



NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH (COURT-II)

Company Petition No. (IB) – 753/(ND)/2023

IN THE MATTER OF:

M/s Srivenkateshwar Tradex Private Limited

AL 61, Local Shopping Complex
Shalimar Bagh, New Delhi-110088

**... Corporate Applicant/
Corporate Debtor**

Under Section: 10 of IBC, 2016

Order Delivered on: 22.03.2024

CORAM:

SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)

SH. SUBRATA KUMAR DASH, HON'BLE MEMBER (T)

PRESENT:

For the Applicant : . Adv. Pulkit Deora, Adv. Himanshu Kohli

ORDER

The captioned petition has been preferred under Section 10 of the Insolvency and Bankruptcy Code, 2016 (for brevity, the '**IBC, 2016**') read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by M/s Srivenkateshwar Tradex Pvt. Ltd. (for brevity, the '**Corporate Applicant/Corporate Debtor**') seeking initiation of CIRP qua it.

2. Stating succinctly, the Corporate Debtor is a company incorporated on 03.11.2010 with CIN U51909DL2010PTC210153, in terms of the provisions of the Companies Act, 1956 having its Registered Office at AL-61, Local



Shopping Complex, Shalimar Bagh, Delhi and is amenable to the jurisdiction of this Tribunal. The Authorized Share Capital of the Respondent is Rs5,00,00,000 and its Paid-up Share Capital is Rs.3,27,00,000.

3. To support the Application, the Corporate Applicant has espoused thus:

3.1 Due to lockdown during most part of the Financial Year 2020-2021, restrictions in movement of goods and sudden fall in the demand of the goods traded by the Corporate Applicant, no income was generated from business during the period as also in subsequent years till the date of filing the application and eventually, due to defaults by customers/clients, the Corporate Applicant had no revenue left for either to pay to its trade/operational creditors or to run the business activities, leading to complete closure of a thriving business.

3.2 During 2012, the Corporate Applicant entered into a long-term borrowing arrangement with M/s Emmsons International Limited, for an amount of Rs. 9,50,00,000. In the year 2018, a partial repayment of Rs. 3,25,00,000 was made, leaving the balance amount outstanding.

3.3 M/s Emmsons International Limited the Financial Creditor, in response to the unpaid dues, issued a recall notice on 29.06.2023, demanding the repayment of the remaining amount within three months, i.e., by 27.09.2023. Unfortunately, due to the Corporate Applicant's failure to make payments, the Corporate Debtor was unable to fulfill its financial obligation to Emmsons. Consequently, the Corporate Debtor defaulted in repayment of the outstanding financial debt.



3.4. M/s Ishwar Singh & Associates Construction Private Limited, an operational creditor, issued a legal demand notice on September 21, 2023, demanding payment of Rs. 1,61,39,165/- (Rupees One Crore Sixty- One Lacs Thirty-Nine Thousand One Hundred & Sixty-Five Only) within a period of 15 days. The Corporate Applicant acknowledges the debt but lacks sufficient funds, resulting in default.

3.5 The Corporate Applicant stands as a loss making, inoperative enterprise, faces imminent default in meeting financial commitments to creditors, unable to pay its debt and does not have resource to pay off its debt, struggles to sustain day-to-day operations There are no business opportunities left for continuing the business due to negligible sales and losses from debtors.

3.6 The Corporate Applicant does not have any immovable property to liquidate and pay off the liabilities or generate capital for running the business. As per the provisional balance sheet of the Financial Year 2023-24, the Corporate Applicant has current liabilities and non- current liabilities to the tune of Rs. 4,18,75,606 (Rupees Four Crores, Eighteen Lakhs Seventy Five Thousands Six Hundred and Six only), whereas the current assets and non current assets of the Corporate Applicant are INR 95,63,321/- (Rupees Ninety Five Lakhs Sixty Three Thousands, Three hundred and Twenty One Only).

