

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
NEW DELHI (COURT NO. IV)  
Company Petition No. IB 651/ND/2020**

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016  
Read with Rule 6 of the Insolvency and Bankruptcy (Application to  
Adjudicating Authority) Rules, 2016

**IN THE MATTER OF:**

**Nuvision (Delhi) Private Limited  
...Applicant /Financial Creditor**

**VERSUS**

**Flywheel Logistics solution Private Limited  
...Respondent/ Corporate Debtor**

**ORDER PRONOUNCED ON: 06.10.2020**

**CORAM:**

**DR. DEEPTI MUKESH  
HON'BLE MEMBER (JUDICIAL)  
MS. SUMITA PURKAYASTHA  
HON'BLE MEMBER (TECHNICAL)**

**MEMO OF PARTIES**

**IN THE MATTER OF:**

**Nuvision (Delhi) Private Limited**

Having registered office at:

RZ-A 59 1<sup>st</sup> Floor Mahipalpur

New Delhi – 110037

(Represented through an authorized representative, Ashoke Kumar Tiwari)

**...APPLICANT/FINANCIAL CREDITOR**

**VERSUS**

**Flywheel Logistics Solutions Private Limited**

Having registered office at:

F-213/E-1, Old M.B. Road,

Lado Sarai, New Delhi – 110030

(Applicant represented through its Director)

**...RESPONDENT/ CORPORATE DEBTOR**

**FOR THE APPLICANT** :Mr. Achin Goel, Adv.

**FOR THE RESPONDENT** : Mr. Manohar Malik, Adv.

Ms. Kajal Bhatia, Adv.

## **ORDER**

### **PER-DR. DEEPTI MUKESH, MEMBER (J)**

1. The present application is filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity 'the Code') read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Nuvision (Delhi) private limited (for brevity 'Applicant') through its Authorized representative, Mr.Ashoke Kumar Tiwari, authorized vide board resolution dated 09.11.2019 with a prayer to trigger Corporate Insolvency Resolution Process against Flywheel logistics solution private limited (for brevity 'Corporate Debtor').
2. The applicant is a private limited company registered and incorporated on 085/04/1996 under the provisions of Companies Act, 1956 bearing CIN-U32209DL1996PTC077889 and is having its registered office at RZ-A59 1<sup>st</sup> Floor Mahipalpur, New Delhi -110037. It is involved in the business of manufacture of television and radio transmitters and apparatus for line telephony and line telegraphy.
3. The corporate debtor is a private limited company incorporated on 17/12/2015 under the provisions of Companies Act, 1956 bearing CIN-U60232DL2015PTC288609 and is having its registered office at F-213/E-1, Old MB Road, Lado Sarai, New Delhi-110030. The Company is involved in the business of providing transportation and logistics service.
4. The applicant states that in the year 2019, the corporate debtor sought a loan of Rs.50,00,000/-, which was given by the applicant as there has been a prior business relation between the parties and had developed trust over each other. The applicant transferred Rs. 4,25,000/- on 30.04.2019 and Rs

45,75,000/- on 08.05.2019 in IDBI Account No. 0110102000030764 of the corporate debtor. The applicant has also annexed a transaction inquiry statement received from the IDBI bank dated 26.02.2020.

a) That applicant and the corporate debtor entered into an agreement on 01.07.2019, for advancing loan of Rs. 50,00,000/- at the rate of 15% p.a., which was disbursed as mentioned above, to be repaid by 01.01.2020. The total amount to be repaid along with interest was Rs. 53,75,500/-, for which the corporate debtor gave postdated cheque for the said amount as a security in lieu of loan advanced. The copies of the agreement dated 01.07.2019 and the postdated cheque are annexed with the application.

