IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH COURT V

C.P. No. 2486/IBC/MB/2019

Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of

MR. SAMMEER SHETH

Having Address at: Mr. Atharva A. Dandekar and Mr. Rahul Soman, Advocates, Office No. 14/15 and 16, Gundecha Chamber, Ash Lane, Nagindas Master Road, Fort,
Mumbai – 400023.

…Financial Creditor

Vs

PALMTREE DEVELOPMENTS PVT. LTD.

318, Jolly Bhavan No. 1, Plot No. 10 Vithaldas Thackarsey Marg, New Marine Lines, Churchgate,
Mumbai – 400020.

…Corporate Debtor

Order delivered on: 07.07.2022

Coram:

Hon'ble Shri H.V. Subba Rao, Member (Judicial)
Hon'ble Smt. Anuradha Sanjay Bhatia, Member (Technical)

For the Applicant: Adv. Preet Chheda

For the Respondent: Adv. Meghana Lakhyani i/b Narayani Associates

1. The above Company Petition is filed by *Mr. Sammeer Sheth* hereinafter called as Financial Creditor seeking to initiate of Corporate Insolvency Resolution Process (CIRP) against *Palmtree Developments Pvt. Ltd.* called as Corporate Debtor by invoking the provisions of Section 7 Insolvency and Bankruptcy code (hereinafter called "Code" read with rule 6 of Insolvency & Bankruptcy (Application to Adjudication Authority) Rules, 2016 for a Resolution of an unresolved Financial Debt of Rs. 1,31,70,000/.

2. Originally, the above Company Petition was disposed of vide order dated 15.01.2020 in view of entering into consent terms by both parties. Since the Corporate Debtor failed to adhere to the consent terms, the Financial Creditor filed restoration application bearing IA No. 406 of 2020 and accordingly, the same was allowed today and the main Company Petition was restored to file. Today, the learned Counsel appearing on behalf of Corporate Debtor while admitting the default submits that an amount of Rs. 30 lacks is paid out of total settlement amount of Rs. 55 lacks and is ready and willing to pay the remaining balance amount of Rs. 25 lacks in due course. Since the above Company Petition is nothing but second round litigation, and since the Corporate Debtor has gained more than 30 months' time after entering into the consent terms, there is no point in keeping the above Company Petition pending as there is a clear admission of debt and default by the Corporate Debtor.

Accordingly, the above Company Petition is admitted by passing the following:

ORDER

a. The above Company Petition No. (IB) 2486 (MB)/2019 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Palmtree Developments Pvt. Ltd.

b. Since the Financial Creditor did not suggest the name of the Interim Resolution Professional (IRP) in the petition, this Bench is hereby appointing **Mr. Harish Kant Kaushik** (harishkant2007@gmail.com) (Mobile No. 9819799455) Insolvency Professional, Registration No: IBBI/IPA-001/IP-P-01469/2018-2019/12340 as the interim resolution professional from the panel furnished by IBBI to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Financial Creditor shall deposit an amount of Rs. 2 Lakhs towards the initial CIRP costs by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only for meeting the expenses and not towards his fee till his fee is decided by CoC.

d. That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; 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; 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. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
g. That the order of moratorium shall have effect from the date of pronouncement of this order till the 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 corporate debtor under section 33, as the case may be.
h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.
i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the corporate debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

j. Registry shall send a copy of this order to the Registrar of Companies, Mumbai, for updating the Master Data of the Corporate Debtor.

k. Accordingly, this Petition is admitted.

l. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-
ANURADHA SANJAY BHATIA
MEMBER (TECHNICAL)

Sd/-
H. V. SUBBA RAO
MEMBER (JUDICIAL)