

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP (IB) No. 847/MB/2020

Under section 10 of IBC, 2016

In the matter of

**Destinations Gateway Private Limited,
(CIN U63030MH2013PTC239347)**

Shop No. 79-80, Ground Floor, Powai Plaza PCS
LTD, Hiranandani Business Park, A.G. Marg,
Powai Mumbai City 400076

.... Corporate Applicant

Order delivered on: 03.03.2023

Coram:

Mr. Manoj Kumar Dubey

Hon'ble Member (Technical)

Mr. Kishore Vemulapalli

Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicants

:

Mr. Gautam Bhandari, CS

ORDER

Per Kishore Vemulapalli, Member (Judicial)

1. This Company Petition is filed by M/s **Destinations Gateway Private Limited** (hereinafter called Corporate Applicant), under Section 10 of Insolvency and Bankruptcy Code 2016 ("the Code") read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, for initiation of Corporate Insolvency Resolution process against the Applicant.

2. The Corporate Applicant submits that its registered office is situated at Shop No. 79-80, Ground Floor, Powai Plaza PCS LTD, Hiranandani Business Park, A.G. Marg, Powai Mumbai City 400076, having paid up share capital of Rs. 15,00,000.
3. The Corporate Applicant submits that they have been facing extremely difficult business environment leading to significant losses year on year and severe cash crunch situation. Accordingly, the Corporate Debtor has not been in a position to pay off its debts to various Financial Creditors as well as Operational Creditors in a timely manner and have defaulted with the same for last several months.
4. The Petitioner has submitted a copy of Special Resolution passed by the Members in their Extra-ordinary General Meeting held on 08.01.2020 for initiating Corporate Insolvency Resolution Process u/s 10 of Insolvency & Bankruptcy Code. The Board of Directors of the Corporate Applicant in their meeting held on 08.01.2020 authorised Mr. Vivek Nigam & Mr. Bipin Kumar Nigam, Directors of the Company, to file necessary application under the Code.
5. The Corporate Applicant has also stated that a sum of Rs. 1,75,74,244/- is due to 20 Creditors (Financial and Operational Creditors) which is in default. The list of these Creditors is filed by the Corporate Debtor in Affidavit dated 03.08.2021.
6. We have heard the arguments of the Corporate Debtor/Applicant.

7. The Default in payment and the inability of the Company to pay any of its debt has led to the application by the Corporate Debtor for initiating Corporate Insolvency Resolution Process in the matter of self and it has sought approval of its members for filing section 10 petition under the code vide Special Resolution passed in the Extraordinary General Meeting of the Company convened on 08.01.2020. (Copy of on Special Resolution attached as Annexure "J"). The Company has stated the details of Creditors in the list of Creditors whose debt is outstanding and unpaid as on date.
8. Further, the Corporate Applicant has also enclosed the audited financial statements for the years, 2017-18 and 2018-2019 and the provisional financial statements for the financial year 2019-20 as on 25.02.2020. On perusal of provisional Financial Statement, it is noticed that the net worth of the Company has eroded, and it is in negative by sum of Rs. 1,53,00,596.97/-. There is no dispute that the Corporate Debtor is in default and is unable to pay the Creditors the amounts due to them. The Corporate Applicant has drawn out attention to the fact of filing of information of debt and default on the NeSL website by Financial Creditors.
9. On reading the Application and the supporting documents annexed with the Application, this Bench is of the view that the Corporate Applicant has committed default; the Application contains the particulars as required u/s 10 of the Code; and that the Corporate Debtor is not disqualified U/s 11 of the Code. Hence, this Bench is of

the view that it is a fit case for admission u/s 10 of the Insolvency and Bankruptcy Code 2016 .

ORDER

- I. The petition bearing CP(IB) 847/MB-IV/2020 filed by Destinations Gateway Private Limited, the Corporate debtor/Applicant, under section 10 of the IBC read with rule 7(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) is **admitted.**

- II. There shall be a moratorium under section 14 of the IBC, with consequential directions as mentioned below:
 - (i) That this Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the Corporate Applicant 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 Applicant in respect of its property including any action under the Securitisation 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 Applicant.

- (ii) That the 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 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (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 or passes an order for liquidation of Corporate Applicant under Section 33, 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 the Code.
- (vi) That this Bench hereby appoints the proposed Resolution Professional after perusing the written communication in Form 2 by the RP, Mr. Anshul Pathania, having address 901 Sunset Heights, Hatiskar Marg, Prabhadevi, Mumbai City, Maharashtra, 400025, having IBBI Registration No IBBI/IPA-001/IP-P-01529/2019-2020/12461, and Email id: anshul.pathania@gmail.com, as Interim Resolution Professional to carry the functions as mentioned under the Code.

III. The Registry is hereby directed to communicate this order to the Applicant. The Learned Counsel for the Petitioner shall deliver a

copy of this order to the Interim Resolution Professional forthwith and in any case, not later than two days from the date of this Order.

- IV. A copy of this Order be sent to the Registrar of Companies Maharashtra, Mumbai, for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

Sd/-

PRABHAT KUMAR

Member (Technical)

03/03/2023

Sd/-

KISHORE VEMULAPALLI

Member (Judicial)