

**In the National Company Law Tribunal
Kolkata Bench
Kolkata**

CP(IB)No.1560/KB/2018

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 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:

Union Bank of India having its registered office at Vidhan Bhavan Marg, Mumbari-400021, Maharashtra.

.....Financial Creditor

In the Matter of:

M/s Space Matrix Limited, having its registered office at 11 Clive Row, 3rd Floor, Room No. 15, P.S: Bura Bazar, Kolkata-700001, West Bengal.

..... Corporate Debtor

**CORAM: 1. Shri M.B. Gosavi, Member (Judicial)
2. Shri Virendra Kr. Gupta, Member (Technical)**

Counsels appeared:

For Financial Creditor

1. Ms. Aparajita Rao Advocate
2. Ms. Pallavi Gandhi, Advocate

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Date of pronouncement of order: 28th August, 2019.

ORDER

Per Shri M.B. Gosavi, Member (J):

1. **Union Bank of India** - the Financial Creditor has filed this application under Section 7 of Insolvency and Bankruptcy Code, 2016 against **M/s Space Matrix 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. 84,87,66,200/- (Rupees Eighty Four Crore Eighty Seven Lakh Sixty Six Thousand and Two Hundred Only).
2. By loan sanction and credit facility letter dated 01.10.2009, the Bank granted and disbursed in favour of the Corporate Debtor two term loan of Rs.2.50 Crore and Rs. 32.50 Crore respectively. The Bank was one of the co-lender in consortium with the other banks i.e. IDBI Bank, UBI, SBI, Dena Bank etc. The term of both loan further extended from time to time. It is seen from the record that on 28.06.2018, Corporate Debtor filed Writ Petition bearing no. 1525 of 2012 against IDBI and other lender Banks claiming various reliefs. Hon'ble High Court passed some interim orders, thereafter, the Writ Petition was disposed of on 13.08.2018.
3. Again the Corporate Debtor filed Civil Suit bearing no. 379 of 2013 in the High Court. On 19.06.2018, Hon'ble High Court directed the Corporate Debtor to approach the consortium of the Banks for restructuring all the loan but the Corporate Debtor did not approach. Hence, on 30.09.2017, Corporate Debtor's loan account was declared to be Non Performing Asset (in short "NPA") on 17.01.2018. The Bank issued the Corporate Debtor notice under Section 13(2) of

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the SARFAESI Act, 2002 and filed recovery proceeding in Debt Recovery Tribunal (DRT) which is still pending. Since the Corporate Debtor committed default in paying financial debt, this application is filed for initiation of Corporate Insolvency Resolution Process (in short "CIRP") of the Corporate Debtor under Section 7 of Insolvency and Bankruptcy Code, 2016.

4. The Bank proposed name of one Mr. Sanjay Kumar Gupta having registration no. IBBI/IPA-001/IP-P00592/2017-18/11045 as Interim Resolution Professional (in short "IRP") against whom no disciplinary enquiry appears to be pending .
5. Corporate Debtor is served with the notice of this proceeding. One Advocate Ms. Sweta Murgai entered appearance on behalf of the Corporate Debtor. In spite of opportunities, the Corporate Debtor did not file affidavit-in-reply. Hence, hearing of this application proceeded ex-parte against the Corporate Debtor.
6. We perused the record. We heard Ld. Counsel, Ms. Aparajita Rao for the Financial Creditor.
7. It is seen from the record that Financial Creditor produced all relevant evidence to establish the fact that the amount of more than Rs. 80 Crore is due and payable by the Corporate Debtor to the Bank and the Corporate Debtor committed default in paying the same. These are the only facts relevant for our consideration while admitting this application under Section 7 of Insolvency and Bankruptcy Code, 2016. We find that, this application is defect free. Hence, we proceed to pass the following order:-

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ORDER

- i) The application filed by the Financial Creditor under section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, M/s Space Matrix Limited is hereby admitted.
- ii) *Wre G* I declare a moratorium and public announcement in accordance with Sections 13 and 15 of the IBC, 2016.
- iii) 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 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.
- iv) Moratorium under Section 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 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 (54 of 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.
- v) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.
- vi) 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.
- vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii) 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 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.
- ix) Necessary public announcement as per Section 15 of the IBC, 2016 may be made.
- x) Mr. Sanjay Kumar Gupta, IP Registration No. IBBI/IPA-001/IP-P00592/2017-18/11045, is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.

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xi) The Financial Creditor to pay sum of Rs. 50,000/- (Rupees Fifty Thousand Only) to IRP as advance fees as per Regulation 33(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 which shall be adjusted from final bill.

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

xiii) 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 e-mail.

List the matter on **15.10.2019** for the filing of the progress report.

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

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28/8/2019

(Virendra Kr. Gupta)
Member(T)

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28/8/2019

(Madan B. Gosavi)
Member(J)

Signed on this, the 28th day of August, 2019.

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