

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

CP (IB) No.1123/MB-IV/2021

Under Section 7 of the I&B Code, 2016

In the matter of:

YES Bank Limited

[CIN: L65190MH2003PLC143249]

...Financial Creditor/Applicant

V/s

Radius Infra Holdings Private Limited

[CIN: U45209MH2014PTC256382]

...Corporate Debtor/Respondent

Order Dated: 09.05.2022

Coram:

Mr. Rajesh Sharma
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Petitioner(s) : Mr. A. S. Doctor, Advocate.

For the Respondent(s) : Mr. Vibhav Krishna, Advocate.

ORDER

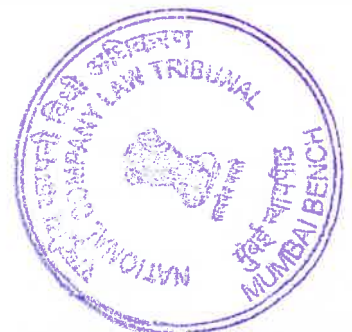
Per: Kishore Vemulapalli, Member (Judicial)

1. This is an application being C.P. (IB) No. 1123/NCLT/MB/C-IV/2021 filed by YES Bank Limited, the Financial Creditor/Applicant, under section 7 of Insolvency & Bankruptcy Code, 2016 (I&B Code)



against Radius Infra Holdings Private Limited, Corporate Debtor, for initiating Corporate Insolvency Resolution Process (CIRP).

2. The Application is filed by Mr. Sourabh Agrawal, authorised representative of Financial Creditor vide its Power of Attorney dated 22.01.2020, claiming total default of Rs.322,01,35,899/- (Rupees three twenty-two crore one lakh thirty-five thousand eight hundred ninety-nine only) and Rs.377,46,88,284/- (Rupees three seventy-seven crore forty-six lakh eighty-eight thousand two hundred eighty-four only).
3. The Date of Default as mentioned in the Petition is 01.09.2019. The Petition is filed on 02.10.2020.
4. The case of the Financial Creditor is as under:
 - a) The Corporate Debtor has guaranteed the due repayment of loans sanctioned to E-Commerce Magnum Solution Ltd. (Borrower 1) and Raghuleela Builders Private Limited (Borrower 2). The Financial Creditor sanctioned in favour of the two borrowers for which the Corporate Debtor executed two Deeds of Guarantee in favour of the Financial Creditor.
 - b) The amount sanction by way of Term Loan was Rs.500,00,00,000/- (Rupees five hundred crore only) in favour of E-Commerce Magnum Solution Ltd. The total amount of Rs.283,00,00,000/- (Rupees two eighty-three crore only) from the Term Loan was disbursed in accounts of E-Commerce Magnum Solution Ltd. The amount sanction by way of Term Loan was Rs.300,00,00,000/- (Rupees three hundred crore only) in favour of Raghuleela Builders Pvt Ltd and the same is disbursed.



- c) The Financial Creditor states that the two borrowers have failed continuously in the payment of the interest accrued on the sanctioned amounts. The total amount defaulted by the two borrowers are Rs.322,01,35,899/- (Rupees three twenty-two crore one lakh thirty-five thousand eight hundred ninety-nine only) and Rs.377,46,88,284/- (Rupees three seventy-seven crore forty-six lakh eighty-eight thousand two hundred eighty-four only). The Corporate Debtor guaranteed the two loans by creating a pledge over shares.
- d) The details of loan facilities are as under:

With respect to Borrower-I (E-Commerce Magnum Solution Ltd)
the outstanding amount:

	(in Rs.)
Principal outstanding	283,00,00,000/-
Normal Interest	36,48,21,740/-
Penal Interest	2,53,14,159/-
Total amount Outstanding as on 26th August, 2020	322,01,32,899/-

The total outstanding dues: Rs.322,01,32,899/- (Rupees three twenty-two crore one lakh thirty-two thousand eight hundred ninety-nine only) along with further outstanding amount calculated @ 1-year YBL MCLR + 2.3% i.e. 12.15% per annum as on 26.08.2020 and penal interest of 2% per annum, calculated from 27.08.2020 until the date of the payment.