3.7 The Applicant had further disclosed that :

- a) There is no debt due by Corporate Applicant to any Bank or Financial Institution.



b) There are no outstanding loans unrealized money given to related entities.

c) There are no unpaid workmen / employee dues / PF / gratuity.

d) In so far as other statutory dues are concerned, payment of INR 1,65,00,996/- has been made towards GST liability. Further, as regards demand raised on account of DVAT to the tune of INR 17, 57, 384/- and 15,20,212/- pertaining to Financial Year 2014- 15, said demands are under challenge before Commissioner Appeal as also before Hon'ble Rajasthan High Court by way of Writ Petition No. D.B. Civil Writ Petition No. 7134/2021, respectively.

4. The Particulars of debt and default are mentioned in Part III of the Application. The contents of which reads thus:

Part – III

PARTICULARS OF FINANCIAL / OPERATIONAL DEBT		
1.	Name(s) of Financial/ Operational Creditor(s)	Financial Creditors: 1. M/s Emmsons International Ltd 2. Mr. Maan Singh Gulliya Operational creditors 1. M/s Ishwar Singh & Associates Construction Private Limited 2. M/s Greenworld International Private Limited There is also another creditor namely Saurabh (India) Private Limited, however the said company has been Dissolved (liquidated) . Hence, the particulars and details of Saurabh (India) Private Limited is not included in the list of creditors. Copy of the MCA Master data of Saurabh (India) Private Limited is annexed and marked herewith as <u>Annexure – A8</u>
2.	Address of Correspondence of The Financial / Operational Creditor(s)	The list containing details of financial creditors along with their corresponding addresses is annexed herewith as <u>ANNEXURE – A9.</u> The List of Operational creditors along with corresponding addresses alongwith due amount is annexed herewith as <u>ANNEXURE – A10.</u>



3.	Total Debt Raised and Amount in Default	<p>Financial Debt</p> <p>1. Emmsons International Ltd: INR 1,25,00,000/- Default Amount is INR 1,25,00,000/- (Rupees One Crores Twenty-Five Lakhs Only).</p> <p>2. Mr. Maan Singh Gulliya: INR 1,00,000/-</p> <p>Operational Debt</p> <p>3. M/s Greenworld International Private Limited: INR 1,29,98,588/-.</p> <p>4. Ishwar Singh & Associates Constructions Private Limited: INR 1,61,39,164/- Default Amount is INR 1,61,39,164/- (INR One Crore Sixty-One Lakhs Thirty-Nine Thousand One Hundred and Sixty-Four Rupees only)</p> <p>Total Debt in default Rs. 2,86,39,164 (Rupees Two Crore Eighty Six Lakhs Thirty Nine Lakhs One Hundred and Sixty Four Only).</p> <p>Claims from Taxation Authorities in respect of alleged DVAT are under dispute and subject to outcome of following proceedings in respect of said demands:</p> <p>5. INR 17,57,384/- (A.Y. 2014-15) 6. INR 15,20,212/- (A.Y. 2014-15)</p> <p>List of Tax Authorities / Creditors along with details of tax demanded and pending litigation is annexed herewith and marked as <u>Annexure - A11</u>.</p>
4.	Date when the Financial / Operational Debt was incurred	Date when the Financial / Operational Debt was incurred is annexed as <u>Annexure -A12</u>
5.	Particulars of Security held, if any, the date of its creation, its estimated value as per the creditor. Attach a copy of a certificate of registration of charge issued by the Registrar of Companies	Not Applicable
6.	Details of retention of title arrangements (if any) in respect of goods to which the Operational Debt refers.	N / A
7.	Record of default with the Information Utility if any	There is no record of default against the corporate applicant available with the Information Utility.
8.	List of documents attached to this application in order to prove the existence of Financial / Operational Debt and the amount in default	1. Copy of books of accounts / invoice and demand notice served by Ishwar Singh & Associates Construction Pvt. Ltd. on the Corporate Applicant is annexed and marked herewith as <u>Annexure - 13</u>



