

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI
CP(IB)/35(CHE)/2022**

(Filed under Section 10 of the Insolvency and Bankruptcy Code, 2016)

In the matter of Annie Traders Private Limited

ANNIE TRADERS PRIVATE LIMITED,

Having its Registered Office at

3rd Floor, Capital Building,

No.554/555, Anna Salai,

Teynampet,

Chennai-600 018

... Applicant/Corporate Debtor

*Order Pronounced on **04.06.2025***

CORAM

Shri JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

Shri RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present:

For Applicant: Mr. Rohan Rajasekaran, Advocate

For Respondent: Mr. Madhusruthi Neelakantan, Advocate

ORDER

(Heard through video conferencing)

1. The present application has been filed by Annie Traders Private Limited (“the Corporate Applicant” or “the Corporate Debtor”) under Section 10 of the Insolvency and Bankruptcy Code, 2016 (“the Code”), seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against it. The application has been filed through one of its Directors, duly authorised by a Board Resolution annexed as **Annexure VII (a)** to the petition.

2. The Corporate Applicant is a private company incorporated under the provisions of the Companies Act, 1956. **Part-I** of the application sets out the particulars of the Corporate Applicant i.e. Annie Traders Private Limited. It was incorporated on 23.12.2011 having its Office at 3rd Floor, Capital Building, Anna Salai, Teynampet, Chennai – 600 018 with Authorized Capital as Rs.20,30,00,000/- and Paid-Up Capital as Rs.10,00,000/-. **Part-II** of the application sets out the particulars of the Proposed Interim Resolution Professional viz., Mr. K.J. Vinod having IP Regn. No. IBBI/IPA-003/1CA1-N-00291/2020-2021/13451. **Part-III** of the application lists the particulars of the Financial / Operational Creditors (**Annexure II**), amount of debt in default as Rs.29,61,05,307/- (**Annexure II (ii) and (iii)**) and date of default as 01.11.2019 set out in **Annexure-II**. It contains the details of debt documents, i.e. the settlement agreement (**Annexure-II**), details of operational debts and other details as **Annexure-II**.

3. It is submitted that due to sustained financial distress and accumulated debt, the Corporate Debtor has been rendered commercially insolvent and is unable to discharge its obligations towards its creditors. The petition sets out in detail the particulars of such defaults and the circumstances which led to the present financial distress.

4. It is also submitted that the Corporate Debtor has entered Settlement Agreement with Ram Chandra Traders Pvt Ltd, an operational creditor by conversion of operational debt into financial debt and the said creditor due has become default so therefore they had preferred a Company Petition under section 7 of the BC, 2016 to initiate CIRP against the Corporate Debtor and the said petition was taken on record in IBA/ 494/ 2020 and the same was dismissed on 21.12.2020 by this Hon'ble Tribunal.

5. It is submitted that in support of the application, the Corporate Debtor has filed a list of operational creditors with the nature and amounts of debts

outstanding, along with audited financial statements and account statements evidencing the erosion of net worth and default in payment.

6. It is submitted that the shareholders and board resolutions of the Corporate Debtor, resolving to initiate CIRP under section 10 of IBC,2016 is dated 22.12.2021 and can be found at Page no.56 and 57 respectively of the Petition. Hence, stated that there is no delay in filing of the petition thereafter on 01.02.2022.

7. It is also submitted that the Corporate Debtor is no longer viable to continue its operations outside of a formal resolution framework, and has therefore sought admission of the present application for initiation of CIRP under Section 10 of the Code.

8. It is stated that the Corporate Debtor satisfies the conditions for filing of the application since there is an existence of debt and default and the Corporate Debtor is not disqualified under Section 11 of IBC, 2016.

