

**BEFORE THE AJUDICATING AUTHORITY
(NATIONAL COMPANY LAW TRIBUNAL)
AHMEDABAD BENCH
AHMEDABAD**

C.P. (I.B) No. 65/7/NCLT/AHM/2017

Coram:

**Present: Hon'ble Mr. BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF AHMEDABAD
BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 23.08.2017**

Name of the Company: Reliance Commercial Finance Ltd
V/s.
Anil Nutrients Ltd.

Section of the Companies Act: Section 7 of the Insolvency and Bankruptcy Code

S.NO.	NAME (CAPITAL LETTERS)	DESIGNATION	REPRESENTATION	SIGNATURE
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1.	Raheel S. Patel	Adv.	Respondent	
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2.	Jaimin R. Dave	Adv.	Petitioner	
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ORDER

Learned Advocate Mr. Jaimin Dave present for Financial Creditor/ Applicant.
Learned Advocate Mr. Raheel Patel present for Respondent.

Order pronounced in open Court. Vide separate sheet.


**BIKKI RAVEENDRA BABU
MEMBER JUDICIAL**

Dated this the 23rd day of August, 2017.

**BEFORE ADJUDICATING AUTHORITY (NCLT)
AHMEDABAD BENCH**

C.P. No.(IB) 65/7/NCLT/AHM/2017

In the matter of:

M/s. Reliance Commercial Finance Ltd
Registered Office at
Reliance Centre, 6th Floor,
South Wing, Off:Western Express
Highway, Santacruz (East),
Mumbai-400055
Maharashtra

: Applicant.
[Financial Creditor]

Versus

M/s. Anil Nutrients Ltd.,
Registered Office at
Anil Starch Premises,
Anil Road
Ahmedabad

: Respondent.
[Corporate Debtor]

Order delivered on 23rd August, 2017.

Coram: Hon'ble Sri Bikki Raveendra Babu, Member (J).

Appearance:

Shri Jaimin Dave, learned Advocate for Applicant/Financial Creditor.

Shri Raheel Patel with Shri Nisarg Desai, learned Advocates on behalf of M/s. Nanavati Associates, for Respondent.

ORDER

1. This Application is preferred by M/s. Reliance Commercial Finance Ltd., styled itself as 'Financial Creditor' with a request to

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initiate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016 ["IB Code" for short] read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, ["Adjudication Rules" for short] in Form-1 against M/s. Anil Nutrients Ltd., treating as 'Corporate Debtor' (Principal Borrower).

2. M/s. Reliance Commercial Finance Ltd., styled itself as 'Financial Creditor' gave Power of Attorney to Shri Hitesh Joshi, as its lawful Attorney vide General Power of Attorney dated 1st April, 2017.

3. The case of M/s. Reliance Commercial Finance Limited, in brief, is as follows;

3.1. M/s. Anil Nutrients Limited had approached and applied to M/s. Reliance Capital Limited to avail Term Loan Facility for Working Capital and entered into a Loan Agreement dated 31.12.2014 with M/s. Reliance Capital Ltd. M/s. Reliance Capital Ltd., disbursed Rs. 10,00,00,000 to M/s. Anil Nutrients Ltd (Principal Borrower). M/s. Anil Nutrients Ltd executed various documents in favour of M/s. Reliance Capital Limited, which include Working Capital Agreement, Deed of Hypothecation, Demand Promissory Note, etc.

3.2. M/s. Anil Limited, stood as a Corporate Guarantor to the Facility Agreement or the Working Capital Agreement dated 31.12.2014 made between M/s. Reliance Capital Ltd., and M/s. Anil Nutrients Ltd and thereby Anil Ltd. became a Guarantor to the loan borrowed by M/s. Anil Nutrients Ltd.

3.3. M/s. Reliance Capital Limited, was demerged into M/s. Reliance Commercial Finance Ltd., as per the order of the Hon'ble

High Court of Bombay. As per the said Demerger Scheme, all the debts of M/s. Reliance Capital Ltd., were transferred to the Applicant herein, i.e., M/s. Reliance Commercial Finance Ltd., and that is how the present Applicant has become Financial Creditor of M/s. Anil Nutrients Ltd, Respondent herein.

