

**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)  
(through web-based video conferencing platform)**

**CP (IB) No. 94/Chd/Hry/2020**

**Under Section 7 of the  
Insolvency & Bankruptcy  
Code, 2016**

**In the matter of:**

**M/s Siri In Fin Lease Private Limited  
Through its Director Pradeep Kumar Jain  
Having its Registered office at:  
4/9, Asaf Ali Road, Darya Ganj,  
New Delhi-110002**

**Also At :**

**M/s M/s Siri In Fin Lease Private Limited  
A-76, Anand Vihar,  
Delhi-110092**

....Petitioner-Financial Creditor

**Vs.**

**M/s Arkin Creations Pvt. Ltd.  
Having its Registered Office at:  
H-127, First Floor,  
Residency Greens,  
Greenwood City, South City-1,  
Gurugram-122001**

**Also at :**

**M/s Arkin Creations Pvt. Ltd.  
I-45, DLF Industrial Area, Phase-I, Sector-32,  
Faridabad-121003  
Haryana**

**Also at :**

**M/s Arkin Creations Pvt. Ltd.**

E-007, Guar Green Avenue,  
Abhay Kand-02,  
Indirapuram, Shipra Sun City,  
Ghaziabad,  
Uttar Pradesh-201014.

....Respondent-Corporate Debtor

**Judgment delivered on: 07.10.2022**

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)  
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

**Present through Video Conferencing:**

For the Petitioner-Financial Creditor : Mr. Balwinder Singh Kalsi, Advocate

For the Respondent-Corporate Debtor : Proceeded *ex parte* vide  
order dated 08.09.2022

**PER: HARNAM SINGH THAKUR, MEMBER (JUDICIAL)**

**JUDGMENT**

The present petition has been filed by M/s Siri In Fin Lease Private Limited (hereinafter referred to as 'Petitioner/Financial Creditor') through its Director Pradeep Kumar Jain under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 to initiate the Corporate Insolvency Resolution Process ('CIRP') against M/s Arkin Creations Private Limited (hereinafter referred to as 'Respondent/Corporate Debtor'). The petition is signed by Mr. Pradeep Kumar Jain with the affidavit verifying the contents of the application appended thereto.

2. The Corporate Debtor is stated to be incorporated on 29.05.2009. The company having its registered address at H-127, First Floor, Residency Greens Greenwoods City, South city-1, Gurgaon, HR-122001, IN. Therefore, the jurisdiction lies with this Bench of the Tribunal. The master data of the corporate debtor is stated to be filed as Annexure-V of the petition. The corporate debtor is engaged in the business of constructing bio toilets technology.

3. It is averred that the corporate debtor approached the petitioner in the first week of December 2018. The petitioner vide loan agreement dated 24.12.2018 granted a short-term loan of Rs.15,00,000/- for a period of four months. The corporate debtor issued two money receipts of Rs.7,50,000/- each dated 24.12.2018 and further issued two promissory notes of Rs.7,50,000/- each. The corporate debtor also issued three post dated cheque i.e. Cheque Nos.493019 (amount Rs.5,25,000/- dated 28.02.2019), 493020 (amount Rs.5,20,000/- dated 31.03.2019), 493021 (amount Rs.5,15,000/- dated 30.04.2019). The corporate debtor failed to pay the loan. After expiry of loan period of four months the petitioner presented all cheques but however, were dishonoured by the bank with the remark "funds insufficient". Corporate Debtor failed to refund the loan amount, legal notice dated 22.05.2019 was served on the corporate debtor.

4. A compliance affidavit in respect of defects pointed out vide order dated 12.02.2022 of this Adjudicating Authority has been filed vide Diary No. 1496 dated 24.02.2022 alongwith a fresh complete Form-1 wherein the date of default and rate of interest are mentioned. In Part-III of Form No.1, Mr. Satyendra Sharma, Registration No.IBBI/IPA-002/IP-N00737/2018-19/12260 has been proposed as Interim Resolution Professional (IRP). Form No.2 dated 28.01.2020 along with the

the certificate of IBBI issued in favour of proposed Interim Resolution Professional i.e. Mr. Satyendra Sharma is attached at Annexure-XVI of the petition.