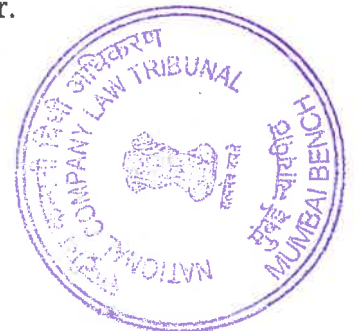
With respect to Borrower-II (Raghuleela Builders Private Limited)
the outstanding amount:



Principal outstanding	300,00,00,000/-
Normal Interest	51,80,19,551/-
Penal Interest	25,66,68,733/-
Total amount Outstanding as on 26th August, 2020	377,46,88,284/-

Total outstanding dues: Rs.377,46,88,284/- (Rupees three seventy-seven crore forty-six lakh eighty-eight thousand two hundred eighty-four only) along with further outstanding amount calculated @ 12.85% per annum and penal interest of 2% per annum, calculated from 27.08.2020 until the date of the payment for TL IV.

5. The Corporate Debtor has submitted Preliminary Affidavit in Reply dated 15.01.2022 and submitted as under:
- There are pre-existing disputes between the Principal Borrower and Financial Creditor i.e. E-Commerce Magnum Solutions Limited and Financial Creditor and Raghuleela Builders Private Limited and Financial Creditor.
 - Financial Creditor is aware about the pre-existing dispute, dispute relating to disbursement of loan, dispute relating to processing fee, utilisation of the amounts disbursed for the purposes other than the project, breach and default of terms and conditions by Financial Creditor.
 - The Corporate Debtor is a solvent Company and is capable of paying its debts as and when due. There is no requirement of institution of CIRP in respect of Corporate Debtor.



- d) The Corporate Debtor has filed an Interlocutory Application filed for the maintainability of the Petition. The Principal Borrower E-Commerce Magnum Solutions Ltd. has challenged the default and has filed Interlocutory Application before this Tribunal in Company Petition No. CP (IB) 364 (MB) of 2021 contending that there is no default, there is no legally enforceable debt and the fundamental requirements of initiating the CIRP under section 7 is absent. The Principal Borrower also filed proceedings in High Court, Bombay being Suit (L) No.31244 of 2021, E-Commerce Magnum Solutions Ltd. Vs. Yes Bank Ltd and have also filed Interlocutory Application wherein the Proceedings are pending. In the present Petition, the Corporate Debtor as the Corporate Guarantor with reference to the Corporate Guarantee executed by Radius Infra Holdings Pvt. Ltd. for the term loan of E-Commerce Magnum Solutions Ltd. is not maintainable.
- e) The Financial Creditor has knowledge that CIRP has been initiated against Raghuleela Builders Pvt. Ltd. vide order dated 04.10.2021 passed in CP (IB) 498 (MB) of 2021. The IRP was appointed and the IRP had issued a Public Declaration of initiation of Insolvency Proceedings against Raghuleela Builders Pvt. Ltd. on 21.10.2021. The Financial Creditor has addressed a notice dated 02.12.2021 under section 95 of the Code to Corporate Guarantor. However, the notice was not received and in any event was not to the knowledge of the Corporate Guarantor. The Financial Creditor has not disclosed the above-mentioned fact in its Petition.
- f) There are two separate loan accounts i.e. Loan Account of E-Commerce Magnum Solutions Ltd. and Raghuleela Builders Pvt.



Ltd. and the Corporate Debtor has given separate Corporate Guarantee for separate loan accounts.

