



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

**RCP (IB) 09/MB/2024 Connected
to CP (IB)/1258 (MB)/2022**

Under Section 7 of the Insolvency and
Bankruptcy Code, 2016.

In the matter of

A.V. Corporation

[Reg. No: MU000010421]

...Financial Creditor/
Applicant
v/s.

Marut Creative Infra Private Limited

[CIN: U45400MH2012PTC238157]

...Corporate Debtor/
Respondent

Order Delivered on: **10.10.2024**

Coram:

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

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances:

For the Financial Creditor:

Mr. Ricky Sampat, Ld. Counsel for
the Financial Creditor.

For the Corporate Debtor:

Mr. Yahya Batatawala, Ld. Counsel
for the Corporate Debtor



ORDER

1. The Present Petition filed has been filed under Section 7 of the Insolvency & Bankruptcy Code, 2016 ((hereinafter referred to as “IBC, 2016”) by **A.V. Corporation** (hereinafter called as “Financial Creditor”) seeking initiation of Corporate Insolvency Resolution Process (“CIRP”) in the matter of **Marut Creative Infra Private Limited** (hereinafter called as “Corporate Debtor”) for the total default of INR.1,85,00,000/- (Indian Rupees One crores, eighty-five lakhs, only), along with the simple rate of interest @ 13% as per the Financial Creditor. The Date of Default, as specified in Part-IV of the present petition, is 01.04.2018.

Submissions of the Financial Creditor

2. The Financial Creditor submits that the Financial Creditor is a Partnership Firm registered under the Indian Partnership Act, 1932 on 19.06.2018 and the Corporate Debtor is a company incorporated on 22.11.2012.
3. That in and around 2016 **Marut Creative Infra Private Limited** (“Corporate Debtor”) approached the Financial Creditor with a request of financial help in the form of interest-bearing loan of INR 1,85,00,000/- (INR One crores, eighty-five lakhs only) *vide* Loan Agreement *dated* 25.03.2017. The Corporate Debtor also executed a Demand Promissory Note dated 31.03.2017 in favour of the Operational Creditor.
4. That in relation to the said loan, the Financial Creditor extended the loan in a single trench repayable after one year with interest.
5. That the Corporate Debtor also promised to provide personal guarantee but it never came forth. Financial Creditor further submits that owing to Corporate Debtor’s defaults in re-payment of the outstanding amount disbursed under the



said loan Financial Creditor issued a Demand Letter seeking forthwith repayment of the outstanding amount along with the simple rate of interest @ 13%, but the same was not repaid by the Corporate Debtor. The Corporate Debtor replied to the said demand letter on 10.04.2018 requesting time to repay the outstanding amount and sought waiver for issuance of personal guarantee in favour of the Financial Creditor.

6. That the Financial Creditor sent another demand letter dated 10.04.2019 for repayment of the said loan amount and further on 06.05.2022 and 17.08.2022 issued legal notices to the Corporate Debtor for the same.
7. That the Corporate Debtor has acknowledged its liability in respect of dues payable to the Financial Creditor and also gave Confirmation of Accounts in the books of the Financial Creditor for the period for 01.04.2021 to 31.03.2022 on 25.06.2022.
8. The Financial Creditor submits that despite the afore-Demand Letter(s) dated 10.04.2018 and 10.04.2019, the Corporate Debtor has not instituted any repayment(s) whatsoever under the said Loan Agreement and thus, all amounts remain due and payable thereunder. Hence, the present petition.

Submissions of the Corporate Debtor:

9. The Corporate Debtor submits that, Financial Debt arises out of a need of funds to the Corporate Debtor and had approached the Financial Creditor to grant unsecured friendly loan of Rs. 1,85,00,000/- for a period of one year. The Financial Creditor disbursed the said amount on 31.03.2017 for a period of one year for an interest of 13% p.a.



10. That pursuant to expiry of one year period, the Corporate Debtor failed to repay of the principal amount of Rs 1,85,00,000/- along with accrued interest thereon.
11. That the Financial Creditor raised various demands for repayment of the outstanding loan amount along with the accrued interest but 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 loan amount
12. That the Corporate Debtor still has bonafide intention to make repayment to the Financial Creditor. However, due to financial distress the Corporate Debtor has not been able to make repayment to the Financial Creditor.

Findings

13. This bench has perused the documents and pleadings available on record and considered the arguments of both the sides.
14. This Bench finds that Loan Agreement dated 25.03.2017 entered into and signed by both the parties stipulates that “the company hereby agrees and undertakes to return the loan of Rs 1,85,00,000/- within the aforesaid period of one year and gives them personal guarantee for the same.” The Financial Creditor first demanded the repayment of loan alongwith agreed interest vide letter dated 02.04.2018.
15. The Petition filed by the Financial Creditor u/s 7 of the Code was dismissed by this Tribunal vide order dated 10.08.2023 on the issue of limitation. The Financial Creditor approached the Hon’ble NCLAT against the said order passed by this bench. The Hon’ble NCLAT has passed the order dated



06.02.2024 as stated wherein “*Appellant is clearly entitled for the benefit of the order of the Hon’ble Supreme Court is suo moto writ petition from 15.03.2020 to 28.02.2022 is excluded. After extending the benefit of the said period, the application is not barred by time.*” and directed to revive petition filed by the Financial Creditor with a direction to the bench to consider the petition afresh.

16. 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 25.06.2022 in the books of the Financial Creditor for the period for 01.04.2021 to 31.03.2022 for an amount of Rs 1,85,00,000/- and has also admitted its liability vide Affidavit in reply dated 10th August 2024. 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.
17. 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

- a. The Petition bearing **RCP (IB) 09/MB/2024 Connected to CP (IB)/1258 (MB)/2022** filed under section 7 of the Insolvency & Bankruptcy Code, 2016 (IBC) by A.V. Corporation ("Financial Creditor") seeking initiation of



Corporate Insolvency Resolution Process (CIRP) in the matter of Marut Creative Infra Private Ltd ("Corporate Debtor") is Admitted.

- b. This Bench hereby appoints Mr. Rajkumar Mahto as the Interim Resolution Professional having his address at S. No 18/7, 8B, Bhatnagar Enclave Co-Operative Society, Flat No.32, Ground Floor, Kondhwa Khurd, Pune, Maharashtra ,411048, Email: - mahraj कुमार@gmail.com, Mobile No:- 91 7709266764; 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 Five 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 IN THE NATIONAL COMPANY LAW TRIBUNAL, COURT-IV, MUMBAI BENCH RCP (IB) 09/MB/2024 Connected to CP (IB)/1258 (MB)/2022 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 IN THE NATIONAL COMPANY LAW TRIBUNAL, COURT-IV, MUMBAI BENCH RCP (IB) 09/MB/2024 Connected to CP (IB)/1258 (MB)/2022 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 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.

18. Accordingly, this Petition is admitted.



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

Sd/-

ANU JAGMOHAN SINGH

Member (Technical)

Sd/-

KISHOR VEMULAPPALLI

Member (Judicial)