

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing platform)**

CP (IB) No. 332/Chd/Pb/2018

**Under Section 7 of the Insolvency
and Bankruptcy Code, 2016**

In the matter of:

Ludhiana Scripts Pvt Ltd

with its registered office at
B-23, 2581/3B/1,
Industrial Area-A, Near Zoom
Hotel Building,
Ludhiana-141003 (Pb)

...Petitioner/Financial Creditor

Versus

K.C. Land & Finance Ltd

with its registered office at
Chandigarh Road, K.C. Tower,
Nawanshahr-144514
(SBS Nagar)

...Respondent/Corporate Debtor

Judgement delivered on: 27.07.2021

**Coram: HON'BLE MR. AJAY KUMAR VATSAVAYI, MEMBER (JUDICIAL)
HON'BLE MR. RAGHU NAYYAR, MEMBER (TECHNICAL)**

For the Petitioner : 1. Dr. Rajansh Thukral, Advocate
2. Mr. Sidharth Thukral, Advocate

For the Respondent : Mr. Ravinder Joshi, Practising Chartered
Accountant

Per: Ajay Kumar Vatsavayi, Member (Judicial)

JUDGEMENT

The present petition was filed, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (**for brevity 'IBC, 2016**) read with Rule 4 of the

Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 **(for brevity ‘the Rules’)** by M/s. Ludhiana Scrips Private Limited **(for brevity ‘Financial Creditor/Petitioner’)**, with a prayer to initiate the Corporate Insolvency Process against M/s. K.C. Land & Finance Ltd. **(for brevity ‘Corporate Debtor’)**.

2. Accordingly, after hearing both sides, this Tribunal vide order dt.11.12.2018 rejected the application filed by the Financial creditor against which the Petitioner-Financial Creditor filed an appeal bearing CA (AT) (Ins) No.30/2019 before the Hon’ble NCLAT, which while allowing the appeal of the financial creditor vide order dt.02.05.2019, passed the following order:

“13. We set aside the Impugned Order. The matter is remitted back to the Adjudicating Authority – NCLT, Chandigarh. On receipt of this order, the Adjudicating Authority is directed to admit the Section 7 – I&B Code proceeding and pass further necessary orders as required under the I&B Code. However, it will be open to the Respondent to settle the matter in the meantime.

The Appeal is allowed with aforesaid observation and direction.”

3. In view of the order of Hon’ble NCLAT, the matter was listed for fresh hearing before this Tribunal on 09.05.2019 and on the said date the following order was passed:-

“From the side of the applicant/financial creditor one more interim order of Hon’ble National Company Law Appellate Tribunal on 13.03.2019 placed on record. Relevant para of the order dated 13.03.2019 is as under:-

“Learned counsel for the Respondents on instructions submits that Respondent is ready to settle the claim by paying the principal amount of Rs. 4.50 crores alongwith 6% simple interest within three months in three equal instalments. In view of such stand taken by the counsel for the respondent we allow the respondent to reach a settlement with the appellant in terms of the offer given before this Appellate Tribunal and file the terms of settlement by the next date.

Post the case for orders on 11th April, 2019.”

Since during the course of appeal there was a proposal for settlement as duly noted by the Hon'ble National Company Law Appellate Tribunal, therefore, the learned counsel from the side of respondent seeks one month's time to explore the possibility of settlement. To revert the progress of settlement.

Matter is adjourned for further necessary order on 11.07.2019.”

4. On 07.08.2019, the C.P. was dismissed as withdrawn with liberty to the petitioner to revive the same, if the terms of the settlement deed are not complied with by the corporate debtor and the said order reads as under:-

“Today, Mr. Neeraj Bakshi, Director of the petitioner company and Mr. Vikas Sharma, CEO of the respondent-corporate debtor are present in person and submit that amicable settlement has been reached between the parties i.e. the corporate debtor and the petitioner and settlement deed dated 30.07.2019 executed. A copy of the same is produced before us today and the petitioner submits that in view of the settlement between the parties the instant petition may be dismissed as withdrawn. However, he further submitted that as mentioned in the settlement deed, if the respondent-corporate debtor fails to comply the terms mentioned therein the petitioners may be granted liberty to revive the petition, for which the respondent has no objection. In the circumstances and in view of the settlement deed produced before us, the CP(IB) No.332/Chd/Pb/18 is dismissed as withdrawn with liberty to the petitioner to revive the same if the terms of settlement of said deed are not complied by the corporate debtor.

Identification documents of both the persons present are acknowledged. The same be taken on record.”

5. Thereafter, the Applicant filed IA No. 133/2020 seeking revival of the present CP as Corporate debtor breached the terms of the settlement deed dt.30.07.2019, which was allowed and the CP was restored vide order dt.04.01.2021. Notice to the respondent corporate debtor was also issued on 04.01.2021.
6. The corporate debtor filed reply vide Diary No.00293/3 dt.01.03.2021, stating that the applicant had wrongly calculated the interest 18% just to cross the threshold limit of 1 crore to make him eligible for filing the

application whereas no where the corporate debtor agreed to pay this interest. It is stated that the total outstanding payments as per settlement deed have been paid and adjusted as detailed in Para 13 of IA 133/2020 and the applicant concealed amount due to Mr. Prem Pal Gandhi, Director of the respondent. Also, it is stated that Form 1 is defective as the amount in default as claimed by the applicant and the date of default as mentioned in the application is different from the date and amount mentioned in the Form.

7. The petitioner filed rejoinder (Diary No. 00293/4 dt.02.03.2021) denying the reply averments.

8. We have heard the learned counsel for the Financial creditor as well as corporate debtor and have also perused the records.

9. In the circumstances and in view of the order of the Hon'ble NCLAT dt.02.05.2019 and the specific admission of the debt and the liability to pay, as evidenced by the settlement deed executed by the respondent-corporate debtor and filed before this Adjudicating Authority, we admit the petition for initiation of the CIR Process in the case of the Corporate Debtor, M/s. K.C. Land & Finance Ltd. and also direct moratorium to take effect and appoint Interim Resolution Professional as below.

10. We declare the moratorium in terms of sub-section (1) of Section 14 of the Code, as under:-

- 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 Operational 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 corporate debtor.

11. It is further directed that 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. The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.

12. The order of moratorium shall have effect from the date of this order till 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.

13. In Part-III of the Form-1, the petitioner has proposed the name of Mr. Rajesh Kumar Loomba as Interim Resolution Professional. The Law Research Associate of this Tribunal has checked the credentials of Mr. Rajesh Kumar Loomba and there is nothing adverse found against him. In view of the above, we appoint Mr. Rajesh Kumar Loomba bearing Registration No. IBBI/IPA-

002/IP-N00170/2017-18/10440, e-mail: rajeshloomba@gmail.com, as the Interim Resolution Professional with the following directions: -

- i.) The term of appointment of Mr. Rajesh Kumar Loomba shall be in accordance with the provisions of Section 16(5) of the Code;
- ii.) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of inventory of assets of the Corporate Debtor;
- iii.) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and moral;

- iv.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;
- v.) It is hereby directed that the Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;
- vi.) The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filing the report of constitution of the Committee; and
- vii.) The Interim Resolution Professional is directed to send regular progress report to this Tribunal every fortnight.

A copy of this order be communicated to both the parties. The learned counsel for the petitioner shall deliver copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send copy of this order to the Interim Resolution Professional at his email address forthwith.

Sd/-
(Raghu Nayyar)
Member (Technical)

Sd/-
(Ajay Kumar Vatsavayi)
Member (Judicial)

July 27th, 2021
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