

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH, JAIPUR

**CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER**

**SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER**

Company Petition No. (IB)- 36/10/JPR/2023

IN THE MATTER OF:

M/S SUNDHA ROAD DEVELOPERS PVT. LTD.

R/o: 103, Osho Tower,
Sardarpura, Jodhpur-342001.

E-mail: sundharoad2011@gmail.com

...Corporate Applicant/ Debtor

VERSUS

KHUSH INFRA PVT. LTD.

Block No. 61-E, Kurla Kamgar CHS
Ltd., Kamgar Nagar SG Barve Marge,
Kurla East, Mumbai-400024.

E-mail: khushinfratech2012@gmail.com

...Respondent No. 1

SARA GLOBAL

C-18 South Extension Part-I, New
Delhi D1 110049.

E-mail – saraglobalinc@gmail.com

...Respondent No. 2

TEXON INTERNATIONAL

102, 1st Floor, Gaura Complex,
Kaladhungi Road, Block A, Lal Danth,
Haldwani, Uttrakhand-263139.

E-mail- caretexon@outlook.com

...Respondent No. 3

KRISHNA STONE CRUSHERS & SUPPLIERS

Jodhpur-Jaipur Road, KCC Nagar
Rd, Jaipur-302026

E-mail- krishnastonecrusher@hotmail.com

...Respondent No. 4

Sd/-

Sd/-

For the Applicant : Umang Gupta, Adv.
Aditi Khandelwal, Adv.
For the Respondent : Arpit Mathur, Adv.
: Kunal Jaiman, Adv.

Order Pronounced On: 31.01.2024

ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. The instant Application is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 ('Code') read with Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ('Rules') for initiation of Corporate Insolvency Resolution Process in respect of *M/s Sundha Road Developers Pvt. Ltd.*, ('Corporate Debtor'/ 'Company') by the Corporate Debtor being the Applicant Company itself. The instant Application is filed through its director, *Mr. Vikram Singh*, who has been authorised vide Board Resolution dated 01.05.2023.
2. The Applicant, *M/s Sundha Road Developers Private Limited*, is a Company incorporated under the provisions of the Companies Act, 1956 on 23.03.2011 bearing CIN U45201RJ2011PTC034629. The registered office of the Applicant Company is situated at 103, Osho Tower, Sardarpura, Jodhpur-342001. The Company has authorised share capital of Rs. 5,00,000/- (Rupees Five Lakh Only) and paid-up share capital of Rs. 1,00,000/- (Rupees One Lakh Only). The main object of the company is building and construction of roads, building canals, bridges, tunnels, etc. and

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dealing with pre-casted fabrication for construction of the bridges, electrification works, laying of railway tracks and road maintenance work.

3. The Applicant has submitted that the Company was operating as a going concern and intended to expand its business operations in the year 2015-16. Further, the Company invested in purchasing machineries and equipment to carry out construction and road works across India. However, in March, 2020 due to COVID-19, the Company has suffered huge business losses in the projects undertaken. Hence, the Corporate Debtor is no longer a going concern and the business operations have come to halt since 2020. The audited financial statements of the Corporate Debtor enumerates that it has been non-functioning and non-operational since 2020. The copy of the Audited Financial Statements for the Financial Year 2022-23 is annexed as Annexure-A3(Colly) of the Application.
4. The Board of Directors of the Corporate Debtor in the Board meeting dated 01.05.2023, after considering the financial position of the Corporate Debtor as on 31.03.2023 and defaults committed by the Applicant, sought to initiate CIRP and preferred the present Application under Section 10 of the Code, 2016.
5. The Applicant has annexed particulars of Financial Creditors and Operational Creditors in Part III of Form-6 of the Application. The Company has defaulted in repayment of its debt due to the following Financial Creditor and other creditors as per the Balance Sheet as on 31.03.2023: -

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<i>NAME OF FINANCIAL CREDITOR</i>	<i>AMOUNT OF CLAIM/DEBT (IN RS.)</i>
Khush Infratech Pvt. Ltd.	24,53,81,278/-
<i>NAME OF OTHER CREDITORS</i>	<i>AMOUNT OF CLAIM/DEBT (IN RS.)</i>
Sara Global	4,06,224/-
Texon International	2,21,02,940/-
Krishna Stone Crusher & Suppliers	6,25,313/-

