

**NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
BENGALURU BENCH, BENGALURU, HELD ON 11.09.2020

THROUGH VIDEO CONFERENCING

CAUSE LIST

PRESENT: 1. Hon'ble Member (J), Shri Rajeswara Rao Vittalala
2. Hon'ble Member (T), Shri Ashutosh Chandra

CP/CA No.	Purpose	Sec	Name of Petitioner	Petitioner Advocate	Name of Respondent	Respondent Advocate
CP(IB) No. 202/BB/2020	For admission	Sec 10 of I&B Code 2016	M/s Confnd Consulting Limited	A Murali, advocate		

ADVOCATE FOR PETITIONER/s:


A. MURALI

ADVOCATE FOR RESPONDENT/s:

ORDER

Heard Shri A. Murali, learned Counsel for the Corporate Applicant through Video Conference.

CP (IB) No.202/BB/2020 is admitted by separate order. Post the case for report of the IRP on 14.10.2020.



Member (T)



Member (J)

Krishna

Verified



Court Officer

**IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH**

C.P. (IB)No.202/BB/2020
U/s. 10 of IBC, 2016
R/w Rule 7 of I&B (AAA) Rules, 2016

In the matter of:

M/s. Comfund Consulting Limited

Raheja Towers, West Wing,
Ground/Mezzanine Floor,
26-27, M.G. Road,
Bengaluru- 560 001.

- Petitioner/Corporate Applicant

Date of Order: 11th September, 2020

Coram: 1. Hon'ble Shri Rajeswara Rao Vittanala, Member (Judicial)
2. Hon'ble Shri Ashutosh Chandra, Member (Technical)

Parties/Counsels present (Through Video Conference):

For the Petitioner : Mr. A Murali, Advocate

ORDER

Per: Ashutosh Chandra, Member (Technical)

1. C.P.(IB)No.202/BB/2020 is filed by M/s. Comfund Consulting Limited ('the Petitioner/Corporate Applicant') under Section 10 of the IBC, 2016, R/w Rule 7 of the I&B (Application to Adjudicating Authority) Rules, 2016, by inter alia seeking to initiate Corporate Insolvency Resolution Process (CIRP) in respect of Comfund Consulting Limited, on the ground that it has committed the defaults viz., Rs. 54,000/- is Outstanding dues to micro and small enterprises, Rs. 36,67,988/- is payables to related parties, Rs. 12,744/-, 40,500/-, 4,120/-, 37,800/-, 1,27,739/-, 4,50,000/- payable to others, and Rs.270/- is Statutory dues Payable.
2. It is stated that the Authorised Signatory of the Corporate Applicant has produced the statement of affairs based on the records available with the Corporate Applicant. There are no debts owed by or to the Corporate



Applicant to or by persons connected with it. There are no guarantees given by the Corporate Applicant or on behalf of the Corporate Applicant.

3. Mr. A Murali, learned Counsel for the Petitioner appeared and was heard through **video conference**. We have carefully perused the pleadings of the party and the extant provisions of the Code and the law.
4. As per Section 10 of Insolvency and Bankruptcy Code, 2016, a Corporate Applicant can file an application before the Adjudicating Authority, seeking initiation of Corporate Insolvency Resolution Process of the Corporate Debtor that has committed a default, for initiating Corporate Insolvency Resolution Process with the Adjudicating Authority, in a prescribed form by enclosing the following:
 - a. *The information relating to its books of account and such other documents for such period as may be specified;*
 - b. *The information relating to the resolution professional proposed to be appointed as an interim resolution professional; and*
 - 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.*

As per Section 10(4) the Adjudicating Authority can admit an application if the same is complete and no disciplinary proceedings are pending against the proposed Resolution Professional.