9. The Applicant has enclosed the details of total operational debts which is extracted hereinbelow:

Operational Creditors			
Group Outstandings			
1-Apr-2021 to 31 Jan 22			
Particulars	Address	Debit	Credit
AEG HOME APPLIANCES PVT LIMITED	No 41 SIDCO Industrial Estate Thirumazhisai Chennai 600 124		13,678,441
Affluence Engg Enterprises Ltd	Plot No 48 First Floor Nagarjuna Hills Panchagutta Hyderabad 500 082		22,371,649
C.Kadhiravan	5/3 Ground Floor Sastri Second Cross St Cauvery Nagar Saidapet Chennai 600015		16,600
Sudha Siva Traders Private Ltd	No 602 Laxmipuram Sempambakkam Chennai 600 103		222,109,841
Vijay Home Appliances Limited	Plot No 1 Survey No 308 IDA Jedimelta Bollarm Medchal Medak Dist 500 055 Thelungana		7,418,386
W.S.INDUSTRIES(INDIA)LIMITED	108 Mount Poonamalee Road Porur Chennai 600 116		634,960
Sub Total			266,229,877
Ramchandra Traders Pvt Ltd-Unsecured Loan	No 2 Bharathi Nagar 2nd Street, Villivakkam, Chennai Tamil Nadu 600 049		29,875,430
Grand Total			296,105,307

10. The Applicant has also placed the relevant books of accounts evidencing the default, copy of the audited financial statements upto 31.03.2023, Balance Sheet as on 31.12.2023 and its Statement of Affairs upto 31.12.2023, as additional typeset filed along with this petition.

11. Notice of the petition was directed to be served on the Financial Creditors and the major Operational Creditors.

12. We have heard Ld. Counsel for the Applicant and perused the records.

13. Upon perusal of the material on record, including the petition and the accompanying documents, this Adjudicating Authority is satisfied that a default has occurred and that the application is fit for admission under Section 10 of the Code.

14. Ld. Counsel for the Applicant submits that the application filed under Form-6 furnishes all the requisite and relevant particulars. The Applicant has furnished various details regarding the financials, compliances and operations of the Company.

15. Ld. Counsel submits that the Operational Creditors have not objected to the existence of debts owed to them. Ld. Counsel submits that the workmen of the Company are protected by Section 53 and Section 30 of the IBC. Ld. Counsel submits that none of the creditors have alleged that the Applicant is disqualified under Section 11 of IBC.

16. Section 10 of IBC, 2016 provides as under:

“Section 10. Initiation of corporate insolvency resolution process by corporate applicant.

(1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.

(3) The corporate applicant shall, along with the application furnish the information relating to-

(a) its books of account and such other documents relating to such period as may be specified; and

(b) the resolution professional proposed to be appointed as an interim resolution professional.

(c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order--

(a) admit the application, if it is complete; ²[and no disciplinary proceeding is pending against the proposed resolution professional]; or

(b) reject the application, if it is incomplete: ²[or any disciplinary proceeding is pending against the proposed resolution professional:]

Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section."

17. In the instant case, the amount of debt is more than Rs. 1.0 Crore i.e. more than the minimum threshold. The Applicant has also given the date of default in repayment of loans. It has been submitted that the credits taken are genuine; the money was pumped into the Company through proper banking channels; the proceeds were used for repayment to the lenders and for the

operations; there are no suspicious/fraudulent transactions; and the valuation of inventories was carried out independently by the auditors.

18. The Hon'ble National Company Law Appellate Tribunal (hereinafter, Hon'ble NCLAT), New Delhi in *M/s. Unigreen Global Private Limited vs. Punjab National Bank and others (Company Appeal (AT) (Insolvency) 81/2017)*, held that if an application under Section 10 is complete and in absence of any ineligibility of Corporate Applicant, the Adjudicating Authority is bound to admit the application. The relevant portion of the judgement is reproduced hereunder,

"22. Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under Section 10 and the informations as required to be submitted in Form 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 subject to ineligibility prescribed under Section 11. If all informations are provided by an applicant as required under Section 10 and Form 6 and if the Corporate Applicant is otherwise not ineligible under Section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground"

