

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

Before Shri Madan B. Gosavi, Hon'ble Member (J)

CP (IB) No. 1614/KB/2018

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

M/s. NLB Steels Private Ltd., a company registered under the provisions of the Companies Act, 1956, having its registered office at 62, Nalini Seth Road, Kolkata- 700 007, within the aforesaid jurisdiction;

... Petitioner/Operational Creditor

-Versus-

In the matter of:

M/s. Pradeep Structural Development Private Ltd., a company registered under the provisions of the Companies Act, 1956, having its registered office at 35, Netaji Subhas Road, 2nd floor, Kolkata- 700 001, within the aforesaid jurisdiction; CIN : U74140WB2004PTC100932;

.... Corporate Debtor

Counsel appeared:

1. Mrs. Swati Agarwal, Advocate] Operational Creditor
2. Mr. Shailendra Kr. Tiwari, Advocate]

Date of Pronouncement of Order: 25.07.2019

ORDER

M/s. NLB Steels Private Ltd - the Operational Creditor, filed this application under section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **M/s. Pradeep Structural Development Private Ltd.**- Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor as the Corporate Debtor committed default in paying the operational debt of Rs.24,49,058/-.

2. The Corporate Debtor was served with the notice of this application as contemplated under rule 6(2) of I & B Code (Application to Adjudicating Authority Rules) 2016 but the corporate debtor did not appear. Hence, hearing of this application proceeded ex parte against the corporate debtor.

3. I perused the records. Operational Creditor has produced all invoices to show that operational debt is due and payable by the corporate debtor. He also produced on record the demand notice under section 8 of I&B Code sent to the Corporate Debtor and the track report to show that notice was duly delivered to the corporate debtor. The corporate debtor did not reply the notice within ten days of its receipt pointing out the fact that the payment of operational debt is made or there exists genuine dispute about the amount claimed. The operational creditor filed affidavit stating that he did not receive any notice or reply and the corporate debtor did not pay amount. He thereby complied with the provisions of sections 9(3)(b) and 9(3)(c) of I&B Code.

4. He suggested the name of Shri Shashi Agarwal, CA (Mob. No.9831094270), of Subarna Apartment, 21N, Block-A, New Alipore, Kolkata-

A handwritten signature in black ink, appearing to read "Shashi Agarwal", is placed over a pink rectangular sticker. The sticker has a small checkmark in the top right corner.

700 053 having registration No. IBBI/IPA-001/IP-00473/2016-2017/2018 and Email: shashiagg@ rediffmail.com. He has also filed written consent dated 29.11.2018 wherein he has mentioned that no disciplinary proceeding is pending against him. The application is defect -free. In view of the facts and evidence on record, I hold that the application requires to be admitted. I pass the following order:

ORDER

- (i) The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Resolution Process in respect of **M/s. Pradeep Structural Development Private Ltd.** Moratorium order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.
- (ii) The 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 Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- (iii) Moratorium under Sec.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;

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- 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 possession of the corporate debtor.
- iv) 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.
- v) 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.
- vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.
- vii) 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 Sec.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.



viii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the resolution professional upon receipt of the copy of this order.

(ix) As per the proposal by the Operational Creditor for the appointment of Interim Resolution Professional (IRP), Mr. Shashi Agarwal, CA (Mob. No.9831094270), of Subarna Apartment, 21N, Block-A, New Alipore, Kolkata-700 053 having registration No. IBBI/IPA-001/IP-00473/2016-2017/2018 and Email: shashiagg@rediffmail.com is appointed as the Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.

x) The Operational Creditor to pay to IRP a sum of Rs.50,000/- as advance fees, which amount shall be adjusted at the time of final payment.

xi) As per the amended provision of I&B Code, he has to finalise the Resolution Plan on or before 105 days from the date of admission of CIRP.

xii) Registry is hereby directed to communicate the order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post and also by email.

Let the certified copy of the order be issued upon compliance with requisite formalities

List the matter on **06.09.2019** for filing progress report.

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(Madan B. Gosavi)
Member (J)

Signed on this, the 25th day of July, 2019.