

IN THE NATIONAL COMPANY LAW TRIBUNAL**NEW DELHI (COURT NO. IV)****Company Petition No. IB-1226/ND/2019***Under Section 7 of the Insolvency and Bankruptcy Code, 2016***IN THE MATTER OF:****ASHISH BANKAR**

...Applicant/ Financial Creditor

VERSUS**M/S NU TEK INDIA LIMITED**

...Respondent/ Corporate Debtor

*Judgment Pronounced on: 23.08.2019***CORAM:****DR. DEEPTI MUKESH****HON'BLE MEMBER (Judicial)****SH. HEMANT KUMAR SARANGI****HON'BLE MEMBER (Technical)****For the Applicant:** Mr. Jayant Mehta, Adv. Mr. Mohit Kumar Bafna, Adv.**For the Respondent:** Mr. Praneet Das, Proxy Counsel

MEMO OF PARTIES**ASHISH BANKAR****Resident of:** G-98, 2 Floor, South City-II

Gurugram, Haryana-122018

...Applicant/Financial Creditor**VERSUS****M/S NU TEK INDIA LIMITED****Registered office at:** A-213, Road No.4, Gali No.11

Mahilapur, New Delhi-110037

...Respondent/ Corporate Debtor**JUDGEMENT****Dr. Deepti Mukesh, Member (J)**

1. The Present Application is filed under section 7 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC', 2016') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Ashish Banker (for brevity 'Applicant') with a prayer to initiate the Corporate Insolvency process against M/s Nu Tek India Limited (for brevity 'Corporate Debtor').
2. The Applicant Mr. Ashish Banker is the Financial Creditor having its resident at G-98, 2 Floor, South City-II, Gurugram, Haryana-122018. The

Corporate Debtor is a limited company incorporated under the provisions of the Companies Act, 1956 on 06.07.1993 having CIN U74899DL1993PLC054313 as per Master Data and having registered office at A-213, Road No.4, Gali No.11, Mahilapur, New Delhi-110037. The Authorized Share Capital of the Corporate Debtor is Rs. 10,00,000,000/- and Paid Up Share Capital is Rs. 77,26,00,000/- as per Master Data of the company.

3. The Applicant has submitted that he was appointed as Chief Financial Officer of the corporate debtor and during 2017-2019 the applicant had advanced loan to the corporate debtor and the corporate debtor did not made the payment for the loan advanced by the applicant. The applicant submitted that a notice of resignation was given to the corporate debtor, effective from 28.02.2019 after serving a notice period of three months. The applicant submitted that the salary was also not paid for past three months.
4. The applicant submitted that a letter dated 10.02.2019 was issued to the corporate debtor demanding repayment of loan amounting to Rs 41,47,415/- (Rupees Forty-One Lakh Forty-Seven Thousand Four Hundred Fifteen) as on 10.02.2019.

5. The corporate debtor replied vide a letter dated 20.02.2019 to the applicant admitting the debt amount but failed to pay the outstanding dues to the applicant.
6. The Applicant submitted that despite several reminders for repayment the loan amount, the corporate debtor did not make the payment. Hence, the Applicant has filed present Application on 17.05.2019 under section 7 of IBC, 2016 and served the copy of this application through speed post which has been duly delivered to the corporate debtor as per the tracking report.
7. The Corporate Debtor has replied to application and has admitted its liability towards the outstanding loan amount to the applicant as mentioned in the reply:

“The corporate debtor though is willing to refund the loan and other advances owed towards the financial creditor amounting to Rs. 41,47,415/- (Rupees Forty-One Lacs Forty-Seven Thousand Four Hundred and Fifteen Only), but due to its instability in telecom sector, shut down of operations, liquidity crunch, regulatory compliances, the corporate debtor is unable to repay the loan amount to the applicant.”

8. In that regard, the application is complete as per the requirements of section 7 of the code. The date of default occurred from 20.02.2019 and hence the debt is not time barred and the application is filed within the period of limitation.
9. The registered office of corporate debtor is situated in Delhi and therefore this Tribunal has jurisdiction to entertain and try this application.
10. The present application is complete and perusing the documents on records it goes beyond doubt that the Applicant is entitled to claim its dues, which remain uncontroverted by the Corporate Debtor, establishing the default in payment of the financial debt beyond doubt. In the light of above facts and records the present application is admitted.
11. The Applicant has named the Insolvency Resolution Professional, to be appointed by the order of Tribunal, as Mr. Arun Jain, with registration number IBBI/IPA-001/IP-P00590/2017-18/11029 (email – arjain1966@gmail.com) as the Interim Resolution Professional whose disclosures as required under IBBI (insolvency Resolution Process for Corporate Persons) Regulations, 2016 has been filed.
12. We direct the Financial Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional namely Mr. Arun Jain to meet out the expense to perform the functions assigned to him in accordance with

regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within one week from the date of receipt of this order by the financial Creditor. The amount however be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

13. As a consequence of the application being admitted in terms of Section 7(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) shall follow in relation to the Corporate debtor prohibiting proviso (a) to (d) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(4) of the Code shall come in vogue.
14. A copy of the order shall be communicated to the Applicant as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Further the IRP above named be also furnished with copy of this order forthwith by the Registry.

Sd/-

HEMANT KUMAR SARANGI
MEMBER (T)

Sd/-

DR. DEEPTI MUKESH
MEMBER (J)