	<ol style="list-style-type: none">2. Copy of books of accounts / Ledger of Green World International Pvt Ltd (OC) is annexed herewith and marked as <u>Annexure -14</u>3. Final Notice for payment dated 29.06.2023 and Ledger pertaining to M/s Emmsons International Ltd. is annexed herewith as <u>Annexure - 15</u>4. True Copy of audited financial statements of Srivenkateshwar Tradex Private Limited for the Financial Year 2021-22 is annexed as annexed as <u>Annexure - 16</u>5. True Copy of audited financial statements of Srivenkateshwar Tradex Private Limited for the financial year 2022-23 is annexed as annexed as <u>Annexure -17</u>6. True copy of Provisional financial statement for the financial year 2023-24 is annexed as annexed as <u>Annexure -18</u>7. Statement of Affairs along with following documents as on March 31, 2023:<ul style="list-style-type: none">- List of assets and liabilities of Srivenkateshwar Tradex Private Limited as on March 31, 2023, is annexed as annexed as <u>Annexure 19</u>- Details of shareholders/members of the Company is annexed as <u>Annexure - 20</u>- Particulars of debt owed to the Corporate Debtor is annexed and marked as <u>Annexure 21</u>- True copy of Master Data of debtors viz. RCI Industries & Technology Limited, Sanco Industries Limited, Savemax Wholesale Club Pvt. Ltd, Supreme Alloys Limited and Sunder Agro Mills Private Limited is annexed as <u>Annexure -22</u>.- True copy of Valid AFA of proposed IRP is annexed as <u>Annexure 23</u>
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I, certify that, to the best of my knowledge, Atul Jindal, is fully qualified and permitted to act as an insolvency professional in accordance with the code and the associated rules and regulations. Srivenkateshwar Tradex Private Limited has paid the requisite fee for this application through online portal and a copy of this application has been served by registered post/speed post/by hand/electronic means to board.



MAAN SINGH GULLIYA

Director (DIN: 10102482)

ADDRESS: 483, Chirag Delhi, New Delhi-110017

5. The Applicant has relied upon the following documents to prove the existence of Debt and Default:



- a) Copy of books of accounts / invoice and demand notice served by Ishwar Singh & Associates Construction Pvt. Ltd. on the Corporate Applicant.
- b) Copy of books of accounts/Ledger of Green World International Pvt Ltd (OC)
- c) Final Notice for payment dated 29.06.2023 and Ledger pertaining to M/s Emmsons International Ltd.
- d) True Copy of audited financial statements of Srivenkateshwar Tradex Private Limited for the Financial Year 2021-22.
- e) True Copy of audited financial statements of Srivenkateshwar Tradex Private Limited for the financial year 2022-23.
- f) True copy of Provisional financial statement for the financial year 2023-24.
- g) Statement of Affairs along with following documents as on March 31, 2023:
 - (i) List of assets and liabilities of Srivenkateshwar Tradex Private Limited as on March 31, 2023, is annexed as annexed as Annexure 19
 - (ii) Details of shareholders/members of the Company is annexed as Annexure-20 Particulars of debt owed to the Corporate Debtor is annexed and marked as Annexure 21.
 - (iii) Particulars of debt owed to the Corporate Debtor



6. Further, the shareholders of the Corporate Applicant have assented for preferring the Captioned Application under Section 10 of IBC, 2016 by passing a Special Resolution in EGM dated 28.11.2023. The relevant excerpts of the Special Resolution reads thus:

SRIVENKATESHWAR TRADEX PRIVATE LIMITED

Registered Office: AL-61, Local Shopping Complex, Shalimar Bagh, New Delhi-110088
CIN: U51909DL2010PTC210153, email: sri.venkateshwar@yahoo.com Ph. +919811665300

CERTIFIED TRUE COPY OF THE SPECIAL RESOLUTION PASSED BY THE SHAREHOLDERS IN THE EXTRA ORDINARY MEETING OF THE M/S SRIVENKATESHWAR TRADEX PRIVATE LIMITED HELD ON TUESDAY, NOVEMBER 28, 2023 AT AL 61, LOCAL SHOPPING COMPLEX, SHALIMAR BAGH NEW DELHI 110088 AT 11:00 A.M.

