



IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-IV

CP (IB) No. 3096/MB/2019

Under section 10 of IBC, 2016

In the matter of

Sunita Logistic Private Limited,
(CIN- U63000MH2009PTC196562)

Patuck Press Compond, Shraavan Yashwant
Chowk, Kala Chowki, Mumbai -400033,
Maharashtra India

....Corporate Applicant

Order delivered on: 02.08.2023

Coram:

Mr. Prabhat Kumar

Hon'ble Member (Technical)

Mr. Kishore Vemulapalli

Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Corporate Applicant(s) : Mr. Jonas Thomas i/b SMA La
Partners, Advocate.

For the Financial Creditor : Ms. Sunitha Perumal i/b Mr. Sachin
V. Masurkar, (For Tata Motors
Finance Ltd. /Objector), Advocate.

ORDER

Per: Prabhat Kumar, Member Technical

1. This Company Petition is filed by Sunita Logistic 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.

- 1.1 The Corporate Applicant says that its registered office is at Patuck Press Compond, Shravan Yashwant Chowk, Kala Chowki, Mumbai -400033, Maharashtra India, incorporated on 20/10/2009 vide CIN- U63000MH2009PTC196562 on the file of Registrar of Companies, Mumbai, having paid up share capital of Rs. 1,00,000/-.
- 1.2 The Corporate Applicant was engaged in the logistic business since the year 2009.
- 1.3 The Corporate Applicant states that the business operations of the Corporate Applicant went downwards from 2014 onwards and its liabilities kept increasing that it is unable to repay the outstanding debts despite its bonafide intentions and efforts to pay off its debts aggregating to a total of Rs. 1,24,62,354.80/- as on 31.03.2021.
- 1.4 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 petition under section 10(3)(c) of the Code vide Special Resolution passed in the Extra Ordinary General Meeting (EOGM) of the Company convened on 19.07.2019 for initiating Corporate Insolvency Resolution Process u/s 10(3)(c) of Insolvency & Bankruptcy Code. The Board of Directors of the Corporate Applicant in their meeting held on 11.04.2019 authorised Ms. Sunita Dharnidharka, Director of the Company, to file necessary application under the Code.



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- 1.5 The Corporate Applicant has stated the details of Creditors, in the list of Creditors whose debt is outstanding and unpaid as on 31.10.2019. The Corporate Applicant has issued notice, vide letter dated 06.01.2020, to the creditors of the Corporate Applicant, including Secured Financial Creditors, Unsecured Financial Creditors and Operational Creditors of the company intimating the date of hearing alongwith the copy of the present petition, however, some of the notices were returned to the company with a remark “insufficient Address”. In compliance of order dated 16.12.2019, the Corporate Applicant published a public notice in 2 newspapers, namely “Business Standard”, an English newspaper and “Navshakti”, a regional newspaper on 18.01.2020, intimating the creditors about the legal proceedings and the next date of hearing. The same is affirmed by the Corporate Applicant vide Affidavit of Service dated 03.02.2020.
- 1.6 One of the Financial Creditors viz. Tata Motors have raised objection in the present Petition filed by the Corporate Applicant in the hearing held on 04.08.2022 and sought time to file reply in the matter but the same is not on record till date.
- 1.7 Further, the Corporate Applicant has also enclosed the audited financial statements for the years, 2016-2017, 2017-2018 and 2018-2019, 2019-2020, 2020-2021 and 2021-2022. The Company is unable to pay the Creditors, the amounts due to them, and thus has defaulted on the Debt payment to the 6 Secured Financial Creditors and 5 Unsecured Financial Creditors of the Company amounting to a total of Rs.96,40,077.16/- as at 31.03.2021.



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- 2 On perusal of the present Petition and the supporting documents annexed herewith, this Bench is of the view that the Corporate Applicant has committed default and the Petition 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. The statement of affairs as on 4.4.2019 shows that the assets of the Corporate Applicant are not sufficient to meet its liabilities. Accordingly, this Bench is of the considered view, that the Corporate Applicant is required to be admitted for Corporate Insolvency Resolution Process under the Code.
- 3 In view of the above, this Bench hereby **admits** this petition, declaring moratorium 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.

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- (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 dated 16.08.2019 by the RP, **Mr. Vimal Kumar Agrawal**, having address at Office No.- 04, Ground Floor , C wing, Shanti Jyot Building, Balaji Nagar, Near Station, Bhyander West, Thane, Mumbai City- 401101, Maharashtra, having **IBBI Registration No.- IBBI/IPA-001/IP-P00741/2017-2018/11247** and Email- vimal@vpagrawal.in as Interim Resolution Professional to carry the functions as mentioned under the Code.

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- 4 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 within 10 days of the order being uploaded on the website.

Sd/-

Prabhat Kumar
Hon'ble Member (Technical)

//LRA- AKSHATA SHAH//

Sd/-

Kishore Vemulapalli
Hon'ble Member (Judicial)