

NATIONAL COMPANY LAW TRIBUNAL
COURT-V, MUMBAI BENCH

201. C.P. (IB)/913(MB)2023

IN THE MATTER OF

Avendus Finance Private Limited

... Petitioner

Vs

Acute Retail Infra Private Limited

... Respondent

U/s 7 of the Insolvency and Bankruptcy Code, 2016

Order Delivered on 25.09.2024

CORAM:

MS. REETA KOHLI,
MEMBER (J)

MS. MADHU SINHA,
MEMBER (T)

Appearance through VC/Physical/Hybrid Mode:

For the Applicant:

For the Respondent:

ORDER

Ld. Counsel for the Petitioner has brought to our attention that in the order dated 23.09.2024 in Para 18(a), the name of the Corporate Debtor has been wrongly mentioned as 'Azalia Distribution Private Limited' instead of 'Acute Retail Infra Private Limited'. In view of the inadvertent error, we deem it appropriate to get the appropriate correction carried out in para 18(a) and change the name of the Corporate Debtor from 'Azalia Distribution Private Limited' to 'Acute Retail Infra Private Limited' and upload afresh.

Sd/-
MADHU SINHA
Member(Technical)

Sd/-
REETA KOHLI
Member(Judicial)

/Ziyaul/

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – V**

C.P. (I.B) No. 913/MB/2023

Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of

Avendus Finance Private Limited

901, Platina, 9th Floor, Plot No. C-59, Bandra Kurla Complex, Bandra (East), Mumbai – 400051 (Maharashtra)

...Petitioner/Financial Creditor

Vs

Acute Retail Infra Private Limited

Pantaloon Knowledge House, Shyam Nagar, Off Jogeshwari Vikhroli Link Road, Jogeshwari (East) Mumbai - 400120, (Maharashtra)

... Respondent/Corporate Debtor

Order Dated: 25.09.2024

Coram:

Ms. Reeta Kohli, Hon'ble Member (Judicial)

Ms. Madhu Sinha, Hon'ble Member (Technical)

Appearances:

For the Petitioner: Adv. Nausher Kohli (PH)

For the Corporate Debtor: Adv. Malhar Zatakia (PH)

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ORDER

Per: Reeta Kohli, Member (Judicial)

1. This Company Petition is filed by **Avendus Finance Private Limited** (hereinafter referred as “**Petitioner/Financial Creditor**”) on 05.10.2023 seeking to initiate Corporate Insolvency Resolution Process (hereinafter referred as “**CIRP**”) against **Acute Retail Infra Private Limited** (hereinafter called “**Corporate Debtor**”) by invoking the provisions of **Section 7** of the Insolvency and Bankruptcy code, 2016 (hereinafter called “**Code**”) read with Rule 4 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for a Financial Debt of **Rs. 65,13,89,934/-** and the **Date of Default being 29.04.2022**.
2. The present Petition has been preferred by the Financial Creditor under Section 7 of IBC for an amount of Rs. 65,13,89,934/-. The case of the Petitioner is that the Corporate Debtor defaulted in repayment under the Facility Agreement dated 09.03.2018, read with the First Amendment Agreement to the Facility Agreement dated 15.10.2019 and with the Second Amendment Agreement dated 31.12.2020. The date of default is stated to be 29.04.2022. The Petitioner along with Shapoorji Pallonji Finance Private Limited (“**SP Finance**”) and Visu Leasing and Finance Private Limited (“**VLFP**”) agreed to provide a term loan facility of Rs. 115 Crores to the Corporate Debtor. The Facility Agreement dated 09.03.2018 was entered into between the Petitioner along with the Corporate Debtor, SP Finance Limited, and VLFP. Under the Original Facility Agreement, out of the total amount of Rs. 115 Crores, the Petitioner committed a total sum of Rs. 66 Crores which was disbursed to the Corporate Debtor on 28.03.2018. The amount committed and disbursed by the Petitioner was secured by the Deeds of Hypothecation, Share Pledge Agreements, Personal Guarantees, Promissory Notes, and a Letter of Continuity. The Corporate Debtor executed a Security