5. As stated supra, apart from the dues of Micro and small enterprises there are other dues i.e., payables to related parties, payable to others and statutory dues. Further, it is seen from the Profit and Loss Accounts of the Petitioner Company for the years ending 31.03.2020 and 30.06.2020, that the Company has reported losses of Rs.12,61,722/- and Rs.3,600/- respectively. As per the Balance Sheet of the Petitioner Company as at 31.03.2019, the total liabilities are equal to the total assets. Due to this and the unfavourable business environment and economic scenario, the



Petitioner Company was unable to repay the amount due to the Financial Creditors and others and defaulted in repayment of debt over the years. The Corporate Debtor has clearly lost its substratum and its ability to pay its debts or run its business.

6. The Board of Directors of the Petitioner Company convened a meeting on 27.09.2019 in which it resolved that the Company may make an Application under Section 10 of the IBC, 2016, before the Adjudicating Authority. This was followed by the approval of the Members in the Extra Ordinary General Meeting held on 27.09.2020.

RESOLVED THAT pursuant to the provisions of Section 10 and other applicable provisions including relevant rules and regulations of the Insolvency and Bankruptcy Code, 2016 (IBC), approval of the shareholders of the Company be and is hereby accorded to initiate Corporate Insolvency Resolution Process by the Company and to file an application under the IBC with National Company Law Tribunal, Bengaluru Bench.

7. The Applicant has suggested a qualified Resolution Professional namely Ms. Bhuvaneshwari Ramanathan, with Registration No. IBBI/IPA-002/IP-N00306/2017-18/10864, who has also filed her written Consent in Form-2 dated 08.07.2020, by inter alia declaring that she is eligible to be appointed as resolution professional in respect of the Corporate Applicant and there are no disciplinary proceedings pending against her with the Board ICSI-IPA.
8. It is settled position of law that once debt and default is proved to the satisfaction of the Adjudicating Authority, the case has to be admitted to initiate CIRP, and appoint IRP, etc. It appears that the company has lost its substratum and its ability to repay debts or run its business. Hence, we are satisfied with the reasons cited by the Petitioner to initiate CIRP. The instant Company Petition is filed in accordance with law.
9. In view of the above facts and circumstances of the case, by exercising powers conferred on this Adjudicating Authority u/s 10(4)(a) of the Code, we



hereby admit C.P.(IB)No.202/BB/2020 by initiating Corporate Insolvency Resolution Process (CIRP) in respect of Petitioner/Corporate Applicant with the following consequential directions:

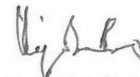
- 1) **Ms. Bhuvaneshwari Ramanathan**, bearing **Registration No. IBBI/IPA-002/IP-N00306/2017-18/10864**, who is a qualified Resolution Professional, is hereby appointed as Interim Resolution Professional, in respect of the Petitioner/Corporate Applicant namely 'Comfund Consulting Limited' to carry out the Corporate Insolvency Resolution Process strictly as per the provisions contained in the Insolvency and Bankruptcy Code, 2016 and the Rules framed in this regard by the IBBI from time to time;
- 2) The following moratorium is declared prohibiting all of the following, namely:
 - a) The institution of suits or continuation of pending suits or proceedings against the Petitioner/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 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 Securitisation 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 Debtor;
 - e) 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;



- f) 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.
- 3) The order of moratorium shall have effect from the date of this order till the completion of the Corporate insolvency resolution process;
- 4) However, this moratorium would not apply to cases pending against the applicant Company before the Hon'ble High Court and Hon'ble Supreme Court.
- 5) The IRP is directed to follow all extant provisions of the IBC, 2016 and all extant Rules, including fees rules, as framed by IBBI from time to time. The IRP is hereby directed to file progress reports to the Tribunal from time to time.
- 6) The Board of Directors and all the staff of Petitioner/Corporate Applicant are hereby directed to extend full co-operation to the IRP, in carrying out his functions as such, under the Code and Rules made by IBBI.
- 7) Post the case for report of IRP on 14th October, 2020.



ASHUTOSH CHANDRA
MEMBER, TECHNICAL



RAJESWARA RAO VITTANALA
MEMBER, JUDICIAL

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