/- and the paid-up share capital is Rs.2,00,00,000/-.
4. The Amount claimed to be in default is Rs.1,70,39,217/- (Rupees One Crore, Seventy Lakh, Thirty Nine Thousand, Two Hundred



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Seventeen Only) consisting of Principal amount of Rs.1,12,05,600/- [11250600 in NESL certificate] (Rupees One Crore Twelve Lakh Five Thousand and Six Hundred only) & Interest amount of Rs. 58,33,617/- (Fifty Eight Lakh, Thirty Three Thousand, Six Hundred Seventeen only) as on 31.08.2024. As stated in Part IV of the Petition, the date of default is 01.10.2021.

5. The Applicant has filed Affidavit under Section 9(3)(b) and a copy of the present application has been served to the Insolvency & Bankruptcy Board of India.
6. The holding company of the Corporate Debtor, viz. XRBIA Developers Ltd. has been admitted into CIRP by Court 2 of this bench vide order dated 06.08.2024 in C.P. (IB) 285/MB/2024.
7. Therefore, this Bench has jurisdiction to entertain and decide the Petition.

Submissions of the Applicant:

8. The Corporate Debtor had issued its Service Work Order dated 12.07.2021 in favour of the Applicant for the project Xrbia Riverfront/ Xrbia Hinjewadi Road (Talegaon). The Corporate Debtor issued various Service Work Orders to the Operational Creditor, from time to time, and the Operational Creditor had raised following Invoices upon to Corporate Debtor after execution of said service work order :

Sr. No.	Invoice Date	Invoice no.	Invoice Amount (in Rs.)
1.	15.09.2021	RA01	20,41,400/-



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2.	26.10.2021	RA02	57,70,790/-
3.	23.11.2021	RA03	35,86,610/-
TOTAL AMOUNT = Rs. 1,13,98,800/-			

9. Upon the completion of the work, the Corporate Debtor had issued a Letter of Appreciation dated 11.01.2022 to the Operational Creditor, thanking them for the timely completion of the assigned work as per the work Order.
10. The Operational Creditor continuously followed up with the Corporate Debtor through several reminder letters dated 23.02.2022, 30.07.2022, 30.12.2022, 24.09.2023 & 16.01.2024 regarding the payment of outstanding dues of the Corporate Debtor, which have been duly acknowledged by the Corporate Debtor.
11. The Operational Creditor had sent a balance confirmation letter dated 14.04.2022 to the Corporate Debtor requesting the balance to be confirmed, which was duly confirmed by the Corporate Debtor with its stamp and signature. Thereafter, the Operational Creditor had also sent a balance confirmation letter dated 17.04.2023 to the Corporate Debtor requesting the balance to be confirmed, which was duly confirmed by the Corporate Debtor with its stamp and signature.
12. The Corporate Debtor has acknowledged its debt in the Ledgers of the Operational Creditor on 20.04.2022 & 28.04.2023.
13. Since the Corporate Debtor had failed to pay the outstanding invoices of the Operational Creditor despite repeated reminders, the Operational Creditor sent a Demand Notice dated 12.02.2024 under FORM 3, under Rule 5 of the Insolvency and Bankruptcy Rules, 2016, to the Corporate Debtor to its Registered Address



for repayment of an outstanding amount of Rs.1,59,13,054/- (Rupees One Crore, Fifty Nine Lakh, Thirteen Thousand, Fifty Four Only) consisting of principal amount and interest by the Corporate Debtor to the Operational Creditor which was duly acknowledged by the Corporate Debtor on 14.02.2024.

14. The Corporate Debtor had sent its Reply dated 15.02.2024 to the Demand Notice sent by the Operational Creditor, stating its inability to make the outstanding payments due to its financial crunch and requested for more time to do so. The repayment of the said invoice i.e. debt amount, was due 15 days after issuance of the invoice. The 1st Invoice was issued on 15.09.2021 & the last date for payment of the same was 30.09.2021. Therefore, the date when the default has occurred is 01.10.2021. However, the Corporate Debtor has acknowledged the outstanding debt in the Ledger of the Operational Creditor & has confirmed the said balance in the year 2022 & 2023. Therefore, the same is within limitation.
15. Since the debt stands due, the Applicant has filed the present petition.

Submissions of the Respondent:

16. The respondent has contested the present petition on the following grounds:
 - i. That the Respondent faced irreversible losses, with most of its projects either being stalled or being drained out of money flow during the peak Covid-19 period of 2020 to 2022. As the Corporate Debtor's sole source of earnings were from the development and construction sector, it faced unequivocal number of legal strains and was unable to source its funds from



any loans offered by the Banks or financial institutes to invest in its projects, as the same would be stripped of in the form of interest cuts or reduce in amount disbursement due to restrain in policy factors by the Banks.

- ii. The Corporate Debtor was unable to generate cash flow due to the same. Hence, the Respondent could not pay the default amount back to the Applicant.

Findings:

17. We have heard the submissions of the learned Counsel for the Applicant and Respondent. Perused records.
18. The Corporate Debtor has also placed on record the record of default as registered with the National E-Governance Services Limited and the date of default is stated to be 01.10.2021.
19. The application made by the Applicant is complete in all respects as required by law. It clearly shows that the Respondent is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC, at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority **admits** this Petition and orders initiation of CIRP against the Corporate Debtor.
20. Considering the above facts and circumstances, the Petition bearing **CP (IB) 762/MB/2024** filed by **Tricon Infra Buildtech Private Limited** [CIN: U45200PN2006PTC128845], the Operational Creditor, under section 9 of the IBC read with rule 6(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) against **XRBI North**



Hinjewadi Developers Private Limited [CIN: CIN: U45200PN2006PTC128984], the Corporate Debtor, is disposed as **admitted**.

21. 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;
 - 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 Securitization 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.
22. Notwithstanding the above, during the period of moratorium: -
- i. 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;
 - ii. 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;



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23. The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority 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.
24. 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.
25. The Applicant has proposed the name of **Mr. Sanjay Vijay Jeswani** as the Interim Resolution Professional (IRP). We hence, hereby appoint **Mr. Sanjay Vijay Jeswani** having registration no. **IBBI/IPA-001/IP-P02891/2024-2025/14432**, address at House No. 20-A, New Yashwant Nagar Master Colony, Near Sant Kawaram Bhawan, Hinganghat, Wardha, Maharashtra — 442301 and **email ID jeswanisanjay007@gmail.com**, as the IRP of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.
26. 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.



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27. The Operational Creditor shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
28. The Registry is directed to communicate this Order to the Operational 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.
29. 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.
30. Ordered accordingly.

Sd/-

Prabhat Kumar
Member (Technical)

MK

Sd/-

Justice V. G. Bisht (Retd.)
Member (Judicial)