

**IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT - II**

CP (IB) 78/MB/2019

Under section 10 of the Insolvency and
Bankruptcy Code, 2016

(Application to Adjudicating Authority)
Rules, 2016

In the matter of

Rajminakshi Holdings Private Limited

CIN No. :- U65990MH1981PTC024616

Having its registered office at: %-C, Trishla
Building,122, Shaikh Memon Street,
Mumbai - 400002.

...Corporate Applicant

Order Delivered on :-12.04.2024

Coram:

Mr. Anil Raj Chellan
Member (Technical)

Mr. Kuldip Kumar Kareer
Member (Judicial)

Appearances:

**For the Corporate Applicant: Adv. Rohan Agrawal a/w Adv Jonas
Thomas**

ORDER

Per:- Coram

1. The present Company Petition is filed by Rajminakshi Holdings Private Limited, (hereinafter referred to as “Corporate Applicant”) under Section 10 of the Insolvency and Bankruptcy Code, 2016 (hereinafter called "Code") seeking to initiate Corporate Insolvency Resolution Process (CIRP) as the Corporate Applicant has committed the default in paying the debt of Rs. 8,57,97,785.51/- (Rupees Eight Hundred Fifty-Seven Lakhs Ninety-Seven Thousand Seven Hundred Eighty-Five and Fifty-One Paisa Only) of the Financial Creditors and Rs. 20,500/- (Rupees Twenty Thousand Five Hundred Only) of the Operational Creditors and total aggregating to Rs. 8,58,18,285.51/- (Rupees Eight Hundred Fifty-Eight Lakhs Eighteen Thousand Two Hundred Eighty-Five and Fifty-One Paisa Only). The date on which the amount was in default is 29.01.2003.

2. The averments made by the Corporate Applicant are summarised as under :-
 - i. The Corporate Applicant is a Private Limited Company incorporated on 15.06.1981 bearing CIN: U65990MH1981PTC024616 and the Registered Office of the Corporate Applicant is 5-C, Trishla Building, 122, Shaikh Memon Street, Mumbai – 400002.

 - ii. The Corporate Applicant defaulted in paying an amount of Rs. 8,58,18,285.51/- (Rupees Eight Hundred Fifty-Eight Lakhs

Eighteen Thousand Two Hundred Eighty-Five and Fifty-One Paise Only) to the Creditors. The details of Financial Creditors and Operational Creditors along with the respective amounts due and payable by the Corporate Applicant are as under :-

Sr. No.	Name	Amount (Rs.)
	Financial Creditors	
1.	<ul style="list-style-type: none"> • Bill Discounting (Foreign) • Packing Credit (Indian Overseas Bank) 	62,525,893
		19,875,552
2.	Bizworld International Ltd.	750,515
3.	Great Town Trading Pvt. Ltd.	2,626,355.51
4.	Hanuman Traders	5,000
5.	Rajiv Dharnidhaka	14,470
	Operational Creditors	
6.	Sunil Humbre	15,000
7.	Prime Associates	5,500

iii. The Corporate Applicant vide letter of Hypothecation for supply of bills dated 04.07.1996 availed facility from Indian Overseas Bank by Hypothecation of bills, claims, bills of Exchange drawn/accepted/endorsed against the goods or merchandise or shipping or such any other bills as primary security for the due payment of the supply Bills limit of Rs. 5,00,00,000/-.

iv. The Corporate Applicant has also placed on record the Special Resolution passed by the shareholders of the Corporate

Applicant in the Extra-Ordinary General Meeting dated 27.09.2018 to file an Application under Section 10 of the Code.

- v. The Board of Directors of the Corporate Applicant in its meeting held on 04.04.2018 passed a Resolution to file an Application under Section 10 of the Code for initiation of the CIRP and authorised Mr. Pankaj Shubhkaran Ojha, the Director of the Corporate Applicant to initiate the CIRP proceedings of the Corporate Applicant.
- vi. The Corporate Applicant has placed on record Audited Balance Sheet for the Financial Year 2018-2019, 2019-2020, 2020-2021 and Provisional Balance Sheet for the Financial Year 2021-2022 reflecting the default of payment to the Creditors.

FINDINGS

- 4. We have heard the counsel appearing for the Corporate Applicant and perused the documents placed on record.
- 5. This Bench vide Order dated 07.09.2023 directed the Registry as well as the Corporate Applicant to serve notice to the Indian Overseas Bank, the Financial Creditor of the Corporate Applicant. The Tribunal also directed to serve notice to the Financial Creditors intimating the next date of hearing and to file compliance report as well as Affidavit of Service before the adjourned date. The Corporate Applicant has complied with the same and has filed Affidavit of Service thereby enclosing therewith proof of service.

6. In spite of issuance of several notices and intimations, none appeared on behalf of the Indian Overseas Bank and there appears nothing on record to show that the Bank has filed any submissions to oppose the present Petition. Even otherwise it stands established that the Applicant vide letter of Hypothecation dated 04.07.1996 availed facility of Packing Credit and Bill Discounting from Indian Overseas Bank by Hypothecation of bills, claims, bills of Exchange drawn/accepted/endorsed against the goods or merchandise or shipping.
7. Further the fact that an amount of Rs. 8,24,01,445/- is in default also reflects in the latest Provisional Balance Sheet as on 31.03.2022 as long-term borrowings. The Corporate Applicant has acknowledged the amount in its Balance Sheet. The Balance Sheet annexed with the Petition is considered as an acknowledgement under section 18 of the Limitation Act, 1961 in view of the judgement of the Hon'ble Supreme Court in the matter of *Asset Reconstruction (India) Limited versus Bishal Jaiswal and Ors, Manu/SC/0279/2021*. Hence, the claim amount is well within the limitation period to initiate CIRP proceedings against the Corporate Applicant.
8. The Petition shows that the Corporate Applicant is in default of debt as is also evidenced by the Books of account. There are Ledger Statements also annexed to the Petition of the Applicant in respect of all the Financial and Operational Creditors. We also notice that the Corporate Applicant has proposed interim Resolution Professional and have placed on record his consent to act as an Interim Resolution Professional and declared his eligibility and non-pendency of any

disciplinary proceedings against him. Thus, the Petition is free from defects and complete in all respects, as required under the Code.

9. In the light of the facts stated in the Petition and documents placed on record, we find that the present Petition under Section 10 of the Code to be a fit case for admission. It is ordered in following terms:

ORDER

- a. **The above Company Petition No. (IB) 78 (MB)/2019 is hereby admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against **Rajminakshi Holdings Private Limited.**
- b. This Bench hereby **appoints Mr. Vimal Kumar Agrawal, Registration No: IBBI/IPA-001/IP-P-00741/2017-18/11247 having email id as vimal@vpagrawal.in as the Interim Resolution Professional** to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.
- c. The Corporate Applicant shall deposit an amount of Rs. Three Lakhs towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.
- d. 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 debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover 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; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant.

e. 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.

f. 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.

g. That the order of moratorium shall have effect from the date of pronouncement 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.

h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

i. During the CIRP period, the management of the Corporate Applicant will vest in the IRP/RP. The suspended directors and employees of the Corporate Applicant shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

j. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Applicant.

Accordingly, this Petition is admitted.

The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

**ANIL RAJ CHELLAN
(MEMBER TECHNICAL)**

Sd/-

**KULDIP KUMAR KAREER
(MEMBER JUDICIAL)**