Trustee Agreement dated 09.03.2018 with IDBI Trusteeship Services Limited. It was further submitted that the Corporate Debtor and Future Retail Limited (“FRL”) had executed a Master Lease Agreement dated 01.03.2018, wherein the Corporate Debtor had leased out some equipment owned by it like plant & machinery, machinery spares, tools & accessories, etc. to FRL against payment of lease rentals. The said equipment was used by FRL in certain retail stores operated by it. A Lease Rental Schedule dated 01.03.2018 was also executed between the Corporate Debtor and FRL. As stated by the Financial Creditor, the Corporate Debtor, FRL, and Security Trustee entered into a Tripartite Agreement dated 09.03.2018 in view of the collection of lease rental payment. It was recorded in the said agreement that the lease rentals received from FRL by the Corporate Debtor under the before-mentioned Master Lease Agreement is charged to the Financial Creditor. Under the Facility Agreement dated 09.03.2018, the Corporate Debtor agreed to deposit the lease rentals receivable by it from Future Retail Limited into an Escrow Account, and accordingly, the Escrow Agreement dated 19.03.2018 was executed between the Corporate Debtor, Security Trustee and HDFC Bank (“Escrow Bank”). The said Facility was hence secured by various securities and guarantees.

3. As stated earlier, the Master Lease Agreement dated 01.03.2018 was amended on 21.07.2018 by the Corporate Debtor and FRL to record a change in the commencement date and revision in the Lease Rental Schedule. Further, the Corporate Debtor did not avail any further drawdown aforementioned under the original Facility Agreement dated 09.03.2018 from either SP Finance or VLFPL, and accordingly, upon the expiry of the Availability Period, the rights, title, and benefit of SP Finance and VLFPL under the Facility Agreement was relinquished. The same was recorded in a Deed of Confirmation dated 14.10.2019 entered into by SP Finance, VLFPL, Avendus Finance Private Limited, Security Trustee, and the Corporate Debtor. The Financial Creditor and the Corporate Debtor agreed to change the interest rate w.e.f. May 2019 from a fixed rate to a floating rate and

thus a letter dated 23.05.2019 was issued by the Financial Creditor and the same was acknowledged by the Corporate Debtor. Further, the Corporate Debtor, Financial Creditor, and the Security Trustee executed a First Amendment Agreement dated 15.10.2019 to the Original Facility Agreement dated 09.03.2018 to amend certain terms and conditions of the Facility relating to change in security package, conversion from fixed interest rate to floating interest rate, etc. Pursuant to mutual discussions, the Financial Creditor and Corporate Debtor agreed that the security created by way of pledge over FMNL equity shares under the Unattested Share Pledge Agreement dated 09.03.2018 will be released and security over the Future Consumer Limited (“FCL”) shares shall be created to the extent of security cover mentioned in the Finance Documents and thus, the Agreement for Amendment and Restatement of Unattested Pledge Agreement dated 09.03.2018 was executed on 15.10.2019. Accordingly, various documents and pledge agreements were executed between the parties.

4. The case of the Financial Creditor is that Future Group, in 2020, announced a composite scheme of arrangement with Reliance Retail Ventures Limited and its wholly-owned subsidiary, Reliance Retail & Fashion Lifestyle Limited. During the Covid-2019 period, the business of the Corporate Debtor was severely hit and the Corporate Debtor requested the Financial Creditor to restructure its debts under the Resolution Framework promulgated by RBI vide the notification dated 06.08.2020. Pursuant to the request of the Corporate Debtor, the Financial Creditor along with the other lender, i.e., APAC Finance Services Private Limited (“APAC”) agreed to implement the resolution plan in terms of RBI guidelines and an Inter-creditor Agreement dated 27.12.2020 was executed. To give effect to the OTR the Corporate Debtor, Financial Creditor, and Security Trustee executed a Second Amendment to Facility Agreement dated 31.12.2020. The tenure of the facility and the interest rate were revised as a part of the OTR and further, the Repayment Schedule was also amended and the first installment post-restructuring was due and payable on 01.11.2021. Under the aforesaid Second