AUTHORIZATION TO FILE APPLICATION UNDER SECTION 10 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016.

“RESOLVED THAT pursuant to Section 10 of the Insolvency and Bankruptcy Code, 2016 and such other applicable provisions, if any, including any statutory enactment, modification etc. thereto as may be applicable for the time being in force, shareholders of the Company do hereby assent to voluntarily file an application for initiating the corporate insolvency resolution process (“CIRP”) before the National Company Law Tribunal, Delhi Bench (“NCLT”);

RESOLVED FURTHER THAT, Mr. MAAN SINGH GULLIYA, Director DIN: 10102482, is hereby authorized and appointed as the ‘Corporate Applicant’ and he shall be authorized to act for and on behalf of the Company as the ‘Corporate Debtor’, to:

- (a) File an application, affidavit and/or any other documents that may be required to be signed in connection with the initiation of corporate insolvency resolution process of the Company before relevant bench of NCLT;
- (b) Appoint/nominate Mr. Atul Jindal having IP Registration Number: - IBBI/IPA-001/IP-P-02537/2021-2022/13883 as an interim resolution professional (“IRP”) for conducting the CIRP before the NCLT;
- (c) Approve of and decide on any terms and conditions for the appointment of the IRP;
- (d) Negotiate, execute, file and deliver the documents, instruments, amendments to the documents, agreement, papers, applications, affidavits, undertakings, notices, information and deal with regulatory authorities in connection with the CIRP under the Code, the Act, and the other applicable laws;
- (e) Do all other acts, deeds and things as may be necessary for the CIRP of the Company in accordance with the provisions of the Code, including but not limited to various filings, pleadings and initiations of proceedings before the NCLT, Delhi



SRIVENKATESHWAR TRADEX PRIVATE LIMITED
Registered Office: AL-61, Local Shopping Complex, Shalimar Bagh, New Delhi-110088
CIN: U51909DL2010PTC210153, email: sri.venkateshwar@yahoo.com Ph. +919811665300

Bench and/ or the National Company Law Appellate Tribunal (“NCLAT”) and/or the Hon’ble Supreme Court, as the case may be, including appointing consultants, advocates, attorneys etc. and for filing/ defending litigation(s) for or against the company before such fora; and
(f) Do all other acts, deeds and things as may be deemed necessary to give effect to the foregoing and the other terms of this Resolution.

RESOLVED FURTHER THAT, the Corporate Applicant, as appointed by the shareholders, shall be authorized for and on behalf of the Company as the ‘Corporate Applicant’ is authorized to approve and finalize, sign, execute and deliver documents in relation to the CIRP, and such other agreements, deeds, undertakings, letters, indemnity and documents as may be required in connection with the CIRP of the Company and all other documents, letter(s) of undertakings, declarations, agreements and other papers or documents as may be required in relation to any of the above by any registered authority or governmental authority or judicial authority, competent in that behalf and do all such acts, deeds and things as may be necessary for giving effect to the above resolution.

RESOLVED FURTHER THAT a copy of this resolution duly certified by any of the Directors or Company Secretary of the Company may be furnished to any person/ authority/ department as may be required.”

**Certified True Copy
For Srivenkateshwar Tradex Private Limited**

**Inder
Director
DIN:09250017**



**Date: 28.11.2023
Place: New Delhi**

7. Vide order dated 05.02.2024, this Adjudicating Authority had issued notice to the Creditors of the Corporate Applicant. Further the Corporate Applicant was directed to file an Affidavit indicating therein that the present petition has not been preferred with ulterior motive to defraud of creditors or to overreach the pending proceedings against the corporate debtor. In compliance of the aforesaid directions the Applicant has filed its Affidavit dated 17.02.2024 stating that petition has not been preferred with an ulterior motive to defraud of creditors or to overreach the pending proceedings against



the Corporate Debtor. In addition to this Affidavit of Service has also been filed by the Applicant.

