IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P. (I.B) No. 101/KB/2021

In the matter of:

A Petition under section 10 of the Insolvency and Bankruptcy Code, 2016 read with rule 7 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations 2016.

And

In the matter of:

Shree Shankar Saw Mill Private Limited
(CIN:U20101WB2002PTC094455)
Having its registered office at: -
67/26 Strand Road, Kolkata- 700006

...*Corporate Applicant*

Coram:

Shri Rajasekhar V.K.	:	Member (Judicial)
Shri Balraj Joshi	:	Member (Technical)

Date of hearing: 08.12.2021
Order pronounced on: 27.01.2022

Appearances (through video conference)

For Corporate Applicant	: 1.	Mr. Subodh Kumar Agarwal, Pr. C.S.

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This Court convened through video conference today.

2. The present Petition has been filed by Shree Shankar Saw Mill Private Limited, CIN: U20101WB2002PTC094455, the Corporate Applicant, under section 10 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiation of Corporate Insolvency Resolution Process (CIRP)

against itself. The Application has been filed through its Director Mr. Ankit Patel, DIN: 00555428, duly authorised *vide* Board Resolution dated 18 February 2021. A copy of the Board Resolution dated 18 February 2021 is annexed to the Application and marked as **Annexure-D** on **Page 60**.

3. The Corporate Applicant was incorporated on 04 April, 2002 and it *inter alia* carried on the business as timber merchants, plywood merchants, saw mill props and timber growers etc. and manufactures of dealers in and sellers of all grades, qualities, shapes categories and descriptions of laminations and allied products including adhesives and laminated articles etc.

4. The reasons for applying for initiation of the CIRP by the Corporate Applicant are as follows: -

   4.1. The Corporate Applicant defaulted in payment to State Bank of India and the account of the Corporate Applicant was declared as NPA on 27 September, 2014.

   4.2. The State Bank of India sent a notice under section 13(2) of the SARFAESI Act, 2002 dated 30 August, 2017 and proceeding under the SARFAESI Act is pending.

   4.3. The Corporate Applicant has defaulted in payment of dues to the Unsecured Financial Creditors on 19.03.2010 and Operational Creditors from 18.09.2013, 26,09,2013, 18.10.2013 and 21.10.2013

   4.4. The total debt owed to the

      i. Secured Financial Creditors is Rs.32,31,74,415/- (Rupees Thirty-Two Crore Thirty One Lakh Seventy Four Thousand Four Hundred and Fifteen only)

ii. Unsecured Financial Creditors is Rs.15,10,150/- (Rupees Fifteen Lakh Ten Thousand One Hundred and Fifty only)

iii. Operational Creditors is Rs.5,65,17,881/- (Rupees Five Crore Sixty-five Lakh Seventeen Thousand Eight Hundred and eighty-One only);

5. The members of the Corporate Applicant have given their consent by way of a resolution passed in the General Meeting held on 15 March, 2021 to file the application under section 10 of the Code. A copy of the Resolution dated 15 March, 2021 is annexed to the Application and marked as **Annexure-D** at **Page 61**.

6. That the Corporate Person has two Financial Creditors, *viz.* State Bank of India and Suruchi Agro Plast and four Operational creditors *viz.* Bhagwati Trading Company, SR Vyapaar Pvt. Ltd., Santosh Traders and Somnath Commosales Pvt. Ltd.

7. In support of its Application, the Corporate Applicant has submitted, *inter alia*, the following documents: -

   (a) Memorandum and Articles of Association of the Corporate Applicant.

   (b) Financial statements of the Corporate Debtor for the Financial Year being 2018-19 and 2019-2020 and provisional Financial Statement for the Financial Year 16 March, 2021.

   (c) List of financial creditors and operational creditors.

8. The Corporate Applicant has proposed the name of Mr. Neeraj Kumar Sureka (Regn. No. IBBI/IPA-001/IP-P01539/2019-2020/12517)[1] to function as the Interim Resolution Professional (IRP). Mr. Neeraj Kumar

[1] Supplementary Affidavit dated 07.09.2021

Sureka has submitted his written communication in Form 2. The written communication is annexed to the application and marked as **Annexure-L** on **Pages 112-115**.

9. We have heard the learned Authorised Representative appearing for the Corporate Applicant and have perused the documents on record.

10. There is no dispute from any quarter towards the fact that the debt is due and payable by the Corporate Applicant to various creditors and that the Corporate Applicant is unable to pay the same.

11. The Corporate Applicant has furnished the books of accounts for the relevant period under section 10(3)(a); the Corporate Applicant has proposed the name of the IRP who has submitted its written consent (section 10(3)(b)); the Corporate Applicant has also filed the Special Resolution passed by shareholders in General meeting dated 15 March, 2021 under section 10(3)(c).

12. The application is free from defects and complete in all aspects as required under the law. The Application shows that the Corporate Debtor is in default of a debt that is due and payable, and the default is more than the threshold amount as stipulated under section 4(1) of the Code at the relevant time. The default stands established and there is no reason to deny the admission of the present Application.

13. Therefore, in the light of the facts stated in the application and the evidence placed on record, this Adjudicating Authority admits this Application and orders initiation of CIRP against the Corporate Debtor under the following terms: -

    (a) The Application bearing C.P.(IB)No. 101/KB/2021 filed by the Corporate Applicant under section 10 of the Insolvency & Bankruptcy Code, 2016, is hereby admitted for initiating the Corporate Insolvency

Resolution Process in respect of Shree Shankar Saw Mill Private Limited [CIN: U20101WB2002PTC094455].

(b) There shall be a moratorium under section 14 of the IBC.

(c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

(d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(e) As per the proposal given by the Corporate Applicant, Mr. Neeraj Kumar Sureka (Regn. No. IBBI/IPA-001/IP-P01539/2019-2020/12517), is appointed as the IRP for ascertaining the particulars of Creditors and convening a Committee of Creditors for evolving a Resolution Plan.

(f) During the CIRP period, the management of the Corporate Person shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Person shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow.

(g) The IRP/RP shall submit to this Adjudicating Authority periodical reports on quarterly basis with regard to the progress of the CIRP in respect of the Corporate Debtor.

(h) The Corporate Applicant to pay to IRP a sum of Rs.3,00,000/- (Rupees Three Lakh only) to meet the initial costs, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment.

(i) The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

(j) The Court Officer of this Court is hereby directed to communicate this Order to the Corporate Person and the IRP by Speed Post, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order.

(k) Additionally, the Corporate Person shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, Kolkata by all available means for updating the Master Data of the Corporate Person. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

14. **CP (IB) No. 101/KB/2021** to come up on 20 April. 2022 for filing the first periodical report.

15. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Rajasekhar V K
Digitally signed by Rajasekhar V K
Date: 2022.01.27 17:35:45 +05'30'

Balraj Joshi | **Rajasekhar V.K.**
Member (Technical) | **Member (Judicial)**

27th January, 2022

GGRB_LRA