3.4. M/s. Anil Nutrients Ltd., did not care to make repayment of the loan amount as per the agreed terms and conditions inspite of repeated requests and reminders made by M/s. Reliance Capital Ltd and as well as by the present Applicant. M/s. Anil Nutrients Ltd failed and neglected to pay the outstanding amount. Applicant got issued a legal notice dated 28.9.2016 to M/s. Anil Nutrients Ltd., and called upon the Respondent to repay the loan amount as 'Principal Borrower'.

3.5. M/s. Reliance Capital Limited maintained the account of M/s. Anil Nutrients Ltd. As per the said account, M/s. Anil Nutrients Ltd, is due to pay Rs. 8,87,94,014/- as on 12.10.2016.

3.6. Applicant issued statutory notice dated 31.12.2016 to M/s. Anil Nutrients Ltd, calling upon it to pay the outstanding amount of Rs. 8,87,94,014/- within 21 days. Respondent received the said notice but did not choose to pay the amount. Applicant came to know that Respondent Company owes huge amount of monies not only to the Applicant but to various Financial and Operational Creditors. Applicant states that the Respondent Company has been making huge losses and is not in position to clear its debts and liabilities. The Registered Office of the Respondent Company is situated at Ahmedabad.

4. Applicant filed copies of all Agreements executed by M/s. Anil Nutrients Ltd, in favour of M/s. Reliance Capital Limited. Applicant filed Bank Statements. Applicant in Form-1 Part III proposed the name of Shri Subodhkumar Bajranglal Kedia as



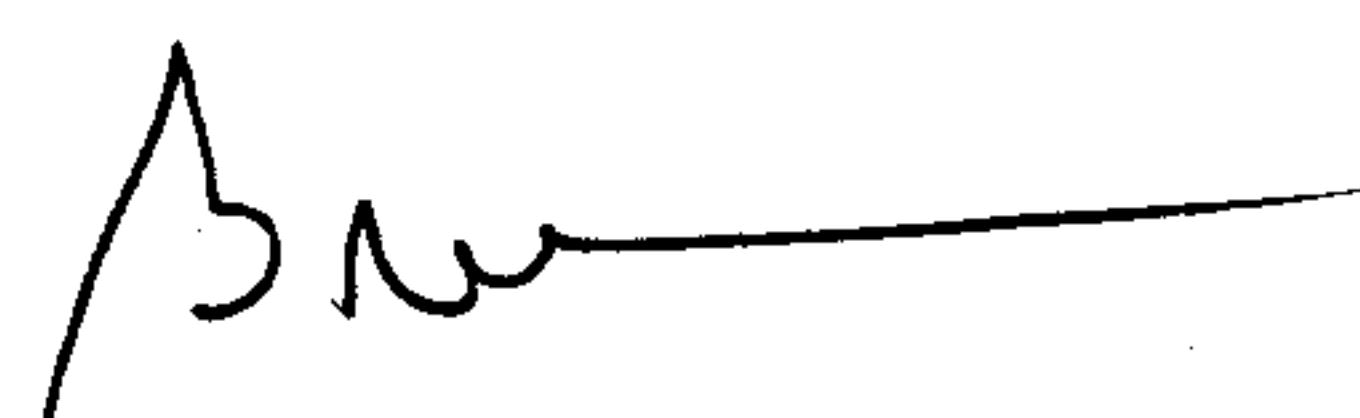
'Interim Resolution Professional' and filed his Written Communication.

5. Applicant filed proof of despatch of Application to Respondent by Speed Post. This Adjudicating Authority directed the Applicant to issue notice of date of hearing and file proof of service. Accordingly, Applicant issued notice of date of hearing and filed proof of service on Respondent. Respondent appeared through Advocate, Mr. Raheel Patel. Respondent not filed any objections. Learned Counsel appearing for both the parties submitted their arguments. Learned Counsel appearing for the Applicant contended that the documents filed by the Applicant clinchingly establish that Respondent is liable to pay the outstanding loan amount and Respondent committed default in payment of such amount.

