

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI**

**IBA/786/2019**

*Under Section 10 r/w rule 7 of the IBC, 2016*

**In the matter of**

**M/s. SHREE GANESH EPC PRIVATE LIMITED**

**---Corporate Applicant**

**Order delivered on: 06.09.2019**

**Coram:**

**B.S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

Counsel for Corporate Applicant: *Shri. A. S Sathish Kumar, PCS*

Counsel for R2(Syndicate Bank) : *Shri.T. Ravichandran, Advocate*

*Shri. D. SairamKumar, Advocate*

*Ms. D. Elavarasi, Advocate*

*Shri. K. Deva Dakshan, Advocate*

**ORDER**

**Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

**Order Pronounced on 06.09.2019**

Under Consideration is an Insolvency & Bankruptcy Application filed u/s 10 of the Insolvency & Bankruptcy Code, 2016 ("the Code") by M/s. Shree Ganesh EPC Private Limited (in short, "the Corporate Applicant/Corporate Debtor") for initiation of Corporate Insolvency Resolution Process (CIRP) under Insolvency

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& Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, 'I&B Rules 2016'), following a default in meeting its financial obligations to its Financial Creditors viz. Syndicate Bank as shown in the Company Petition filed in Form-VI.

2. On perusal of this Application, the total default amount has been mentioned as ₹24,66,83,692 as aggregate given by the Corporate Applicant in Part-III of Form-6. The breakup of the aforesaid default consolidated statement of dues is as follows:

Category	Default Amount (₹)
Financial Creditors	27,31,95,012
Operational Creditors	1,34,88,864
Other Creditors(Statutory Dues 3,49,94,529 + dues to employees 6,35,342 = 3,56,29,871)	3,56,29,871
<b>Total</b>	<b>32,23,13,747</b>

3. The Corporate Applicant has defaulted in repaying the debt payable to Financial Creditor namely Syndicate Bank on 31.12.2016 and Operational Creditors and other creditors.

4. In compliance of Annexure-III, this Corporate Applicant has filed written communication dated 14.07.2019 given by the

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Insolvency Professional as contemplated in Form-2 of the IBC, 2016, the Applicant has filed audited financial statements for the year ended 31.03.2018 and auditors' provisional financial statement (15<sup>th</sup> of July 2019) until before 14 days of filing this Application reflecting the default of payment to the Financial Creditors, assets and liabilities of the Applicant, and other documents evidencing creation of charge over the assets of the Corporate Applicant. The Board of Directors of the Applicant Company passed a resolution on 12.07.2019 for initiating a Corporate Insolvency Resolution process u/s 10 of the Code. Apart from this, the Corporate Applicant has filed constitutional documents such as Memorandum of Association and Articles of Association.

5. Looking at the material placed before this Bench, it is apparent on record that this Corporate Applicant defaulted in making payments to the Financial Creditors as well as the Operational Creditors.

6. In this case the Corporate Applicant namely, Shree Ganesh EPC Private Limited has made a submission stating that they would

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like to recommend an IRP who will be continued as RP by the CoC which will be constituting after IRP takes over the management of the affairs of the Corporate Applicant Company. In case the Corporate Applicant proposes to replace the IRP recommended for appointment, they may do so in the First Meeting of the CoC to be convened by the IRP. The IRP may include this item as one of the Agenda in the First Meeting of the CoC.

7. In view of the same, we are of the view that this Company application is a fit case for admission u/s 10 of the Code, since the Interim Resolution Professional has already expressed his consent to be appointed as Interim Resolution Professional (IRP), this Bench hereby appoints Mr. J. Manivannan as IRP by admitting this Company Petition with directions as follows:

I. That Moratorium is hereby declared prohibiting all of the following actions, namely,

a) the institution of suits or continuation of pending suits or proceedings against the Corporate Applicant 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 Applicant 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 Applicant 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 Applicant.

II. That Supply of essential goods or services to the Corporate Applicant, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

III. That the provisions of sub-section (1) of Section 14 of IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

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- IV. That the order of moratorium shall have effect from the date 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 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, as the case may be.
- V. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of IBC.
- VI. That this Bench hereby appoints **Mr. J. Manivannan, having Reg. No: [IBBI/IPA-002/IP-N00534/2017-2018/11695], Plot No: 53B, 8/330, Vishalakshi Nagar, 4<sup>th</sup> Cross Street, Santhosapuram, Chennai-600073, E-Mail: [equitablelegal@gmail.com](mailto:equitablelegal@gmail.com), Mobile No:9962378774** appointed as Interim Resolution Professional is directed to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

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8. Accordingly, this Petition is **admitted**.
9. The Registry is hereby directed to immediately communicate this order to the Corporate Applicant and the Interim Resolution Professional by way of e-mail.

**-Sd-**  
**(S. VIJAYARAGHAVAN)**  
**Member (Technical)**

**-Sd-**  
**(B. S.V. PRAKASH KUMAR)**  
**Member (Judicial)**

KNP/TJS