# IN THE NATIONAL COMPANY LAW TRIBUNAL

## KOLKATA BENCH

## KOLKATA

**C.P. (IB) No. 718/KB/2019**

**In the matter of:**

**An application U/S. 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;**

**And**

**In the matter of:**

**SREI Infrastructure Finance Limited**, represented by its authorised representative Shri Anup Kedia, having its Registered office at Vishwakarma, 86C, Topsia Road [South], Kolkata- 700046;

... **Financial Creditor**

**-Versus-**

**Giridhan Projects Private Limited**, having its registered office at 207, Maharshi Devendra Road, 3rd Floor, Room No. 64, Kolkata- 700007;

... **Corporate Debtor**

**Coram: Shri Madan B. Gosavi, Hon'ble Member [Judicial]**



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**Shri Virendra Kumar Gupta, Hon'ble Member [Technical]**

**Counsel appeared:**

1. Mr. Dhiren Sharma ]
2. Ms. Priyanka Kundu ] for the Financial Creditor

**Order pronounced on 02/08/2019**

**O R D E R**

**Per Shri Madan B. Gosavi, Member (J)**

1. **SREI Infrastructure Finance Limited**- the Financial Creditor has filed this application under Section 7 of the Insolvency and Bankruptcy Code, 2016 against **Giridhan Projects Pvt. Ltd**. - the Corporate Debtor to start Corporate Insolvency Resolution Process [in short "CIRP"] of the Corporate Debtor as the Corporate Debtor committed default in paying financial debt of **Rs. 27,11,83,480 [Rupees Twenty-Seven Crore Eleven Lakhs Eighty-Three Thousand Four Hundred and Eighty only].**
2. The Financial Creditor states that by a Sanction Letter and Loan Agreement dated 29.03.2018, a loan of Rs. 260,00,00,000/- [Rupees Two Hundred and Sixty Crore only] was sanctioned in favour of the Corporate Debtor as the same was required by the Corporate Debtor for the purpose of investments in acquisition of power projects. The Corporate Debtor defaulted in payment of debt on 31.12.2018. The Financial Creditor issued a demand notice on 15.01.2019 to the Corporate Debtor and the Corporate Debtor replied to the said notice on 21.01.2019 requesting extension of time to pay the debt till



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31.03.2019. Thereafter, since no payments were made till 31.03.2019 the Financial Creditor issued a recall notice to the Corporate Debtor dated 02.04.2019. Since, the Corporate Debtor committed default in paying the financial debt, this proceeding is filed under Section 7 of the I & B Code, 2016.

3. The Corporate Debtor was served with the notice of the proceeding and the Corporate Debtor filed its affidavit-in-reply on 17.07.2019. The Corporate Debtor states that Corporate Debtor has failed to make payments of the financial debt due to extreme financial distress and requested more time to resolve the financial issues and repay the Financial Creditor.
4. Heard the Ld. Counsel for the Financial Creditor and perused the records.
5. The Financial Creditor produced on record all relevant evidence to establish the fact that there is a financial debt due and payable by the Corporate Debtor to the Financial Creditor and the Corporate Debtor committed default in paying such debts. The Corporate Debtor has also admitted the default in payment of the financial debt.
6. The Financial Creditor has suggested the name of one **Shri Pratim Bayal** of CK 104, Sector 2, Salt Lake City, Kolkata- 700091, having Registration No. **IBBI/IPA-003/IP-N00213/2018-2019/12385**, email i.d. **pratimbayal@gmail.com** as Interim Resolution Professional [in short "IRP"]. The IRP has given his consent in Form 2. There is nothing on record to show that any disciplinary proceeding is pending against him.



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7. In view of the above-said discussion, the application filed by the Financial Creditor under Section 7 of Insolvency & Bankruptcy Code, 2016 is is defect free and hence, admitted upon the following orders:-

**ORDERED**

a. The application filed by the Financial Creditor under Section 7 of Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, Giridhan Projects Private Limited is hereby ***admitted***.

b. We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the IBC, 2016.

c. Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The I.R.P. 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.

d. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

   i. The 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;

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ii. Transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;

iii. 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);

iv. 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 services rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the 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.

g. The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.

h. 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 the 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.

i. Necessary public announcement as per Section 15 of the I & B Code, 2016 may be made.

j. **Shri Pratim Bayal,,** an Insolvency Professional registered with the Indian Institute of Insolvency Professionals of ICAI having **Registration No.** IBBI/IPA-003/IP-N00213/2018-2019/12385, **email i.d.:** pratimbayal@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.

k. The Financial Creditor/Applicant to pay Rs. 50,000/- [Rupees Fifty Thousand only] to the I.R.P. as payment of his fees as advance, as per Regulation 33 [3] of the IBBI [Insolvency Resolution Process for Corporate Persons] Regulations, 2016, the same shall be adjusted towards total fees.

l. The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.

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m. Registry is hereby directed under section 7[7] of the I & B Code, 2016 to communicate the order to the Financial Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through email.

8. List the matter on 18.09.2019 for the filing of the progress report.

9. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

Sd 2/8/2019

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**[Virendra Kumar Gupta]**
**Member [T]**

**[Madan B. Gosavi]**
**Member [J]**

***Signed on this, the 2nd day of August, 2019.***