

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

C.P. (IB) No. 1694/KB/2019

IN THE MATTER OF:

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

And

In the matter of:

M/s Aircom Travels Private Limited, having its office at 409, Kamalalaya Centre, 4th Floor, 156A, Lenin Sarani, Kolkata 700013.

Operational Creditor /Applicant


-Versus-

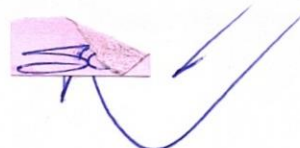
M/s Mohan Motor Distributors Private Limited, 9, Acharya Jagdish Chandra Bose Road, Kolkata 700017.

Corporate Debtor / Respondent

Date of hearing 18 February, 2020

Order Delivered on 24 February, 2020


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Coram :

Madan B. Gosavi, Member (Judicial)

Virendra Kumar Gupta, Member (Technical)

For the Appellant / Petitioner : Mr. Shaunak Mitra, Advocate
: Ms. Suchita Sharma, Advocate

For Respondent : Mr. Shamik Chakraborty, Advocate
: Mr. Ishan Saha, Advocate
: Mr. Sachin Shukla, Advocate
: Mr. Suryaksh Manot, Advocate

Per Virendra Kumar Gupta, Member (T)

1. The fact, in brief, is that the operational creditor provided travel services to the corporate debtor during the period from 25.10.2018 to 11.12.2018 by booking tickets. The outstanding amount on account of this service is Rs. 2,67,705/- which has remained unpaid. The operational creditor has served notice under Section 8 of IBC, 2016 on the corporate debtor for payment of the amount along with interest on 02.08.2019. Affidavit as per Section 9 (3) (b) as regards no dispute has also been enclosed. The corporate debtor contended that the debt was not due and payable as there was no terms for its payment. We, however, find that each invoice contains the clause regarding interest payment after due date and on each and every invoice due date has been mentioned, hence, there is no merit in this contention of the corporate debtor.



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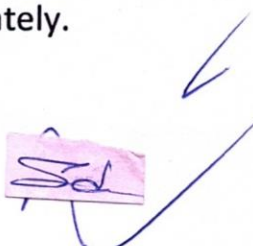


2. The application is otherwise complete in all respects and complies with the requirements under provisions of IBC, 2016 and Regulations made thereunder.
3. Name of IRP has not been proposed which is not mandatory in case of application filed under Section 9 of IBC, 2016. We approve the name of **Mr. Sandip Kumar Kejriwal** IBBI Regn. No. IBBI/ IPA-002/IP-N00236/2017-18/10687 for appointment as IRP in this case.
4. The application, thus, stands admitted. We order as under :

ORDER

- i. The application filed by the Operational Creditor under section 8 and 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, namely M/s Mohan Motor Distributors Private Limited, is hereby admitted.
- ii. We declare a moratorium and 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.


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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 judgement, 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.
- 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.



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- 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. Sandip Kumar Kejriwal** IBBI Regn. No. IBBI/ IPA-002/ IP-N00236/ 2017-18/10687 email - sandipkej2@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.
- xi) The Operational Creditor to pay a sum of Rs. 50,000/- (Rs. Fifty Thousand) to IRP as advance fee as per Regulation 33(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 which shall be adjusted from final bill. In case further funds are required during Corporate Insolvency Resolution Process and if not provided by Committee of Creditors then IRP/RP can approach this Tribunal for that purpose.
- 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.
- xiii) Registry is hereby directed under section 7(7) of the I.B.Code, 2016 to communicate the order to the Operational Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.

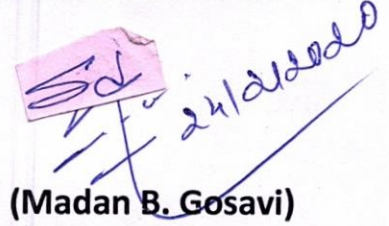

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5. List the matter on 09.04.2020 for the filing of the **progress report**.
6. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.



(Virendra Kumar Gupta)
Member (T)



(Madan B. Gosavi)
Member (J)

Signed on 24 February, 2020