- g) There is pre-existing dispute between Financial Creditor and E-Commerce Magnum Solutions Ltd, the Principal Borrower with reference to the Sanction Letter dated 28.09.2018 for sanction of two term loans i.e. Loan 1 for Rs.180 crore and Loan 2 for Rs.320 crore.
- h) The Corporate Guarantor had executed Deed of Guarantee dated 28.11.2018 for the loan of Rs.500 crore for E-commerce Magnum Solutions Ltd.
- i) E-Commerce Magnum Solutions Ltd. has filed Interlocutory Application dated 19.07.2021 in Company Petition No. 364(MB) of 2021 before NCLT, Mumbai and the Application is pending. The dispute raised by E-Commerce Magnum Solutions Ltd. in the Interim Application filed before this Tribunal is as follows:
- i. On 28.09.2018, Financial Creditor had issued sanction letter for two loans, Loan I for Rs.180 crore and Loan II for Rs.320 crore payable in 16 quarterly instalments after moratorium period of 36 months.
 - ii. The Financial Creditor had charged processing fee aggregating Rs.59 crore for sanction and disbursement of loan of Rs.500 crore.
 - iii. The loans disbursed were Rs.283 crore instead of Rs.500 crore thereby the fee of Rs.59 crore charged was almost 20.85% of the amount disbursed which is very high.



- iv. Rs.59 crore of processing fee was deducted out of Rs.283 crore thereby the disbursal amount was Rs.224 crore only/ the full amount of Rs.500 crore has not been disbursed by the Financial Creditor.
- v. The Financial Creditor has adjusted and utilised Rs.48.48 crore for adjustment of other entries and loans.
- vi. The Financial Creditor had transferred Rs.17.17 crore and adjusted it to other entries even though they had not fallen due.
- vii. Financial Creditor had in fact disbursed Rs.158.35 crore (55.95%) of the amount of Rs.283 crore and the remaining Rs.124.65 crore (44.05%) was retained or utilised by the bank for its own use.
- viii. On account of default of Financial Creditor in sanction of the entire loan of Rs.500 crore and disbursement of Rs.283 crore and in fact disbursement of Rs.158.35 crore, the deficit and the gap was huge and the project could not sustain itself and was prejudicially effected.
- ix. The sanction letter contemplated a moratorium of 36 months had not expired. E-Commerce Magnum Solutions Pvt. Ltd. had not committed any default much less the alleged default on 01.09.2019 and therefore, the contention of default on 01.09.2019 is not correct.
- x. Since the moratorium period operated till December, 2021 there cannot be any default in repayment.



- xi. The Financial Creditor had filed Petition under section 7 of the Code, Yes Bank Vs. E-Commerce Magnum Solutions Pvt. Ltd. with this Tribunal wherein they have furnished false information pertaining to the amount due and the default. No amount was shown as due and payable in Part IV of the Petition. Section 7 of the Code contemplates the existence of a debt and default in repayment of a debt and both the ingredients are absent and therefore the initiation of the CIRP against the Principal Borrower E-Commerce Magnum Solutions Pvt. Ltd. was not maintainable.
- j) E-Commerce Magnum Solutions Pvt. Ltd. has also filed Suit (L) No. 31244 of 2021 on 27.12.2021 in High Court, Bombay inter alia seeking reliefs against Financial Creditor for having committed breach of terms of Sanction Letter dated 28.09.2018 and Term Loan Agreement dated 28.09.2018 and challenging the NPA classification of the account as illegal, challenge to the loan recall letter dated 15.01.2020 and for order and directions for refund of interest of Rs.17.7 crore, processing fee of Rs.59 crore, Rs.48.48 crore transferred and utilised for adjusting third party loans etc. in the suit proceedings, it is a contention of E-Commerce Magnum Solutions Pvt. Ltd. that the Financial Creditor has committed breach and obligations of the loan agreement and its actions have caused significant financial loss and the demand for repayment are illegal and contrary to the clauses for moratorium period. An Interim Application has also been filed in the High Court suit proceedings seeking injunction against declaration of the account of NPA and from acting on recall notice dated 15.01.2020 and Sale Notice dated



12.05.2021. The Corporate Debtor has not received notice from the Financial Creditor with respect to invocation of Guarantee.

