

IN THE NATIONAL COMPANY LAW TRIBUNAL, NEW DELHI
COURT-III

IB-1220/(ND)/2019 filed under Section 9
of the Insolvency and Bankruptcy Code,
2016 r/w Rule 6 of the Insolvency and
Bankruptcy (Application to Adjudicating
Authority) Rules, 2016.

In The Matter Of Kalka Home Developers Pvt. Ltd.

**Suresh Yadav, Sole Proprietor of,
M/s. Govind Shuttering Store**

....Operational Creditor

Versus

Kalka Home Developers Pvt. Ltd.

....Corporate Debtor

Order delivered on 14th January, 2020

CORAM:

CH. MOHD. SHARIEF TARIQ
MEMBER (JUDICIAL)
Ms. SUMITA PURKAYASTHA
MEMBER (TECHNICAL)

For Operational Creditor: Mr. Mohit Nagar, Advocate
For Corporate Debtor: Ex-Parte

ORDER

1. The Ld. Counsel for the Operational Creditor/Applicant Company is present. No representation on behalf of the Corporate Debtor. As seen from the Order dated 15th October, 2019, the Corporate Debtor was proceeded **Ex-Parte**.

2. Under consideration is an Application IB-1220/(ND)/2019, filed under Section 9 of IBC, 2016 with the prayer to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor viz; *Kalka Home Developers*

Private Limited, declare Moratorium and appoint Insolvency Resolution Professional (IRP) on the ground that the Corporate Debtor has failed to pay the debt and has become insolvent. The claim of the Applicant is of Rs.34,40,606/- (Principal amount).

3. It is submitted that the Applicant Company is engaged in the business of providing the material for shuttering and during the course of business; it had supplied the shuttering material to the Corporate Debtor and has raised the Invoices which are placed on record. On the amount claimed, TDS had been deducted by the Corporate Debtor as reflects from Form 26-AS, which is on record. The Accounts statement is also placed on record. As on 1st November, 2018, the balance shown is Rs.26,27,549/- for one Unit and for another Unit as on 1st December, 2018, the balance shown is Rs.9,13,111/-.

4. The Operational Creditor had sent Notice in Form-3 on 21st December, 2018 to the Corporate Debtor, giving details of the amount of debt along with the Bills which was returned back. The Operational Creditor has sent scanned copy of demand Notice dated 21.12.2018 through e-mail on 29th January, 2019, to which, no reply has been given except sending information that this e-Mail is not correct. The Operational Creditor has sent mail on the address as given in the MCA Portal for delivering the Notice under Section 8 of IBC, 2016. The Operational Creditor has also placed on record certificate under Section 65-B of the Evidence Act, to prove the delivery of notice through e-mail, however, no reply has been given to the notice by the Corporate Debtor.

5. The Operational Creditor has also fulfilled the requirement of Section 9 (3) (b) & (c) by filing an Affidavit which is placed on record, wherein under Para 3, it is deposed that the Applicant/Operational Creditor has not received any notice from the Corporate Debtor relating to dispute of unpaid debt. The Ledger account has been placed on record in compliance of Section 9 (3) (c). The

Applicant has fulfilled and complied with all the requirements of law. Therefore, the Application is **admitted** and the commencement of the CIRP is ordered, which ordinarily shall be completed within 180 days, reckoning from the day this order is passed.

6. The moratorium is declared which shall have effect from the date of this Order till the completion of CIRP, for the purposes referred to in Section 14 of the IBC, 2016. It is ordered to prohibit all of the following, namely:-

- (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 Securitisation 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.

7. The supply of essential goods or services of the CD shall not be terminated or suspended or interrupted during moratorium period. The

provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

8. Mr. Arun Jain is hereby appointed as IRP, as proposed by the Operational Creditor, whose consent has already been obtained in Form-2. There is no disciplinary proceeding pending against the IRP as is evidenced from Form-2. The IRP is directed to take charge of the CD's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of IBC, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed.

9. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the CD, its Promoters or any person associated with the management of the CD are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the IBC, 2016.

10. The OC and the Registry are directed to send the copy of this Order to IRP with immediate effect, so that he could take charge of the CD's assets etc., and make compliance with this Order as per the provisions of IBC, 2016. The e-mail and other details of the IRP are as follows: -

Name: Mr. Arun Jain

Registration Number: IBBI/IPA-001/IP-P00590/2017-2018/11029

Address: Villa No. 34, Block-4, 2nd Floor,
Eros Garden, Charmwood Village,
Faridabad-121009

E-mail ID: arjain1966@gmail.com

11. The Registry is also directed to communicate this Order to the OC, the CD and the concerned RoC.

12. The Order is dictated and pronounced in open court in the presence of Ld. Counsel for the Operational Creditor.

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(SUMITA PURKAYASTHA)
MEMBER (TECHNICAL)

-sd-

(CH. MOHD. SHARIEF TARIQ)
MEMBER (JUDICIAL)

Surjit/V