

**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH-II, CHENNAI**

IBA/20/2020

Under Section 10 r/w rule 7 of the IBC, 2016

In the matter of M/s. Aesys Technologies India Private Limited

M/s. Aesys Technologies India Private Limited

CIN: U74900TN2011FTC079926

No. 4/58, Subramanya Iyer Street,

West Mambalam, Chennai-600033

---Corporate Applicant

Coram:

R. SUCHARITHA, MEMBER (JUDICIAL)

B. ANIL KUMAR, MEMBER (TECHNICAL)

Counsel for Corporate Applicant: *Ms.T.V Muthu Abirami, Advocate*

ORDER

Per: R. SUCHARITHA, MEMBER (JUDICIAL)

Order Pronounced on: 30.03.2021

Under Consideration is an Insolvency & Bankruptcy Application filed u/s 10 of the Insolvency & Bankruptcy Code, 2016 ("the Code") by M/s. Aesys Technologies Private Limited (in short, "the Corporate Applicant") for initiation of Corporate Insolvency Resolution Process (CIRP) under Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity,

'I&B Rules 2016'), following a default in meeting the financial obligations to its Operational Creditor viz. Aesys S.P.A., Italy as shown in the Company Petition filed in Form-VI.

2. On perusal of this Application, it is seen that the Company viz., M/s. Aesys Technologies India Private Limited bearing CIN U74900TN2011FTC079926 was incorporated on 30.03.2011 under the Companies Act, 1956 having its Registered Office at 4/58 Subramanya Iyer Street, West Mambalam, Chennai-600 033 has received share application money towards equity share capital from Aesys S.P.A., in respect of which allotment is seen to have been given effect. The total default amount has been mentioned as Rs.1,39,12,542 given by the Corporate Applicant in Part-III of Form-6 and the Corporate Applicant defaulted in discharging the debt payable to Aesys S.P.A. (company incorporated outside India). On 06.12.2019, the Chartered Accountant certified that the Corporate Applicant Company has not obtained any finance or loan from any other person since its inception, hence there are no financial creditors outstanding as on date.



3. In compliance of Annexure-III, this Corporate Applicant has filed written communication dated 30.09.2019 given by the Insolvency Professional as contemplated in Form-2 of the IBC, 2016. Also, the Applicant has filed audited financial statements for the year ended 31.03.2018 and auditors' provisional financial statement for 30.09.2019 reflecting the default of payment to the Operational Creditor, assets and liabilities of the Applicant, and no other documents evidencing creation of charge over the assets of the Corporate Applicant have been filed.


4. It is averred in the application that the Income Tax Returns were filed for the financial year 2018-2019. With respect to Provident Fund and ESI, it is submitted that the company is not required to take registration under this Act since the number of employees is less than threshold limit and that the cancellation of GST Registration has been applied for, but not yet approved, however, Return has been filed till February 2020. The Applicant has also filed a list of FEMA compliances.



5. The Applicant Company has also placed on record that passed a special resolution on 30.09.2019 for initiating a Corporate Insolvency Resolution process under Section 10 of the Code. Apart from this, the Corporate Applicant has filed documents such as Memorandum of Association and Articles of Association.

6. Looking at the material placed before this Bench, it is apparent on record that this Corporate Applicant had defaulted in making payments to Aesys S.P.A. Italy. In this case, the Corporate Applicant namely, M/s. Aesys Technologies India Private Limited has made a submission stating that they would like to recommend an IRP to take over the management of the affairs of the Corporate Applicant Company

7. In view of the same, we are of the view that this Company application is required to be admitted u/s 10 of the Code, since the Interim Resolution Professional has already expressed his consent to be appointed as Interim Resolution Professional (IRP), this Bench hereby appoints Mr. T. Sivagurunathan having Registration No.



IBBI/IPA-001/IP-P01343/2019-2020/12524 as IRP by admitting this Application with directions as follows:

I. That Moratorium is hereby declared prohibiting all of the following actions, namely,

a) 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;

b) transferring, encumbering, alienating or disposing of by the Corporate Applicant 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 Applicant 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 Corporate Applicant.

II. That Supply of essential goods or services to the Corporate Applicant, if continuing, shall not be



terminated or suspended or interrupted during moratorium period.

- III. That the provisions of sub-section (1) of Section 14 of IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- IV. That the order of moratorium shall have effect from the date 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 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of IBC.
- VI. That this Bench hereby appoints **Mr. T. Sivagurunathan,** having Reg. No: **IBBI/IPA-001/IP-P01343/2019-**



2020/12524, New No. 14B/S1, 2nd Floor, Dwaraka Apartments, 4th Main Road, New Colony, Chrompet, Chennai-600044 appointed as Interim Resolution Professional is directed to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

8. Accordingly, this Application is **admitted**.
9. The Registry is hereby directed to immediately communicate this order to the Corporate Applicant and the Interim Resolution Professional by way of e-mail.

-sd-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

KNP