

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

CP No. (IB) 959/ MB/ 2022

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

Bank of India

Having its Registered Office at: Star House, C-5, 'G' Block, Bandra-Kurla Complex, Bandra (East), Mumbai, Maharashtra- 400 051.

..... **Financial Creditor**

Vs.

Future Lifestyle Fashions Limited

Having its Registered Office at: Knowledge House, Shyam Nagar, Off Jogeshwari-Vikhroli Link Road, Jogeshwari (East), Mumbai- 400 060.

..... **Corporate Debtor**

Order delivered on: 04.05.2023

Coram:

**Hon'ble Member (Technical)
Shri Shyam Babu Gautam**

**Hon'ble Member (Judicial)
Shri Kuldip Kumar Kareer**

Appearances:

For the Financial Creditor : Advocate Ravi Kadam
For the Corporate Debtor : Advocate Shyam Kapadia

ORDER

Per: Coram

1. This Company Petition is filed by ***Bank of India*** (hereinafter called “Financial Creditor”) seeking to initiate Corporate Insolvency Resolution Process (CIRP) ***Future Lifestyle Fashions Limited*** (hereinafter called “Corporate Debtor”) alleging that the Corporate Debtor committed default in making payment to the Financial Creditor. This Petition has been filed by invoking the provisions of Section 7 Insolvency and Bankruptcy Code, 2016 (hereinafter called “IBC”) read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. The present Petition is filed before this Adjudicating Authority on the ground that the Corporate Debtor failed to make payment of an **aggregate amount of Rs. 185,84,50,611/-** (Rupees One Hundred and Eighty-Five Crores Eighty-Four Lakhs Fifty Thousand Six Hundred and Eleven Only) including **interest till 21st August 2022** forming part of the Financial Debt.
3. The Corporate Debtor is an integrated fashion establishment owning popular apparel brands and operating stores across the country. The Financial Creditor, as a member of a Consortium of Lenders (“Consortium”), extended certain credit facilities to the Corporate Debtor for the purpose of its operations, expansion and working capital needs. At the request of the Corporate Debtor, the Financial Creditor granted credit facilities aggregating to Rs. 435 Crores to the Corporate Debtor

in 2013 which was last renewed on 16th January 2020. The Corporate Debtor also availed certain long-term loans, short-term loans etc. from banks and other financial institutions (hereinafter collectively called “Lenders”).

4. After the disbursal of the said loans, the Corporate Debtor first defaulted on its payment obligation on **1st September 2020**. On the basis of a **Circular dated 6th August 2020** titled “Resolution Framework for COVID-19 related stress” issued by the Reserve Bank of India (RBI) which permitted One-Time Restructuring (OTR) of debt, the Corporate Debtor issued a **Letter dated 27th September 2020** to the Financial Creditor applying for restructuring of the facilities in view of the impact of the pandemic on its financial position. The Lenders agreed to this proposal and invoked OTR for their facilities under the said RBI Circular on 2nd November 2020 for the outstanding amount of Rs.360.19 Crores only. Accordingly, the Corporate Debtor and the Lenders including the Financial Creditor executed the **Framework Agreement dated 30th April 2021** (hereinafter referred to as “Framework Agreement”) for restructuring the outstanding debt. Further, the facilities were also secured, *inter alia*, by the Personal Guarantee of Mr. Kishore Biyani, the promotor of the Corporate debtor. Copies of all the Financing documents and the Deed of Personal Guarantee are duly annexed to this Petition.
5. The account of the Corporate Debtor was classified as Non-Performing Asset (NPA) on 31st March 2021 but as a result of the abovementioned restructuring, the account was again

upgraded to “Standard” on 30th April 2021. Subsequently, the Corporate Debtor’s loan account started running overdue from 29th April 2022 and an Event of Default occurred due to the Corporate Debtor’s failure to comply with the stipulated terms and conditions under the Framework Agreement. The Corporate Debtor’s loan account was downgraded to **NPA again on 31st May 2022**. In addition to the above, the Corporate Debtor was under an obligation to repay other sums totalling to Rs. 178.45 Crores under the Framework Agreement, of which the Corporate Debtor repaid the first two tranches but defaulted in making repayment of the third tranche to the Financial Creditor and other Lenders on 30th June 2022.