6. In order to prove the aforementioned default, the Corporate Debtor has placed on record the copy of Demand Notices/Letters issued by Financial Creditor as well as Other Creditors seeking the payment of outstanding dues. The Corporate Debtor has submitted that no business has been conducted since 2022 and there is no source of income, revenue or funds. Further the Applicant is not in position to meet its day-to-day expenses. The Applicant has also undertaken on affidavit that it does not fall under any of the categories stipulated in Section 11 of the Code and is not ineligible to file an Application under Section 10 of the Code.
7. The Applicant has filed an Affidavit of Service vide Diary No. 2073/2023 dated 22.08.2023 in compliance of the Order dated 17.07.2023. Thereafter *M/s Khush Infra Private Limited* ('Respondent No.1') has filed its reply vide Dairy No. 2662/2023 dated 07.11.2023 wherein it is stated that the Corporate Debtor had approached the Respondent No. 1 to obtain loan and financial facility for the purchase of machineries, construction equipment and other electrical items to carry on construction, designing and infrastructure activities. The Respondent No. 1 agreed to finance the Corporate Debtor for

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a sum of Rs. 25 Crores along with interest @12% p.a. to be paid by 31.03.2022. Thereafter, the Respondent No. 1 issued a Demand Notice dated 20.02.2023 requesting repayment of the outstanding debts.

8. There is no dispute that the Company has admittedly defaulted in payment of its debt which is over the threshold prescribed under Section 4 of the Code and therefore, is entitled to file the present Application in terms of sub-Section(1) of Section 10 of the Code.
9. In compliance of the requirements of Section 10(3)(a) of the Code read with Annex-V of Form 6 of the Rules, the Applicant Company has filed copies of Financial Statements of the Corporate Debtor for the Financial Years ending on 31.03.2022 and 31.03.2023.
10. Additionally, in compliance with Section 10(3)(b) of the Code, the Applicant has proposed the name of *Mr. Vikas Rajvanshi* as the Interim Resolution Professional ('IRP'). The Applicant Company has obtained written communication in Form-2 from the Insolvency Professional for appointment as an IRP. In Form-2 filed along with the Application, it has been affirmed by the proposed IRP that he is a registered Insolvency Professional and qualified to practice as an Insolvency Professional. Further, it has been affirmed/ confirmed that no disciplinary proceedings are pending against the proposed IRP.
11. In view of the above, it is clear that a default has occurred, the present Application under Section 10 is complete and that the Applicant is not



ineligible under Section 11 of the Code. Further, it is evident that the requirements prescribed under sub-section 3(a) and (b) of Section 10 of the Code have also been complied with.

12. The Insolvency and Bankruptcy Code, 2016 is a complete Code in itself. The provisions of the Code are to be mandatorily followed. Adherence to the statutory requirements has to be *in toto*. Section 10(4)(a) of the Code mandates the Adjudicating Authority to admit the Application if it is complete.
13. In view of the foregoing, we are satisfied that the present Application is complete and that the Corporate Debtor has committed a default. Therefore, since, the Application is complete, we are hereby admitting the same under section 10(4)(a) of the Code. The CIRP shall commence from the date of this order under sub-section 5 of Section 10 of the Code.
14. A moratorium in terms of Section 14 of the Code is being issued prohibiting the following:
 - *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;*
 - *Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;*

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- *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;*
- *Recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*

15. 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 the moratorium period.*
- *The provisions of sub-section (1) of section 14 of the Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.*

16. *Mr. Vikas Rajvanshi* holding IP Registration No. *IBBI/IPA-001/IP-P01886-C01/2016-17/10032* is appointed as Interim Resolution Professional, who shall take statutorily prescribed steps inter-alia as envisaged under Section 15, 17 and 18 of the Code. Further, the IRP is directed to submit his report at the earliest. The Applicant shall deposit a sum of Rs. 1,00,000/- (Rupees One Lakh Only) to the bank account of the abovementioned IRP within 10 days from the pronouncement of this order.

17. The order of moratorium shall have effect from the date of this order till the completion of the CIRP as per sub-section (4) of Section 14 of the Code.

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18. Let a copy of this order be supplied to the Applicant as well as the Interim Resolution Professional to carry out the CIRP at the earliest. A copy of this order shall also be communicated to IBBI for its records.



**DEEP CHANDRA JOSHI,
JUDICIAL MEMBER**



**RAJEEV MEHROTRA,
TECHNICAL MEMBER**