

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

**Coram : (1) Shri Madan B. Gosavi, Hon'ble Member (J)  
(2) Shri Virendra Kumar Gupta, Hon'ble Member(T)**

**CP (IB) No. 1512/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:**

**M/s. PEC Limited**, having its Office at "Hansalaya", 15, Barakhamba Road, New Delhi- 110001 and also having its branch office at 10B, Mukherjee Para Lane, 1<sup>st</sup> floor, Kolkata-700026;

..... **Petitioner/Operational Creditor**

-Versus-

**In the matter of:**

**M/s. Skyrise Overseas Private Ltd.**, (formerly Saraf Impex Pvt. Ltd.), having its former office at 1/A, Vansittart Row, Kolkata-700001 and having its present office at C/O- Debabrata Pal, North Subhas Pally, Dankundi Dankuni, Hooghly- 712311, West Bengal;

.... **Respondent/Corporate Debtor**

**Counsel appeared:**

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| 1. Mr. Joydip Banerjee, Advocate | ] For Financial Creditor |
| 2. Mr. Shatanik Ghosh, Advocate  | ]                        |

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Date of Pronouncement of Order: 09.08.2019

ORDER

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

**PEC Limited**, a Government of India Undertaking – the Financial Creditor filed this application under section 7 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **M/s. Skyrise Overseas Private Ltd.** – Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor as the Corporate Debtor committed default in paying the financial debt of Rs.48,45,01,792/-.

2. Financial Creditor provides financial facilities to importers and exporters of various commodities. Corporate Debtor appears to be importer of rice and exporter of cotton fabrics, approached the financial creditor and requested for financial assistance. Vide Agreement dated 26.07.2013, the financial creditor granted and disbursed the loan of sum of Rs.15 crores to the corporate debtor for procurement and export of non-basmati rice. The rate of interest as agreed @12.5% per annum. The term of the loan was extended from time to time. Towards repayment of the loan, corporate debtor issued in favour of financial creditor number of cheques drawn on their account bearing no.404820100100383 maintained with Bank of India, Kolkata. However, all such cheques were dishonoured by their banker. Last cheque for sum of Rs.24,70,000/- was dishonoured on 18.10.2017. Since the corporate debtor committed default in paying the debt, this proceeding is filed to start CIRP.

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3. Corporate Debtor was served with the notice of this proceeding but none appears on their behalf. Hearing of this application proceeded ex parte against the corporate debtor.

4. We perused the records. We heard the Ld. Counsel, Mr. Joydip Banerjee for the financial creditor.

5. Financial Creditor produced all relevant evidence to show the disbursement of loan in favour of corporate debtor and its default committed by them in repaying the sum. These are only facts, The Financial Creditor needs to establish in this proceeding. Financial Creditor suggested the name of Mr. Vikram Kumar, having registration no. IBBI/IPA-001/IP-P00082/2017-18/10178 for appointment as the IRP against whom no disciplinary proceeding appears to be pending. Mr. Vikram Kumar has given his consent and it is on record. The application is defect-free. Hence, we admit the same and pass the following order:

### ORDER

- (i) The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Resolution Process in respect of M/s. Skyrise Overseas Private Limited (Formerly Saraf Impex Pvt. Ltd.). Moratorium order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.
- (ii) The 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 Sec.15. The public

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announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

- (iii) Moratorium under Sec. ~~104~~ 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 judgement, 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 possession of the corporate debtor.
- iv) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
- v) 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.

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- vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.
- vii) 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 Sec.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.
- viii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the resolution professional upon receipt of the copy of this order.
- (ix) Mr. Vikram Kumar, having registration no.IBBI/IPA-001/IP-P00082/2017-18/10178 is appointed as the Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.
- x) The Operational Creditor to pay to IRP a sum of Rs.50,000/- as advance fees, which amount shall be adjusted at the time of final payment.
- xi) As per the amended provision of the I&B Code, he has to finalise the Resolution Plan on or before 105 days from the date of admission of CIRP.
- xii) Registry is hereby directed to communicate the order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post and also by email.

Let the certified copy of the order be issued upon compliance with requisite formalities

List the matter on **23.09.2019** for filing progress report.

sd 9/8/19

(Virendra Kumar Gupta)  
Member (T)

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9/8/2019

(Madan B. Gosavi)  
Member (J)

*Signed on this, the 9<sup>th</sup> day of August, 2019.*