5. It is stated in Part-IV of Form No.1 that the petitioner has provided loan amount of Rs.15,00,000/- (principal). The total amount claimed to be in default is Rs.19,21,500/-/- (including interest) and date of default is 03.05.2019 when all three cheques issued by Corporate Debtor towards refund of principal amount and interest were dishonoured by the bank. Copies of loan agreement (Annexure-VI), promissory note (Annexure-VIII), statement of account maintained by petitioner (Annexure-IX), three cheques issued by CD (Annexure-X), Cheque returning memo (Annexure-XI), ledger account (Annexure-XIV) are attached with the main petition.

6. The notice of this petition was issued to the respondent corporate debtor for 24.04.2020 to show cause as to why this petition be not admitted, but neither any person appeared on behalf of the respondent nor any reply was filed. Thereby, vide order dated 08.03.2021, of this Adjudicating Authority, a fresh notice was issued to respondent-corporate debtor, even then, none appeared. Vide order dated 09.03.2022 of this Adjudicating Authority, last opportunity was granted to respondent-corporate debtor for filing the reply, failing which *ex parte* proceedings were to be initiated against him. The affidavit of service is filed vide Diary No.00129/6 dated 31.03.2022. Since, none appeared on behalf of respondent on 11.07.2022 and 08.09.2022, therefore, respondent has been proceeded *ex parte*. The short written submissions are filed by petitioner vide Diary No. 00129/7 dated 31.08.2022.

7. We have heard the learned counsels for the petitioner and the respondent-corporate debtor and have also perused the record carefully.

8. Section 7(5)(a) of the Code is as follows:-

*“5) Where the Adjudicating Authority is satisfied that—  
(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application.”*

9. The issue for consideration is whether the present application is filed within limitation. It can be seen from the records that the date of default is 03.05.2019 and the present petition is filed vide Diary No. 93 dated 06.01.2020. Therefore, the present petition is filed within limitation.

10. Another issue for consideration is whether there is default in payment or not. It is observed from the record that in the present case, the default is evidenced by the copy of the loan agreement (Annexure-VI), promissory note (Annexure-VIII), three cheques issued by CD (Annexure-X), Cheque returning memo (Annexure-XI), ledger account (Annexure-XIV) are attached with the main petition. The respondent corporate debtor has been proceeded *ex parte*, thus, there is no rebuttal to the claim of petitioner. The application filed in the prescribed Form No.1 is found to be complete. Another condition is that there are no disciplinary proceedings pending against the proposed Resolution Professional. In the present case, in Part III of Form 1, Mr. Satyendra Sharma has been proposed as Interim Resolution Professional.

11. The Law Research Associate of this Tribunal has checked the credentials of Mr. Satyendra Sharma, and there is nothing adverse against him. In view of the above, we appoint Mr. Satyendra Sharma, Registration No.IBBI/IPA-002/IP-N00737/2018-2019/12260, Email: satyendrasirp@gmail.com, Mobile No.9719667691, the Interim Resolution Professional. The IRP is directed to

take the steps as mandated under the IBC, specially under Sections 15, 17, 18, 20 and 21 of IBC, 2016.

12. In the given facts and circumstances, the present petition being complete and having established the default in payment of the Financial Debt for the default amount being above threshold limit, the petition is admitted in terms of Section 7(5) of the IBC. Moreso, the respondent has admitted the claim and expressed its inability to pay back the debt. Accordingly, moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the moratorium in terms of Section 14, the following prohibitions are imposed, which must be followed by all and sundry:

- “(a) 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;
- (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;
- (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.

- (e) 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.
- (f) The provisions of Section 14(3) shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a corporate debtor.
- (g) The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33 as the case may be.”

13. The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying the constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene the first meeting of the Committee within seven days of filing the report of Constitution of the Committee. The Interim Resolution Professional is further directed to send regular progress reports to this Tribunal every fortnight.

14. We direct the Financial Creditor to deposit a sum of Rs. 60,000/- (Rupees Sixty Thousand Only) with the Interim Resolution Professional, to meet out the expense to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The amount, however, is subject to

adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional on the conclusion of CIRP.

15. Accordingly, petition is admitted and allowed.

16. A copy of the order shall be communicated to both the parties. The learned counsel for the petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send a copy of this order to the Interim Resolution Professional at his e-mail address forthwith.

Sd/-  
**(Subrata Kumar Dash)**  
**Member (Technical)**

Sd/-  
**(Harnam Singh Thakur)**  
**Member (Judicial)**

October, 07, 2022

SD/TB