5. The applicant submits that on 15.01.2020, a reminder letter was sent to the corporate debtor to repay the outstanding loan along with interest. The corporate debtor vide letter dated 27.01.2020 acknowledged the loan and affirmed to repay the loan by 31.03.2020. Thereafter, again on 17.02.2020, the applicant sent a letter reminding the corporate debtor to repay the loan and informed the corporate debtor that if the loan is not paid, they shall present the cheque bearing no. 000618 given as security by the corporate debtor. The corporate debtor vide email dated 18.02.2020 replying to the said letter, acknowledged the loan and assured to repay the loan by 31.06.2020.
6. The applicant submits that since no repayment was being made by the corporate debtor, the applicant presented the cheque bearing No. 000618, to its bank for encashment. The said cheque was dishonored and returned vide memo dated 25.02.2020, with the remark, "*funds insufficient*". The copy of bank memo has been annexed.

7. That the applicant filed an application under Section 7 of the I&B code, 2016 and as per Form I Part IV the total amount in default is Rs. 53,75,000/- which includes Rs. 50,00,000/- as the principal amount and Rs.3,75,000/- as interest at the rate of 15% p.a. from 01.07.2019 to 01.01.2020, which is due and payable by the corporate debtor.
8. The Corporate debtor had appeared but did not file reply to the said application neither has defended the application.
9. It is evident from the record that the application has been filed on the Performa prescribed under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 read with Section 7 of IBC. This Tribunal is satisfied that a default has occurred and the application under Section 7 is complete.
10. The default has occurred on 01.01.2020 and the present application is filed on 27.02.2020. Hence, the application is filed within in the period and is not barred by limitation.
11. The registered office of the Corporate Debtor is situated at Delhi and therefore this tribunal has jurisdiction to entertain and try this application.
12. Considering the documents on records and submissions made, it is clear that the default has occurred and the debt is due and payable. Further, the present application has remained uncontroverted with respect to the claim of the applicant. Moreover, the corporate debtor has filed IB no. 668/2020 seeking CIRP against itself under Section 10 of the code, wherein the claim of the present applicant of Rs. 53,75,000/- has been admitted. Hence, it leaves no doubt that the application deserves to be admitted and the applicant is entitled to claim the admitted amount which is still

outstanding and has remained unpaid till date. Therefore, the application is allowed.

13. As a sequel to the above discussion, this application is admitted. The applicant had proposed the name of Mr. Ajay Gupta to be appointed as IRP, who had withdrawn his consent and vide IA no. 3659/2020 the applicant proposed the name of Mr. Yogesh Mittal to be appointed as an IRP. Accordingly, Mr. Yogesh Mittal having registration number IBBI/IPA-001/IP-P01849/2019-20/12960, having address House No. 693, Sector-31, Faridabad, email id: [mittalyogesh1982@gmail.com](mailto:mittalyogesh1982@gmail.com) and Mobile No.: 9810607937, is being hereby appointed as the Interim Resolution Professional of the corporate debtor. The IRP above named has annexed the certificate of registration and has filed consent in Form-2 of the Insolvency & Bankruptcy Board of India (Application to Adjudicating Authority) Rule 2016 and made disclosures as required under IBBI (Insolvency Resolution Process for Corporate Person) Regulation, 2016.
14. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 moratorium as envisaged under the provisions of Section 14(1) shall follow in relation to the Respondent prohibiting the respondent as per proviso (a) to (d) of section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come in force.
15. We direct the applicant to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional namely Mr. Yogesh Mittal 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 three days for the date of receipt of this order by the applicant. The amount

however is subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the applicant.

16. In terms of above order, the application stands admitted in terms of Section 7 of IBC, 2016. A copy of the order shall be communicated to the applicant as well as to the Corporate Debtor above named by the Registry. Applicant is also directed to provide a copy of the complete paper book with copy of this order to the IRP. In addition, a copy of the order shall also be forwarded to IBBI for its records and to ROC for updating the master data. ROC shall send compliance report to the Registrar, NCLT.

**Sd/-**

**SUMITA PURKAYASTHA**  
**MEMBER (T)**

**Sd/-**

**DR. DEEPTI MUKESH**  
**MEMBER (J)**