Amendment, the Corporate Debtor had covenanted and undertaken that it shall not create any encumbrances over its assets, including the immovable property located at Durgapur, West Bengal. It was also agreed upon that in case the Standstill Agreement executed between Future Group and Reliance Group becomes invalid for any reason or is terminated by either party, the Corporate Debtor shall immediately inform the Financial Creditor of the same and within 30 days of such invalidation/termination create a first ranking pari-passu charge by way of mortgage over the aforementioned Durgapur property. As submitted, the Master Lease Agreement executed between the Corporate Debtor and FRL was further amended to extend the lease term for the lease of equipment till 31.03.2026. The Corporate Debtor, FRL, and Security Trustee also amended the Tripartite Agreement to record the OTR granted to the Corporate Debtor. As part of the Resolution Plan, the Corporate Debtor agreed that all repayments to be made by the Corporate Debtor to the Financial Creditor and APAC shall be routed through Escrow Accounts and thus an Amended and Restated Escrow Agreement dated 31.12.2020 was executed between the Corporate Debtor, the Security Trustee, the Escrow Bank, the Financial Creditor, and APAC to record the operation of Escrow Accounts. As submitted by the Financial Creditor, the outstanding principal amount as on 31.12.2020 was Rs. 49,68,32,059/-. Pursuant to the OTR and the implementation of the Resolution Plan, the Facility was secured by various securities and guarantees.

5. In April 2022, the Scheme of Arrangement between Future Group and Reliance Group failed and the Standstill Agreement became invalid which triggered the obligation of the Corporate Debtor to create a first ranking pari-passu charge over the Durgapur Property in terms of the Facility Agreement. The Corporate Debtor failed to create the same. The Corporate Debtor was also in breach of several terms and conditions of the Facility Agreement. In addition, FRL failed to make the payments towards the Lease Rentals from March 2022, therefore, triggering an event of default under the Master Lease Agreement and Facility Documents.

Thus, in view of the continuous breach of the terms and conditions of the said Facility Agreement by the Corporate Debtor, the Financial Creditor addressed a Default Notice dated 27.04.2022 to the Corporate Debtor and other obligors intimating them about the occurrence of a default under the Facility Agreement. Vide the said notice, the Financial Creditor terminated the Facility and accelerated the outstanding amounts calling upon the Corporate Debtor to pay on or before 29.04.2022. Further, due to the failure on the part of the corporate Debtor to repay the debt, on 29.04.2022, IDBI Trusteeship Service Limited, being a Security Trustee issued a Notice of Sale under section 176 of the Indian Contract Act, 1972 to the Corporate Debtor and the obligors intimating them about the intention of the Financial Creditor to sell the listed shares of Future Market Network Limited and Future Consumer Limited that were held as collateral. The Corporate Debtor vide its letter dated 04.05.2022, issued an interim reply denying the contents of the Default Notice dated 27.04.2022.

6. On 26.05.2022, the Financial Creditor issued further notice to the Corporate Debtor and other obligors intimating them that the Corporate Debtor is in default as it has failed to make payments of the outstanding amounts under the Facility Agreement. Further, the Financial Creditor communicated that the account of the Corporate Debtor will be declared as Non-Performing Asset (NPA) upon the expiry of the review period under the RBI Restructuring Guidelines. The Corporate Debtor responded to the said notice by letter dated 23.06.2022 stating the Scheme of Arrangement has failed and the Corporate Debtor is facing challenges and sought time of 4 weeks to enable the Corporate Debtor to provide resolution of debt payable to the Financial Creditor. As stated by the Financial Creditor, in view of the Second Amendment Agreement to the Facility Agreement, the Corporate Debtor had agreed that they shall not create or permit to subsist any Encumbrance over its assets (present or future) including the Durgapur Property, except with the prior written consent of the Financial Creditor. Further, the Corporate Debtor had also agreed to create a first ranking

pari-passu charge by way of mortgage over Durgapur Property in the manner provided under the Second Amendment Agreement to the Facility Agreement. It was submitted that the Corporate Debtor was in the process of identifying prospective buyers so that the Durgapur Property could be sold and the proceeds from the sale could be utilized to repay the outstanding dues of the Financial Creditor and the other lender, APAC on a proportionate basis. The Financial Creditor and the Corporate Debtor also exchanged draft Memorandum of Understanding with respect to the same. However, the Corporate Debtor by an email dated 10.02.2023, cancelled the said transaction. The Financial Creditor, vide email dated 28.04.2023, informed the Corporate Debtor about the debt due and payable by the Corporate Debtor. Further, the Corporate Debtor was called upon to create security by way of mortgage over the Durgapur Property on a first ranking pari-passu basis or to sell the said property so that proceeds are utilized to repay the debt of the Financial Creditor and APAC on a proportionate basis, failing which the Financial Creditor will take legal recourse to protect its interest and security.