6. The Financial Creditor has filed Written Submissions dated 04.03.2022 and submits as under:

a) Two unconditional and irrevocable Deeds of Guarantees were issued in favour of Financial Creditor:

- i. Deed of Guarantee dated 28.11.2018 ("Guarantee 1") by E-Commerce Magnum Solutions Limited ("Borrower 1")
- ii. Deed of Guarantee dated 16.05.2018 ("Guarantee 2") by Raghuleela Builders Private Limited ("Borrower 2")

b) The details of credit facilities sanctioned to Borrower 1 and Borrower 2 is as under:

Borrower I:

Nature of Facility	Amount (in Rs.)
Term Loan I	180 Crore
Term Loan II	320 Crore
Total	500 Crore
Amount Disbursed	283 Crore

Borrower II:

Nature of Facility	Amount (in Rs.)
Term Loan IV	300 Crore
Total	300 Crore
Amount Disbursed	300 Crore



c) The dates of default of both Borrowers, as recorded by the Information Utility are:

i. 01.09.2019 for Borrower I

ii. 01.02.2019 for Borrower II

d) The Financial Creditor invoked both the Deeds of Guarantees and called upon the Corporate Debtor to make the due repayment of the amounts in default vide the following two loan recall and notices for invocation of guarantee:

i. 15.01.2020 in respect of Borrower I for an amount of Rs.2,97,80,94,329/-, and

ii. 26.06.2020 in respect of Borrower II for an amount of Rs.3,68,45,65,376/-

Thus, the total outstanding as on 26.08.2020 which was due and payable by the Corporate Debtor to the Financial Creditor under both Deeds of Guarantee and other charges applicable was:

i. Borrower I: Rs.3,22,01,35,899/-

ii. Borrower II: Rs.3,77,46,88,284/-

Total: 6,99,48,24,183/-

e) Following are details of the Financial Contracts and undisputed facts pertaining to the sanction and disbursal of the credit facilities to both Borrowers:

Borrower I:



- i. Facility Letter dated 28.09.2018, issued by the Financial Creditor, to Borrower 1, offering it Term Loan-I and Term Loan-II of Rs.180 crore and Rs.320 crore respectively on the term and conditions more particularly mentioned therein.
- ii. Loan Agreement dated 28.11.2018
- iii. Deed of Guarantee dated 28.11.2018 executed by the Corporate Debtor issued in favour of the Financial Creditor which provides as follows:

"4. In consideration of the Lenders(s) granting/agreeing to grant the Facilities to the Borrower, the Guarantor(s) has/have agreed to provide this guarantee in favour of the Beneficiary for securing the due and prompt repayment of the Obligations of the Borrower.

5. In the event of any default on the part of the Borrower in payment/repayment of any of the monies in respect of the Obligations, or in the event of any default on the part of the Borrower to comply with or perform any of the terms, conditions and covenants contained in the agreement, the Guarantor(s) shall, upon demand, forthwith pay to the Beneficiary/Lender(s) without any demur or protest or reference to the Borrower or anyone else and without the right of any set off and/or deductions and/or adjustments of any kind whatsoever, all amounts payable by the Borrower to the Lender(s) under the Transaction Documents. Any such demand made by the Beneficiary/Lender(s) on the Guarantor(s) shall be final, conclusive and binding notwithstanding any difference or any dispute between the



Lender(s) and/or Beneficiary and/or the Borrower whether referred to arbitration or presented before any court, tribunal or any other authority. Any part enforcement of the guarantee shall not amount to discharge of the Guarantor(s) from their liability to make the entire payment, if asked upon to do so.

6.

7.

8. The Guarantor's liability hereunder shall be irrevocable, continuing, and joint and several with that of the Borrower."