6. In an application under Section 7 of the Code, this Adjudicating Authority is required to ascertain existence of default from the records of information utility or on the basis of other evidence furnished by the Financial Creditor, as laid down in the decision of the Hon'ble National Company Law Appellate Tribunal, on 17th January, 2017, in **Company Appeal (AT) (Insolvency) No. 1 & 2 of 2017** in the matter of **M/s. Innoventive Industries Ltd. Vs. ICICI Bank & Anr**, in the following paragraphs;

"82. As discussed in the previous paragraphs, for initiation of corporate resolution process by financial creditor under sub-section (4) of Section 7 of the Code, 2016, the 'adjudicating authority' on receipt of application under sub-section (2) is required to ascertain existence of default from the records of Information Utility or on the basis of other evidence furnished by the financial creditor under sub-section (3). Under Section 5 of Section 7, the 'adjudicating authority' is required to satisfy –

- (a) *Whether a default has occurred;*
- (b) *Whether an application is complete; and*



- (c) *Whether any disciplinary proceeding is against the proposed Insolvency Resolution Professional.*

83. *Once it is satisfied it is required to admit the case but in case the application is incomplete application, the financial creditor is to be granted seven days' time to complete the application. However, in a case where there is no default or defects cannot be rectified, or the record enclosed is misleading, the application has to be rejected."*

7. Perusal of the documents filed by Applicant clearly goes to show that outstanding amount is payable by the Respondent to the Applicant. Clause (a) of sub-section (8) of Section 5 defines 'Financial Debt'. In the case on hand, the loan was granted by the Applicant to the Respondent against payment of interest and it is the time value for money. Therefore, the amount due from the Respondent to the Applicant is a financial debt within the meaning of Section 5, sub-section (8).

8. A perusal of the legal notice got issued by the Applicant and the statutory notice issued by the Applicant clearly goes to show that Applicant recalled the entire loan amount both from the Principal Borrower and the Guarantor and both of them failed to repay the loan amount. Therefore, the Respondent Corporate Debtor committed default in repayment of the loan amount.

9. The Application filed by M/s. Reliance Commercial Finance Limited is complete in all respects and no defect is pointed out.

10. In this Application filed by M/s. Reliance Commercial Finance Ltd., Respondent did not choose to file any objections. Learned Counsel appearing for the Respondent stated that they are making every effort to settle with all the creditors by making

payments in due course of time. In view of the above discussion, the Application filed by the Applicant, M/s. Reliance Commercial Finance Ltd., i.e., CP (IB) No. 65 of 2017 deserves to be admitted, and it is accordingly admitted under Section 7(5) of the Code.

