

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

**CORAM: Shri Madan B. Gosavi, Member (Judicial)  
Shri Virendra Kumar Gupta, Member(Technical)**

**CP(IB)No.1572/KB/2018**

**In the matter of:**

An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

**-And-**

**In the Matter of:**

Kanwaljit Singh, sole Proprietor of Gobind Shuttering Store, Plot No. 68/4, Near Kalyani Hospital, Gurugram-122001.

.....Operational Creditor

**In the Matter of:**

M/s Sarawgi Builders and Promoters Private Limited, a company having its registered office at 27, Brabourne Road, Narayni Building, 5<sup>th</sup> Floor, Room No. 503, Kolkata, West Bengal – 700001.

..... Corporate Debtor

**Counsels appeared:**

**For Operational Creditor**

1. Mr. Sourojit Dasgupta, Advocate
2. Mr. Soumya Nag, Advocate

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For Corporate Debtor

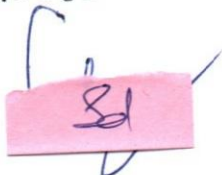
1. Mr. Subhasis Pyne, Advocate
2. Mr. Micky Chowdhury, Advocate

Date of pronouncement of order: 17<sup>th</sup> October, 2019.

**ORDER**

Per Shri Virendra Kumar Gupta, Member (T):

1. This application has been filed under Section 9 by the financial creditor, namely, **Kanwaljit Singh** to start Corporate Insolvency Resolution Process (in short "CIRP") of the Corporate Debtor, namely, **M/s Sarawgi Builders and Promoters Private Limited**. The amount claimed in default is Rs. 75,54,776/- (Rupees Seventy-Five Lakh Fifty-Four Thousand Seven Hundred and Seventy Six Only) which includes interest.
2. The facts, in brief, are that the Operational Creditor pursuant to an agreement in between the Operational Creditor and the Corporate Debtor supplied material on rental basis and raised invoices for the same. The period of such services is 01.10.2016 to 30.04.2017. The Operational Creditor sent various connections and had regular discussions for payment of its dues which failed. The Operational Creditor sent a notice of demand under Section 8 of Insolvency and Bankruptcy Code, 2016 on 18.07.2018 which was dully served through e-mail. The Ld. Counsel appearing on behalf of the Operational Creditor narrated these facts and drew our attention to the pages 34 to 68 containing copies of invoices and drew out attention to other relevant documents exchanged between the Operational Creditor and the Corporate Debtor. The Ld. Counsel further contended that the application filed by the Operational Creditor was complete in all





respects and there was no legal limitation attached to the claim made by the Operational Creditor. Hence, the Petition was liable to be admitted.

3. Ld. Counsel for the Corporate Debtor placed reliance on the reply affidavit submitted by the Corporate Debtor.
4. We have considered the submissions made by both the sides and material on record. In the reply affidavit, the only plea which has been taken by the Corporate Debtor is that the said sum could be paid in installments and without interest subject to improvement in the financial condition of the Corporate Debtor. This amounts to admission of debt which is due and payable and a default has occurred in payment thereof. The application is complete in all respects and complies with the requirements of I & B Code, 2016 read with Regulation thereof. Accordingly, we admit this Petition and order as under.

#### **ORDER**

- i) The application filed by the Operational Creditor under section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, **M/s Sarawgi Builders and Promoters Private Limited** is hereby admitted.
- ii) 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

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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.

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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. Nitesh Kumar More, Pr. CA , IP Registration No. IBBI/IPA-001/IP-P01087/2017-18/11785, contact no. 8820154348 E-mail ID: nmore2091@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.

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) In case, further funds are required by IRP/RP and in the event of non-provision thereof, IRP/RP can approach this Tribunal so that CIRP would not be hampered for want of funds.

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


xiv) 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.

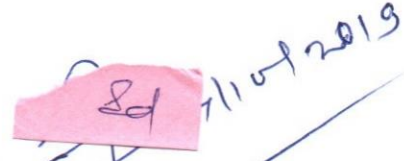
List the matter on **02.12.2019** for the filing of the progress report.

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

  
**(Virendra Kumar Gupta)**  
**Member(Technical)**

  
**(Madan B. Gosavi)**  
**Member(Judicial)**

Signed on this, the 17<sup>th</sup> day of October, 2019.

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