- iv. Statement of Account of the Borrower I as maintained by the Financial Creditor which reflects both, the disbursal of a sum of Rs.283 crore as also the defaults in making the due payments of interest.
- v. Loan Recall Notice and invocation of the Deed of Guarantee issued by the Financial Creditor dated 15.01.2020 in view of the defaults committed by the Borrower 1.
- vi. Non-Payment of Debt and Record of Default:
 - f) Statement of Accounts of the Corporate Debtor shows that the Corporate Debtor has defaulted in the interest payments and no payments have been made post August 2019. The Certificate issued under section 2A(b) and 2A(c) of the Bankers' Book Evidence Act, 1891 which certifies that the Financial Creditor has adopted requisite safeguard to prevent and detect unauthorised change of data.



- g) Record of Default as authenticated by NeSL, an Information Utility registered with the IBBI records the date of default of the Corporate Debtor as 01.09.2019. Further, the Central Repository of Information on Large Credits of the Corporate Debtor which records the credit facility details obtained by the Corporate Debtor.
- h) The Corporate Debtor has neither disputed nor denied execution of the Deed of Guarantee. The Corporate Debtor has not even pleaded much less demonstrated that the Financial Debt is not payable either in fact or law. The Corporate Debtor has not made payment to the Financial Creditor in terms of the Deeds of Guarantee.
- i) Under section 7 of the Code, the factum of dispute is wholly immaterial and irrelevant, so long as there is a default of a debt that is due. Such default has to be ascertained from the record of default as maintained by the Information Utility produced by the Financial Creditor. this has affirmatively been held by the Hon'ble Supreme Court, in the case of Innoventive Industries Vs. ICICI Bank & Anr. Thus, any reliance by the Corporate Debtor upon the legal proceedings to contend there is a pre-existing dispute while being entirely misleading, is also legally untenable and devoid of any merit.
- j) The contentions of the Corporate Debtor with respect to Non-disclosure of the Company Petition no. 498 of 2021, the said Company Petition has been filed by one Moon Star Securities Trading & Finance Co. Limited and not by the Financial Creditor and has resulted in an order of admission dated 04.10.2021.



- k) With respect to the contentions of the Corporate Debtor regarding the disbursements adjusted towards processing fees, the Corporate Debtor had specifically by its letter dated 06.12.2018 authorised and instructed the Financial Creditor to debit their account with an amount of Rs.59 crore towards the facility fees payable.
7. The Corporate Debtor has filed its Written Submissions dated 04.05.2022 and submits as under;
- a) The sanction letter dated 28.09.2018 issued by the Financial Creditor provides for two facility term loan for Rs.180 crore and Rs.320 crore and inter alia provides Repayment Structure/Moratorium of 36 months and Repayment in 16 equal quarterly instalments given in Clause 2.1.2.
- b) The Petition is pre-mature and has been filed prior to expiry of moratorium period of 36 months provided under the Sanction Letter dated 28.09.2018. There is no default in repayment of credit facility by the Principal Borrower or by the Guarantors, the NPA Classification of the account is illegal and void and in disregard of the moratorium period of 36 months provided under the Sanction Letter and the repayment schedule to commence from 39 months after the date of first disbursement. The Principal Borrower and the Guarantor may have a claim for refund interest of Rs.17.17 crore, refund of debit of processing fee of Rs.59 crore, refund of amount of the Rs.48.48 crore which was transferred and utilised for adjusting third party loans for concerning or related to the project and also claim for damages.