7. Despite the aforementioned, the Corporate Debtor failed to repay its debts due to the Financial Creditor, and on 10.05.2023 the Financial Creditor issued a Notice to the Personal Guarantors, Mr. Kishore Biyani and Mr. Rakesh Biyani, thereby invoking the personal guarantee of Mr. Kishore Biyani and Mr. Rakesh Biyani and demanded payment of the outstanding dues. It was further submitted by the Financial Creditor that vide a letter dated 08.06.2023, the Advocates for the Personal Guarantors responded to the Invocation Notice dated 10.05.2023 and informed the Financial Creditor that the Corporate Debtor is monetizing its assets and the proceeds from the same will be sufficient to cover the outstanding dues of the Financial Creditor. In response to the letter dated 08.06.2023, the Financial Creditor issued a letter dated 03.07.2023 to Advocates of Personal Guarantors stating that the obligations of the personal guarantors under the Personal Guarantees both dated 09.03.2018 are coextensive with that of the Corporate

Debtor and hence, the personal guarantors are liable to discharge their obligations in view of the same. In addition to this, the Financial Creditor sent a separate notice, bearing the date 03.07.2023, to the Corporate Debtor once again requesting the Corporate Debtor to immediately create the mortgage over the Durgapur Property and also demanded repayment of its debt from the Corporate Debtor and further requested the Corporate Debtor to provide details (if any) of resolution plan or monetization plan. As stated, the Corporate Debtor sent an email dated 19.07.2023 to the Financial Creditor stating that it is in the process of monetizing its assets to pay the alleged outstanding amount and that negotiations are in advanced stages and therefore no coercive action be taken against the Corporate Debtor by the Financial Creditor. The Financial Creditor on 20.07.2023 responded to the Corporate Debtor's email dated 19.07.2023, seeking information regarding the details of the plan regarding monetizing of assets, list of assets that are proposed to be monetized, timelines for completing the process of monetizing assets of the Corporate Debtor, etc. As submitted by the Financial Creditor, the aforementioned details have not been provided by the Corporate Debtor till date.

8. As submitted, the Financial Creditor received another letter dated 25.07.2023 from the Advocate of the Personal Guarantors, through which it was again reiterated that the Corporate Debtor is in process of monetizing its asset and the proceeds from the same would be sufficient to cover the outstanding amount owed to the Financial Creditor and it was further stated that an application under section 95 of the code has already been filed against one of the Personal Guarantors by Catalyst Trusteeship Services Limited on 26.10.2021 and the same stands pending.
9. In view of what is stated above, the Financial Creditor most respectfully submitted before the Hon'ble Tribunal that the Corporate Debtor failed to make payments in accordance with the Default Notice dated 27.04.2022, resulting in a continuous and subsisting event of default under the Facility Agreement.

Furthermore, FRL defaulted in payment of Lease Rentals from March 2022 onwards, constituting an event of default under Clause 7.1 (a) (ii) of the Facility Agreement. The Corporate Debtor also failed to maintain the required insurance coverage of 1.1 times of the Facility ("Cover") for all Secured Assets, breaching Clause 6.2(c)(vii) of the Facility Agreement, constituting an event of default under Clause 7.1 (b). Additionally, the Corporate Debtor defaulted in executing the mortgage in favor of the Financial Creditor over the Durgapur Property within 30 days of the invalidation or termination of the standstill agreement between the Future Group and the Reliance Group, as agreed under the Second Amendment. The Corporate Debtor also delayed in providing audited balance sheets and had not provided the audited balance sheet for the financial year 2022-23, violating Clause 6.1(d) of the Facility Agreement.

- 10.** The Financial Creditor further submitted that the Corporate Debtor's representation under Clause 5(n) of the Facility Agreement regarding the absence of insolvency proceedings against any Obligors was no longer valid, as the Bank of India had filed an application under IBC against FRL, which was admitted into insolvency on 20.07.2022, thus constituting an Event of Default under Clause 7.1(f) and 7.1(g) of the Facility Agreement. Moreover, an application under Section 95 of the IBC was filed against the Personal Guarantor, Mr. Kishore Biyani, also amounting to an Event of Default under clause 7.1(d) of the Facility Agreement on account of any Financial Indebtedness of any Obligor not being paid when due. The credit ratings of both the Corporate Debtor and FRL had deteriorated to D, failing to maintain the minimum required ratings as per Clause 6.1(a) of the Facility Agreement. The Pledge Cover was not maintained since the Security Breach Date (13.07.2021), leading to the invocation of the pledge over the securities of FCL and FMNL. These multiple Events of Default collectively resulted in a Material Adverse Effect as defined in the Facility Agreement. The Corporate Debtor had failed to make payment of the outstanding amounts,

provide details regarding asset monetization or a resolution plan, and create the security over the Durgapur Property as covenanted under the Facility Agreement.

