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CA(IB) No.1815/KB/2019

CP(IB)No.2050/KB/2019

Modtech Tradecom Pvt. Ltd.

Vs.

Basu & Co. Road Contractors Pvt. Ltd.

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

Coram:

Madan B. Gosavi, Member (Judicial)

Virendra Kumar Gupta, Member (Technical)

CA(IB)No.1815/KB/2019

CP(IB) No.2050/KB/2019

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of The Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

~ And ~

In the matter of:

M/s. Modtech Tradecom Private Limited [CIN No.U51909WB2012PTC173469] having its registered office at 175/151/1, Thana Road, Lichu Bagan, Khardah P.O. B.D. Sopan, Kolkata - 700 116

... .. Operational Creditor

~ Versus ~

M/s. Basu & Co Road Contractors Private Limited [CIN No.45400WB2002PTC094842], having its registered office at 278A, Santosh Roy Road, Kamal Bhaban, Ground Floor, Kolkata - 700 008.

... .. Corporate Debtor

Counsels on Record:

- | | | |
|------------------------------------|---|--------------------------|
| 1. Ms. Debaleena Ganguly, Advocate | } | For Operational Creditor |
| 2. Mr. Sourav Jain, Advocate | } | |

- | | | |
|--------------------------|---|----------------------|
| 1. Mr. Pradip Kr. Mondal | } | For Corporate Debtor |
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Date of Hearing: 14th February, 2020

Date of Pronouncement of Order: 19th February, 2020

ORDER

Per Virendra Kumar Gupta (T)

1. This application has been filed under Section 9 of Insolvency and Bankruptcy Code, 2016 ("IBC, 2016") for initiation of Corporate Insolvency Resolution Process ("CIRP") against the corporate debtor - M/s. Basu & Co Road Contractors Private Limited as the corporate debtor has committed default in payment of outstanding debt.
2. The facts relating to this application are that the operational creditor supplied stone chips and sand at various sites of the corporate debtor. The corporate debtor made part payment, however, could not make the full payment. The outstanding amount has been claimed at Rs.74,76,224/- which includes interest as well. However, the principal sum is Rs.51,48,848/-. In CA(IB) No.1815/KB/2019, the corporate debtor has admitted the debt and submitted that application filed by the operational creditor could be admitted.
3. The name of the IRP is not proposed as it is not mandatory for an application filed under section 9 of IBC, 2016, hence, we shall appoint IRP from the panel of IRPs approved by IBBI.
4. In the result, this application filed by the operational creditor stands admitted.
We order as under:-

ORDER

- i) The application filed by the operational creditor under section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process

against the corporate debtor, Basu & Co Road Contractors Private Limited, is hereby admitted.

- ii) We declare a moratorium and cause public announcement in accordance with Sections 13 and 15 of the IBC, 2016.
- iii) Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:
 - 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 (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.


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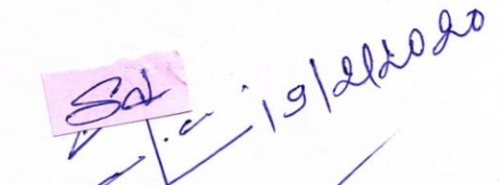
- v) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.
- vi) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii) Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- ix) Necessary public announcement as per Section 15 of the IBC, 2016 may be made.
- x) Mr. Ananda Rao Korada, IRP Registration No. IBBI/IPA-002/IP-N00286/2017-18/10844, E-mail: raoka55@gmail.com, is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan, subject to production of written consent within one week from the date of receipt of this order.
- xi) The Financial Creditor to pay sum of Rs.50,000/- (Rupees Fifty Thousand only) to IRP as advance fees as per Regulation 33(3) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 which shall be adjusted from final bill.
- xii) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

xiv) **CA(IB) No. 1815/KB/2019 stands disposed of.**

xv) Registry is hereby directed under section 7(7) of the I & B Code, 2016 to communicate the order to the Financial Creditor, the Corporate Debtor and to the IRP by Speed Post as well as through e-mail.

xvi) Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.


(Virendra Kumar Gupta)
Member (Technical)


(Madan B. Gosavi)
Member (Judicial)

Signed on this, the 19th day of February, 2020.