Findings/Observations:



8. We have heard the submissions of the counsels on both the sides and observed as under:
9. It is observed from the records submitted by both the sides that the Corporate Debtor nowhere in his reply denied the default made by him nor disputed the Deed of Guarantee issued in favour of Financial Creditor.
10. It observed by the Bench that the Corporate Debtor is giving excuses and shying away from the liability. The Corporate Debtor is not having intention of the making payment which is due and payable.
11. The Corporate Debtor has accepted the Deed of Guarantee issued in favour of the Financial Creditor. The Corporate Debtor has given guarantee of making payment in favour of the Principal Borrower in case of default.
12. Section 5(5A) of the Code defines the expression 'Corporate Guarantor' to mean a Corporate Person, who is the Surety in a Contract of Guarantee to a Corporate Debtor. This definition has been inserted by way of an amendment which has come into force on 06.06.2018. This clearly shows the intention of the legislature that the Corporate Guarantor can be brought into the CIRP. The Code does not say that the CIRP cannot be initiated against the Corporate Guarantor. This has been well explained by the Hon'ble Supreme Court in *Laxmi Pat Surana V. Union Bank of India*. The issue was whether an action under section 7 of the Code can be initiated by the Financial Creditor against a Corporate Person concerning Guarantee offered by it in respect of a loan account of the Principal Borrower, who had



committed default and is not a "Corporate Person" within the meaning of IBC? The observations of the Hon'ble Supreme Court is as under:

"23. Indubitably, a right or cause of action would enure to the lenders (financial creditor) to proceed against the principal borrower, as well as the guarantor in equal measure in case they commit default in repayment of the amount of debt acting jointly and severally. It would still be a case of default committed by the guarantor itself, if and when the principal borrower fails to discharge his obligation in respect of amount of debt. For, the obligation of the guarantor is coextensive and coterminous with that of the principal borrower to defray the debt, as predicated in Section 128 of the Contract Act. As a consequence of such default, the status of the guarantor metamorphoses into a debtor or a corporate debtor if it happens to be a corporate person, within the meaning of Section 3(8) IBC. For, as aforesaid, the expression "default" has also been defined in Section 3 (12) IBC to mean non-payment of debt when whole or any part or the "corporate debtor" within the meaning of Section 3 (8) IBC.

The Hon'ble Supreme Court further stated that:

"29. Notable, the expression "corporate guarantee" is not defined in the Code. Whereas, the expression "corporate guarantor" is defined in Section 5 (5-A) IBC. If the legislature intended to exclude a corporate person offering guarantee in respect of a loan secured by a person not being a corporate person, from the expression "corporate debtor" occurring in Section 7, it would have so provided in the Code [at least when Section 5 (5-A) came to be inserted defining the expression "corporate guarantor"]. If



was also open to the legislature to amend Section 7 IBC and replace the expression "corporate debtor" by a suitable expression. It could have even amended Section 3 (8) to exclude liability arising from a guarantee given for the loan account of an entity not being a corporate person. Similarly, it could have also amended the expression 'financial debt' in Section 5(8) IBC, "claim" in Section 3 (6), "debt" in Section 3 (11) and "default" in Section 3(12). There is no indication to that effect in the contemporaneous legislative changes brought about."

"31. In law, the status of the guarantor, who is a corporate person, metamorphoses into corporate debtor, the moment principal borrower (regardless of not being a corporate person) commits default in payment of debt which had become due and payable. Thus, action under Section 7 IBC could be legitimately invoked even against a (corporate) guarantor being a corporate debtor. The definition of "corporate guarantor" in Section 5 (5-A) IBC needs to be so understood."

13. As per section 60(2) and 60(3), the Code never restricted simultaneous proceedings against both the Corporate Debtor and Corporate Guarantor. This was well established in the NCLAT Judgment of Athena Energy. The observations of the NCLAT is as follows:

"16. We find substance in the arguments being made by the learned Counsel for Appellant which are in tune with the Report of ILC. The ILC in para – 7.5 rightly referred to subsequent Judgement of "Edelweiss Asset Reconstruction Company Ltd. v. Sachet Infrastructure Ltd. and Ors." dated 20th September, 2019 which permitted simultaneously initiation of CIRPs



against Principal Borrower and its Corporate Guarantors. In that matter Judgment in the matter of Pirmal was relied on but the larger Bench mooted the idea of group Corporate Insolvency Resolution Process in para – 34 of the Judgement. The ILC thus rightly observed that provisions are there in the form of Section 60(2) and (3) and no amendment or legal changes were required at the moment. We are also of the view that simultaneously remedy is central to a contract of guarantee and where Principal Borrower and surety are undergoing CIRP, the Creditor should be able to file claims in CIRP of both of them. The IBC does not prevent this. We are unable to agree with the arguments of Learned Counsel for Respondent that when for same debt claim is made in CIRP against Borrower, in the CIRP against Guarantor the amount must be said to be not due or not payable in law. Under the Contract of Guarantee, it is only when the Creditor would receive amount, the question of no more due or adjustment would arise. It would be a matter of adjustment when the Creditor receives debt due from the Borrower/Guarantor in the respective CIRP that the same should be taken note of and adjusted in the other CIRP. This can be conveniently done, more so when IRP/RP in both the CIRP is same. Insolvency and Bankruptcy Board of India may have to lay down regulations to guide IRP/RPs in this regard.”

14. Hench, relying upon the above observations, this Bench finds that it is fit case for admitting the Petition filed by the Financial Creditor against the Corporate Debtor who is a Corporate Guarantor. The Corporate Guarantor is Co-extensively liable as of the Corporate Debtor for the dues payable to the Financial Creditor.



15. On perusal of the documents submitted by the Applicant, it is clear that there is existence of financial debt and the debt is in default and also the outstanding amount is more than threshold limit of Rs.1,00,00,000/- (Rupees One Crore Only). Therefore, we find that it is a fit case for initiation of CIRP against the Corporate Debtor, and that the Petition is filed within limitation period. This Tribunal has Jurisdiction to adjudicate the Company Petition filed by the Financial Creditor and that there is debt due & payable by the Corporate Debtor. Default has also been established herein.
16. The application is complete and has been filed under the proper form. The debt amount is more than Rupees One Crore and default of the Corporate Debtor has been established and the application deserves to be admitted.
17. The Applicant has proposed the name of Mr. Bhruvish Amin, a registered insolvency resolution professional having Registration Number [IBBI/IPA-002/IP-N00353/2017-2018/11003] as Interim Resolution Professional, to carry out the functions as mentioned under I&B Code and has also given his declaration that no disciplinary proceedings are pending against him

ORDER

This Application being C.P. (IB) No. 1123/MB/C-IV/2021 filed under Section 7 of I&B Code, 2016, presented by YES Bank Limited, Financial Creditor/ Applicant against Radius Infra Holdings Private Limited, Corporate Debtor for initiating corporate insolvency resolution process is **admitted**. We further declare moratorium u/s 14 of I&B Code with consequential directions as mentioned below:



- I. That this Bench as a result of this prohibits:
- 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
 - d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.
- II. That 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.
- III. That the provisions of sub-section (1) of Section 14 of I&B Code shall not apply to
- a. such transactions as may be notified by the Central Government in consultation with any financial sector regulator;
 - b. a surety in a contract of guarantee to a Corporate Debtor.



- IV. That the order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under subsection (1) of section 31 of I&B Code or passes an order for the liquidation of the corporate debtor under section 33 of I&B Code, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of I&B Code.
- VI. That this Bench appoints Mr. Bhrugesh Amin, a registered insolvency resolution professional having Registration Number [IBBI/IPA-002/IP-N00353/2017-2018/11003] as Interim Resolution Professional to carry out the functions as mentioned under I&B Code, the fee payable to IRP/RP shall comply with the IBBI Regulations/Circulars/Directions issued in this regard.
- e) The Registry is directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional even by way of email or Whats App. Compliance report of the order by Designated Registrar is to be submitted today.

Sd/-

Kishore Vemulapalli
Member (Judicial)

09.05.2022

Certified True Copy
Copy Issued "free of cost"
On 12.05.2022
Joint Registrar
National Company Law Tribunal Mumbai Bench

Sd/-

Rajesh Sharma
Member (Technical)