11. Thus, in light of the aforementioned submissions, the Financial Creditor prayed that the Hon'ble Tribunal be pleased to allow and admit the Company Petition and initiate a Corporate Insolvency Resolution Process against the Corporate Debtor.
12. On the other hand, the Corporate Debtor in its reply to the Petition has stated that he is in the business of leasing Retail Infrastructure Assets and has a decent reputation and goodwill in the market. As submitted, the Corporate Debtor provided infrastructure assets to FRL in terms of the Master Lease Agreement dated 01.03.2018. The Corporate Debtor in the reply itself has admitted that COVID-19 severely impacted the business of the Corporate Debtor and in view of the same, the Corporate Debtor faced difficulty in meeting its commitment towards the financial obligations. As further stated by the Corporate Debtor, on 29.08.2020, the Board of Directors of FRL approved the Scheme of Arrangement wherein FRL and other entities of the Future Group were proposed to be merged into Future Enterprises Ltd. (FEL) and the logistics and warehousing undertaking of resultant FEL would be sold to Reliance Retail Ventures Ltd. and the retail and the wholesale undertaking of resultant FEL would be sold to Reliance Retail and Fashion Lifestyle Limited. In addition to this, certain entities of Future Group had also entered into an One Time Restructuring (OTR) Scheme with several Banks and Financial Institutions, including the Financial Creditor. However, the said Scheme of Arrangement was unsuccessful, and subsequently the OTR could not be implemented. The Corporate Debtor even admitted to monetizing its assets including immovable property at Durgapur. The Corporate Debtor also submitted that it is a running entity having employees and thus no fruitful purpose would be served if the same is subjected to CIRP.
13. During the course of arguments, on various occasions, time was sought by the Learned Counsel appearing on behalf of the Corporate Debtor stating that the

parties are attempting to settle or the Corporate Debtor is in the process of disposing of its Durgapur assets so as to discharge its liability towards the Financial Creditor. Unfortunately, the talks failed and the Corporate Debtor even failed to monetize its Durgapur assets. Further, the Learned Counsel for the Corporate Debtor raised a technical objection that the Board Resolution dated 22.05.2023, on the basis of which the present Petition has been instituted, does not authorize the Petitioner to initiate CIRP under Section 7 of IBC and thus, on this ground the Petition deserves to be dismissed. Reliance with respect to the same was placed on the judgment of the coordinate bench in the matter of *Rushabh Civil Contractors Private Limited vs. Centrio Lifespaces Limited CP (IB) No. 2161 of 2019* and *Hewlett Packard Financial Services (India) Private Limited vs. Nufuture Digital (India) Limited in IA No. 877 of 2023 in CP (IB) No. 6 of 2023*.

14. In view of the submissions made by the Learned Counsel of both the parties and on the strength of documents and pleadings placed on record, it is evident that an amount of Rs. 65,13,89,934/- is the total amount of outstanding financial debt owed by Corporate Debtor and thus, the present Petition has been preferred by the Financial Creditor before the Hon'ble Tribunal. On perusal of the reply submitted by the Corporate Debtor and also in view of the arguments advanced, it is evident that there is no denial and dispute concerning the outstanding debt owed to the Financial Creditor. However, the Corporate Debtor has attempted to justify the failure to meet its financial obligations by stating that the business of the Corporate Debtor and Future Retail Ltd. was severely impacted due to the onset of COVID-19. Further, the Learned Counsel on behalf of the Corporate Debtor took objection that the Board Resolution dated 22.05.2023, as placed on record, does not authorize the Petitioner to initiate CIRP under Section 7 of IBC and thus, on this ground, the Petition deserves to be dismissed. To deal with this contention, it is pertinent to note that the Learned Counsel for the Financial Creditor has relied on various judgments wherein it has been held that *a general*

authorization to initiate legal proceedings is sufficient to maintain a petition under Section 7 of IBC. To substantiate the same, reliance has been placed on the judgment of the Hon'ble Supreme Court in the matter of **Rajendra Narottamdas Sheth and Anr. Vs. Chandra Prakash Jain and Anr. (2022 5 Supreme Court Cases 600)** which is reproduced as under-