8. We have heard the submissions on behalf of the Corporate Applicant and have perused the documents placed on record. As per the contents of Section 10 of IBC 2016, we find that what the Adjudicating Authority has to satisfy it about is that (a) there is a debt, (b) default has occurred, (c) the application is complete in terms of sub-section (2) & (3) of Section 10, and further, (d) the Corporate Applicant is not ineligible under Section 11. Therefore, we would like to examine the present application in terms of these parameters.

9. In support of the existence of its debt and default, the Corporate Applicant has placed on record the Ledger Account of the Operational Creditors, Final Notice for payment dated 29.06.2023 and Ledger pertaining to M/s Emmsons and the Balance Sheet of the Corporate Debtor acknowledging such defaults. Further, there was neither any representation made by the Creditor nor any objection was filed. Hence it is presumed that they have nothing to say in the matter. Even otherwise also Hon'ble NCLAT in the matter of **SMBC Aviation Capital Ltd. vs. Interim Resolution Professional of Go Airlines (India) Ltd., Abhilash Lal**, (Company Appeal (AT)(Insolvency) No. 593 of 2023) in terms of the order dated 22.05.2023 reads thus:-

“19. As noted above, since the statutory Scheme does not contain any obligation of issuing notice to the creditors by the Corporate Applicant, any objector appearing at the time of hearing has to be heard and the objection may be noted by the Adjudicating Authority and thereafter the appropriate decision can be taken. We, thus,



conclude that the mere fact that no notice was issued to the creditors or any opportunity was given to the objectors before proceeding to hear, the Corporate Applicant, cannot be held to vitiate any procedure or violating the principles of natural justice, more so when objectors were heard by the Adjudicating Authority.”

10. As regards compliance with Section 10(3)(a), the Corporate Applicant has annexed the Audited Balance Sheets for the last two Financial Years on Pages 81-134 of the Application. In compliance with Section 10(2)(b), the Written Consent of the proposed RP in Form-2 is placed on record on Page 58-59 of the Application. Further, as already noted in para 10, in compliance with Section 10(2)(c), the Special Resolution passed by the Shareholders is also on record Hence, we find that the Application is complete in terms of Section 10(3) of IBC 2016.

11. Hence, in view of the unpaid debt being subsisting above Rs. 01 Crore and the default being committed by the Corporate Applicant towards the same, and the Corporate Applicant being not disqualified under Section 11 of IBC 2016, we have no other option but to admit the present Application under Section 10 of IBC 2016. Ordered accordingly.

12. In the wake, **Moratorium is declared in terms of Section 14 of the Code**”. As a necessary consequence of the moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed:

- (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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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.

13. As proposed by the Corporate Applicant, this Bench appoints Mr. Atul Jindal, having Registration No. IBBI/IPA-001/IP-P-02537/2021-2022/13883 and email id: ip.atuljindal@outlook.com, as an IRP of the Corporate Debtor with immediate effect from the panel of the IPs recommended by IBBI to this Adjudicating Authority. It is further ordered that Mr. Atul Jindal is directed to take charge of the CIRP of the Corporate Debtor with immediate effect.

14. The Corporate Applicant is directed to deposit Rs. 2,00,000/- (Two Lakhs only) only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional and shall be paid back to the Operational Creditor.

15. The Court Officer will inform the IRP so appointed by all modes.



16. A copy of this Order shall be communicated immediately to the Operational Creditor, the Corporate Debtor and the IRP named above, by the Registry/Court Officer. In addition, a copy of the Order shall also be forwarded by the Registry to IBBI for their record.

17. A copy of this Order shall immediately be communicated by all modes including e-mail by the Registry/Court Officer of this Tribunal to the Applicant, the Respondent and the IRP mentioned above.

18. In addition, a copy of the Order shall also be forwarded by the Registry/Court Officer of this Tribunal to the IBBI for their records.

Sd/-
(SUBRATA KUMAR DASH)
MEMBER (T)

Sd/-
(ASHOK KUMAR BHARDWAJ)
MEMBER (J)