6. The Financial Creditor submits that the Corporate Debtor issued a **Disclosure dated 1st July 2022** regarding default in payment of the loans and working capital facilities availed from the Financial Creditor and other Lenders thus admitting its repayment obligations under the Framework Agreement as on 30th June 2022. A **further Disclosure dated 6th July 2022** was issued by the Corporate Debtor to the Stock Exchanges regarding the said default and the classification of the Corporate Debtor as NPA, copies of which has been attached to this Petition. The details of the total outstanding debt as on **21st August 2022** are tabulated as under:

A/c Name	Total (Principal + Interest)	Overdue Amount
Cash Credit	2,22,61,70,110	1,22,45,20,611
WC DL	6,69,65,464	-
WCTL 1	45,54,33,702	16,47,80,000
WCTL 2	80,29,09,226	29,05,00,000
FITL I	65,89,271	-
FITL II	35,19,10,472	17,86,50,000
FITL III	67,50,582	-
NFB BG	1,55,65,409	-
TOTAL	3,93,22,94,240	1,85,84,50,611

7. The Corporate Debtor filed a **Reply to the Petition on 21st October 2022** stating that the pandemic has significantly affected the business of the Future Group of Companies and led to liquidity issues for the Corporate Debtor which is also a part of the same group company. Therefore, the Corporate Debtor proposed a **“Resolution Plan” dated 26th July 2022** in terms of the RBI Circular dated 7th July 2019 vide which restructuring of the debt owed by the Corporate Debtor was proposed where the outstanding amounts were to be repaid over 10 years along with interest at the rate of 8.5% p.a. starting from FY-2024. The said restructuring plan was discussed with the Financial Creditor and other lenders in several Joint Lender meetings until September 2022 and the Corporate Debtor even requested the Financial Creditor to implement the proposed **“Resolution Plan”** and allow the business of the Corporate Debtor to be revived. The Corporate Debtor argues that the Financial Creditor is seeking to disrupt the proposed **“Resolution Plan”** by filing the present Petition and hence deserves to be dismissed.

FINDINGS

- 8.** We have heard the submissions of the Counsel appearing for the Financial Creditor and the Counsel appearing for the Corporate Debtor for a considerable period of time. On perusal of the Framework Agreement and the Financial Statements annexed to this Petition, it is evident that that the Principal amount of debt had been disbursed and this fact is not disputed by the Corporate Debtor. The Corporate Debtor, in fact, expressly admits its default in making repayments owing to financial constraints faced by it due to the pandemic. The date of default and subsequently, the date of classification of the account as NPA under the Framework Agreement executed after restructuring the original debt is recorded as **31st May 2022**.
- 9.** Further, the details of the quantum of the debt and date of last repayment is also evidenced by the records of NESL and CIBIL as attached to this Petition. It is observed that there is no sufficient reason for the Corporate Debtor to withhold the repayments due to the Financial Creditor. We have noted that since this Petition has been filed on 12th September 2022, it is not barred by Limitation. The Financial Creditor has thus successfully demonstrated and proved the debt and default in this case. It is noted that the Corporate Debtor admits the said outstanding debt. Therefore, this Bench is of the view that that this Petition satisfies all the necessary requirements for **admission** under Section 7 of the Code.

10. For the foregoing reasons, the instant Company Petition is liable to be admitted, and accordingly the same is admitted by passing the following:

- a. The above Company Petition No. (IB) -959 (MB)/2022 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Future Lifestyle Fashions Limited.**
- b. This Bench hereby appoints Mr. Ravi Sethia, Insolvency Professional, Registration No: IBBI/IPA-001/IP-P01305/2018-2019/12052 as the Interim Resolution Professional having address at KPMG India Services LLP, 2nd Floor, Block T2 (b Wing), Lodha Excelus, Apollo Mills Compound, N M Joshi Marg, Mahalaxmi, Mumbai- 400 011 and contact number: 9903562754 to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.**
- c. The Financial Creditor shall deposit an amount of Rs.5 Lakhs 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 for updating the Master Data of the Corporate Debtor.

Accordingly, this Petition is admitted.

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

Sd/-

SHYAM BABU GAUTAM

(MEMBER TECHNICAL)

Sd/-

KULDIP KUMAR KAREER

(MEMBER JUDICIAL)

Anusha
04.05.2023