"14. NCLAT was of the opinion that general authorization given to an officer of the Financial Creditor by means of a power of attorney, would not disentitle such officer to act as the authorized representative of the Financial Creditor while filing an application under Section 7 of the Code, merely because the authorization was granted through a power of attorney. Moreover, NCLAT in Palogix Infrastructure has held that if the officer was authorized to sanction loans and had done so, the application filed under Section 7 of the Code cannot be rejected on the ground that no separate specific authorization letter has been issued by the Financial Creditor in favour of such officer. In such cases, the Corporate Debtor cannot take plea that while the officer has power to sanction loan, such officer has no power to recover the loan amount or to initiate CIRP in spite of default in repayment. We approve the view taken by NCLAT in Palogix Infrastructure."

15. The Financial Creditor placed further reliance on the judgment of the Hon'ble NCLT in the matter of **Edelweiss Asset Reconstruction Company Limited vs NCR Rail Infrastructure Limited (NCLT, Mumbai Bench CP (IB) No. 1079 of 2022)** wherein it has been held as under-

"4.3.....The financial creditor itself has filed the present Application and is represented by its own authorised officer and is distinguishable from "any other person on behalf of the financial creditor". The authorisation for Mr. Aherar Patel to file this Application is proved by the Board Resolution passed by Circulation by the Operations Committee of the FC. When the Resolution has been drawn out by the Company Secretary Mr.

Deepak Nautiyal for "Edelweiss Asset Reconstruction Company Limited" (the FC itself, no further proof of authorisation to the said Mr. Aherar Patel is required. Hence, we are satisfied that Mr. Aherar Patel has sufficient authority to file the Application, and this issue is accordingly decided in favour of the FC.)"

16. Further, it deserves to be taken note of that during the course of the arguments and at the time of filing of the Written Submissions, the Financial Creditor has placed on record a Board Resolution dated 17.05.2024 wherein the officers of the Financial Creditor have been specifically authorised to initiate CIRP under section 7 of the Code. Hence, in view of the aforementioned judgments and the Board Resolution dated 17.05.2024, this technical objection raised by the Corporate Debtor does not hold merit.
17. After appreciating the contentions of the parties and having gone through the reply placed on record by the Corporate Debtor we are of the considered view that the present application fulfills all the requirements as stipulated under Section 7(5) of the Code. The Financial Creditor is entitled to claim its dues as it has been duly established that the default in payment of the financial debt has occurred. There exists no pre-existing dispute between the parties and the present Petition is not barred by Limitation. Further, the amount stated to be due in this case is above the threshold limit as stipulated under Section 4 (1) of IBC and in view of the settled law wherein the Hon'ble Supreme Court has been pleased to hold in the matter of *M/s. Innoventive Industries Ltd. vs. ICICI Bank 2018 (1) SCC 407*

"28. The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the Adjudicating Authority. Under sub-section (7), the Adjudicating

Authority shall then communicate the order passed to the Financial Creditor and Corporate Debtor within 7 days of admission or rejection of such application, as the case may be.”

18. Keeping in view all these factors, we are of the considered view that the Petition merits admission. Therefore, the present petition is hereby **admitted** to CIRP by passing the following order:

ORDER

- a. The above Company Petition No. 913/IBC/MB/2023 is hereby **admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Acute Retail Infra Private Limited**.
- b. The Petitioner has proposed the name of **Mr. Ramesh M. Shetty**, bearing Registration No. IBBI/IPA-001/IP-P01444/2018-2019/12226, with place of residence at Y304, GV Complex, Borivali East, Mumbai-400066, as Interim Resolution Professional. The IRP proposed by the Petitioner, is hereby appointed as Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Petitioner shall deposit an amount of Rs. 2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount towards expenses and not towards fee till his fee is decided by CoC.
- d. That this Bench hereby declare moratorium in terms of Section 14 of Insolvency and Bankruptcy Code, 2016 prohibiting 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 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; 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 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.
- f. 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.
- g. 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.
- 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 board of directors of the Corporate Debtor shall stand suspended. The members of the suspended board of directors and the 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 Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

- k.** Accordingly, C.P. No. 913/IBC/MB/2023 is **admitted**.
- l.** The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

SD/-

MADHU SINHA
Member (Technical)

/Jhanvi/

SD/-

REETA KOHLI
Member (Judicial)