

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

**C.P. No. 545/IBC/MB/2022**

Under Section 10 of the Insolvency and  
Bankruptcy Code, 2016.

*In the matter of*

**SHRI FAKIRCHAND ENTERPRISES**

**PRIVATE LIMITED**

(CIN- 36912MH2013PTC239672)

407, Panchratna, Opera House,

Mumbai-400004

**Corporate Applicant**

**Order Dated: 05.01.2024**

**Coram:**

Hon'ble SH. V.G Bisht, Member (Judicial)

Hon'ble SH. Prabhat Kumar, Member (Technical)

**For the Applicant:** Ms. Mitali Bhatt, Advocate a/w

Mr. Ayush Rajani, Advocate i/b AKR Legal.

**Per:** V.G Bisht (Judicial)

**ORDER**

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1. This Company petition is filed by *Shri Fakirchand Enterprises Private Limited* (hereinafter called "Corporate Applicant") on 26.04.2022, seeking to initiate Corporate Insolvency Resolution Process. The said application is being preferred by the Corporate Applicant who is a shareholder and Corporate Guarantor for the credit facilities extended to M/s Antrix Diamond Exports Pvt Ltd, which is undergoing Liquidation under the provisions of the Insolvency & Bankruptcy code,2016.

2. The present petition is filed before this Adjudicating Authority on the ground that the Corporate Applicant failed to make payment for a sum of Rs. 52,647,648,575/- (Rupees Five Hundred Twenty-Six Crores Forty-Seven Lakhs Sixty-Four Thousand Eight hundred and Fifty-Seven Only).
3. The Account of the Applicant was declared Non-Performing Assets (NPA) on 07.01.2016 as per Bank of India.
4. The Authorized Share Capital of Corporate Applicant is Rs. 10,00,000/- and paid up Equity share capital is of Rs.10,00,000/-
5. The Applicant is Corporate Guarantor for Antrix Diamond Exports Pvt Ltd vide CIN:36912MH2013PTC239672 having its registered office at 407, Panchratna, Opera House, Mumbai-400004. Corporate Guarantor fails to pay the debt which is owed to the Financial Creditor.
6. The brief facts of the case are as follows: -
  - a. The Corporate Applicant was incorporated on 15.01.2013.
  - b. That On 07.01.2016 the Corporate Debtor's Accounts with Bank of India were declared NPA.
  - c. Subsequently Bank of India on 08.01.2018 issued a demand notice, as asserted in the notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the applicant has accrued a total debt of Rs 52,647,648,575/-. This pertains to diverse

credit facilities extended to M/s Antrix Diamond Export Pvt Ltd. The Corporate Debtor has furnished a Corporate Guarantee in connection with the aforementioned credit facilities.

- d. On 16.04.2019 and 30.04.2019 the Applicant has further been served a notice pursuant to Section 13(4) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, under Rule 8(1) by the Bank of India, specifically concerning immovable property.
- e. The financial condition of the Corporate Applicant distinctly reflects the financial challenges it is currently facing. Despite its genuine intentions and earnest efforts to settle outstanding debts, the Applicant continues to grapple with its obligation to meet financial liabilities.
- f. In the light of the above stated facts and circumstances, the Corporate Applicant being left with no other option and compelled to file the present application. The present application is being filed after the due approval of its shareholders by way of special resolution passed at the Extra-Ordinary General Meeting dated 08.04.2022 for initiation of Corporate Insolvency Resolution Process under Section 10 of the Code. The Corporate Applicant has enclosed a copy of Special Resolution passed by the shareholders of the company in their Extra-Ordinary General Meeting. The Board of Directors of the Corporate Applicant had made

Mr. Ajay Fakirchand Gandhi, who is one of the Director of the Company as Authorised Person to file necessary application under the Code before this Tribunal.

7. The Corporate Applicant has also enclosed the audited Financial statement for the years 2018-19; 2019-20; 2020-2021;2021-22. The Corporate Applicant also enclosed the list of financial creditors (secured/unsecured), list of properties given as security for the loans availed and extract of charges registered with the Registrar of Companies taken from MCA portal. The Corporate Applicant has also disclosed the names and addresses of the members of the Company with details of their shareholding, details of debt owed by or to the Corporate Applicant to or by persons connected with it and details of personal guarantors of the Corporate Applicant.
8. After hearing the submissions and upon perusing the supporting documents annexed with the Petition, this Bench is of the view that the Corporate Applicant has committed default and the Petition contains the particulars as required u/s 10 of the Code. The Corporate Applicant also suggested the name of **Mr. Shailesh Bhalchandran Desai** as Interim Resolution Profession along with his consent letter in Form II. Thus, the present Company Petition satisfies all the necessary legal requirements for admission. Accordingly, the above Company Petition is admitted by passing the following:

### **ORDER**

- a. The above Company Petition No. (IB) -545/(MB)/2022 is hereby allowed and initiation of Corporate Insolvency

Resolution Process (CIRP) is ordered against Shri  
Fakirchand Enterprises Private Limited

- b. This Bench hereby appoints **Mr. Shailesh Bhalchandran Desai**([Ip10362.desai@gmail.com](mailto:Ip10362.desai@gmail.com)), Insolvency Professional, Registration No:IBBI/IPA-001/IP/P-00183/2017-2018/10362 as the interim resolution professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Corporate Applicant shall deposit an amount of Rs. 2,00,000/- 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 for meeting the CIRP cost and IRP's fees till the first meeting of CoC and such expenses shall be subject to ratification. The IRP shall be paid a considerate remuneration of Rs. 1,50,000/- for his services rendered till conclusion of first CoC meeting.
- d. That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate applicant 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 applicant any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the corporate applicant 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 applicant.
- e. That the supply of essential goods or services to the Corporate applicant, 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 applicant 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 applicant will vest in the IRP/RP. The suspended directors and employees of the corporate applicant 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 Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Applicant. Accordingly, this Petition is admitted. The Registry is hereby directed to communicate this order to Corporate Applicant and IRP immediately.

**Sd/-**

**SH. PRABHAT KUMAR**  
**MEMBER (TECHNICAL)**

**Sd/-**

**V.G BISHT**  
**MEMBER (JUDICIAL)**