19. In the case of *"Go Airlines (India) Limited, CP/IB-264(PB)/2023"*, which was affirmed by the Hon'ble NCLAT in *Company Appeal (AT) [Insolvency] No. 593 of 2023*, it was held as under:

"34. Further, we are conscious of the fact that hearing each and every Creditor, under Section 10 of IBC 2016, can cause an inordinate delay in the conclusion of the proceeding, which may result in the erosion of the value of the assets and defeat the very purpose of value maximization and ultimately, the revival of the Corporate Applicant, which is not the objective of the IBC. As we have seen above, in the Application to Adjudicating Authority Rules, 2016, even the right to serve a copy of a Section 10 Application is not conferred to the Creditor(s). Hence, in view of the above, we conclude that in Section 10 proceedings, though there is no mandatory requirement of issuing notice to the Creditor(s) at the pre-admission stage, rather giving notice to the Creditor(s) is a

matter of discretion to be exercised on a case-to-case basis on valid grounds. Wherever there is a clear apprehension of deterioration of assets of the Corporate Applicant/Debtor and larger public interest is involved, issuance of notice at the pre-admission stage cannot be claimed as a matter of right.

(...)

*43. We observe that Section 65 only uses the word “initiates”, and does not make any distinction like the stage of pre-admission or post admission of CIRP, and from the reading of Sub-section (1), it transpires that the provision is applicable not only on the date on which a financial creditor / operational creditor or corporate applicant, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process but certainly, not limited to and may extend to the period of Liquidation, as the case may be. Needless to say, that fraud vitiates all acts. There could be instances where the fraudulent act is detected much after the commencement of CIRP. If a narrow interpretation of Section 65 of IBC 2016 is taken i.e., limiting its applicability to the pre-admission stage, then Section 65 will have no relevance. Therefore, Section 65 of IBC can be resorted to by an aggrieved party at any stage, be it preadmission or post-admission. **Accordingly, we conclude that there is no bar in entertaining/considering/adjudicating a Section 65 Application after the initiation of the CIR Process.***

44. Further, as we have noted earlier, as of the date of the hearing, there was no Section 65 Application filed/pending/listed before this Adjudicating Authority. Keeping in mind the urgency of the instant case, to protect and maximize the value of the Assets in line with the objectives of IBC, employment involved, and the larger public interest, the judicial propriety demands it will not be apt to wait for the filing of the Section 65 Application. Hence, we would like to proceed ahead with the examination of the Section 10 Application on merits.”

20. This Tribunal is satisfied that there is a default in the repayment of debt and the application filed under Section 10 is complete with all the necessary information. Further, the Corporate Applicant is not ineligible to make an application as per Section 11 of IBC, 2016. Therefore, we are of the view that this Company application is required to be admitted u/s 10 of the Code. We order accordingly.

21. The Corporate Applicant has proposed the name of **Mr. K.J.Vinod**, having **Regn. No. IBBI/IPA-003/ICAI-N-00291/2020-21/13451** as the Interim Resolution Professional (IRP). However, we appoint **Mr. Thangamuthu Viswanathan**, having **Registration No. IBBI/IPA-001/IP-P-02890/2024-2025/14430 (E-mail ID: ca.vthangamuthu@gmail.com) (AFA Valid till 30.06.2025)** forming part of the Panel of IPs recommended by IBBI in accordance with, "Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2024", as the IRP in the present application. The IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

22. As a consequence of the Application being admitted in terms of Section 10 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent 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 the possession of the respondent.

Explanation.—For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

23. However, during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

- (2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- (2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such

supply during the moratorium period or in such circumstances as may be specified.

- (3) The provisions of sub-section (1) shall not apply to
- (a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
 - (b) a surety in a contract of guarantee to a corporate debtor.

24. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

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.

25. The Corporate Applicant is directed to pay a sum of **Rs.5,00,000/- (Rupees Five Lakhs only)** to the Interim Resolution Professional to meet out the expenses and to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

26. Based on the above terms, the Petition stands **admitted** in terms of Section 10 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim

Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

-Sd/-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd/-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)