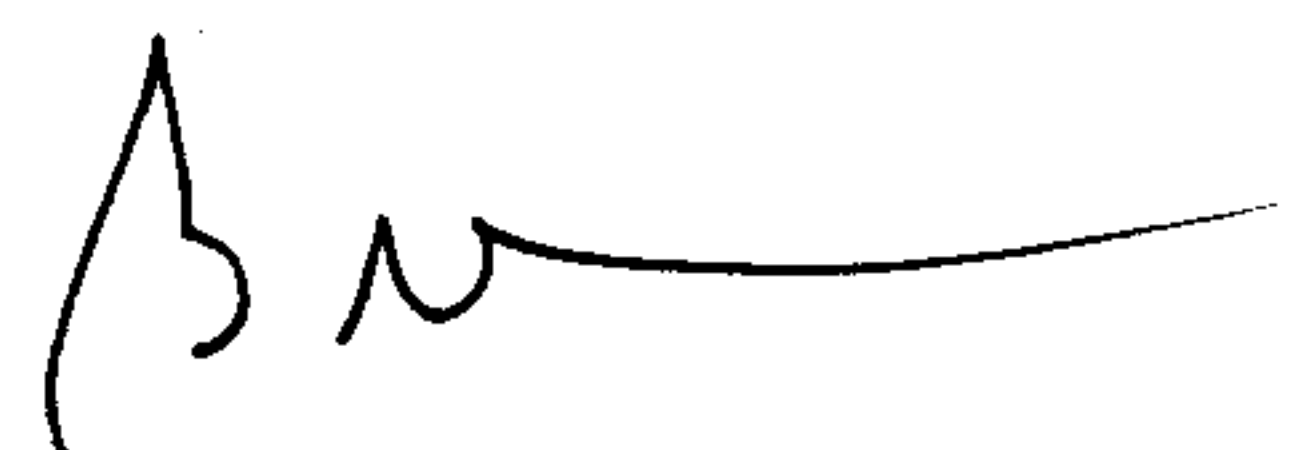
11. The Applicant proposed the name of Mr. Subodhkumar Bajranglal Kedia as 'Insolvency Resolution Professional'. Hence, this Adjudicating Authority hereby appoint, Mr. Subodhkumar Bajranglal Kedia, residing at 205, Kaling, Near Mount Carmel School, Behind Bata Show Room, Ashram Road, Ahmedabad-380009 with Registration No. IBBI/IPA-001/IP-P00009/2016-17/10028 as 'Interim Insolvency Resolution Professional' under Section 13(1)(c) of the Code.

12. This Adjudicating Authority hereby declares moratorium under Section 13(1)(a) of the Code prohibiting the following as laid down in Section 14 of the Code;

(a) 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;

(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);



(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

13. The Interim Resolution Professional shall make public announcement about initiation of 'Corporate Insolvency Resolution Process', as required by Section 13(1)(b) of the Code.

14. However, the supply of goods and essential services to the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period.

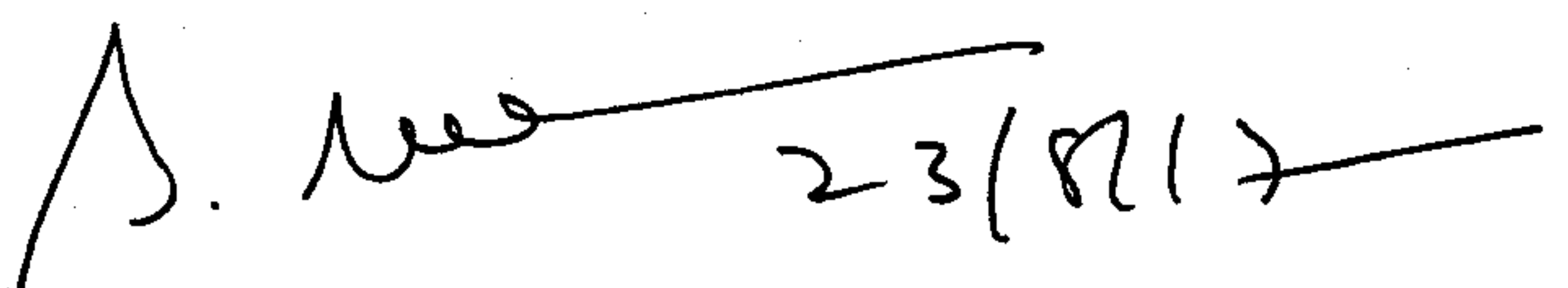
15. The provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

16. This order of moratorium shall be in force from the date of order till the completion of Corporate Insolvency Resolution Process subject to the Proviso under sub-section (4) of Section 14.

17. The Application is disposed of accordingly. No order as to costs.

18. Communicate a copy of this order to the Applicant Financial Creditor, to the Respondent Corporate Debtor, and to the Interim Insolvency Resolution Professional appointed.

Signature:

Handwritten signature of Sri Bikki Raveendra Babu, dated 23/8/17.

**Sri Bikki Raveendra Babu, Member (J).
Adjudicating Authority.**