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Sr.no. 121/2020

THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH
AT JAIPUR

Company Petition No. (IB)-266/10/JPR/2019

Under Section 10 of the Insolvency and Bankruptcy Code, 2016

In the matter of:

CHIRAAAYUSH STOCK CONSULTANTS PRIVATE LIMITED
6A-10, Mahaveer Nagar Extension, Kota- 324005 (Rajasthan)

.....Applicant/ Corporate Debtor

CORAM:

SHRI P.S.N. PRASAD, HON'BLE MEMBER (JUDICIAL)

SHRI RAGHU NAYYAR, HON'BLE MEMBER (TECHNICAL)

For the Petitioner: Tirth Nayak/ Siddharth Bapna, Advocates.

Order delivered on: 25.11.2020

ORDER

Per. Shri P.S.N. PRASAD, Member (J)

1. This is an application filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 (for brevity the 'Code') read with rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority)



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Rules, 2016 (for brevity the 'Rules') for initiation of Corporate Insolvency Resolution Process in respect of the applicant company itself.

2. The Applicant company, 'Chiraayush Stock Consultants Private Limited' was incorporated on 18.12.2006 under the companies Act, 1956 bearing CIN No. U67120RJ2007PTC023817. The Applicant Company has its registered office at 6A-10, Mahaveer Nagar Extension, Kota 324005, within the territorial jurisdiction of this Tribunal.
3. The present application has been filed by Mr. Anil Kumar Gupta, duly authorised vide a Board Resolution dated 03.08.2019. The decision to initiate Corporate Insolvency Resolution Process was taken by the Board to overcome the distress situation and also to restructure if possible, by adopting the corporate insolvency resolution process under the Code.
4. As per averments, the corporate debtor has 5 secured creditors who had extended financial facilities. The list of the said creditors is attached as Annexure E of the Application. It is stated that due to acute financial constraints, the Corporate Debtor could not maintain the accounts regular and as a result as on 31'st March, 2019 the total amount in default is Rs. 17,16,18,548/-



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5. In order to prove its default, the corporate debtor has placed demand letters issued by financial creditor asking for repayment of the financial facilities extended to it.
6. There is no dispute that the applicant company has admittedly defaulted in repayment of its debts, which is in excess of the applicable minimum amount fixed under Section 4 of the Code and therefore is entitled to file the present application in terms of sub section (1) of Section 10 of the Code. The Corporate Debtor is desirous of implementing a debt restructuring plan.
7. The Applicant has affirmed that it is not disqualified in terms of provisions of Section 11 of the Code to file the present petition. As per the affidavit annexed along with, it is deposed that no CIRP has ever been initiated nor any liquidation order or winding up order been made against them.
8. In compliance of the requirements of Section 10 (3) (a) of the Code read with Annex-V of Form 6 of the Rules, the applicant company has filed copies of audited financial statements of the Corporate Debtor for the financial years i.e. 2017-18 and 2018-19 and the provisional statements upto the date not earlier than 14 days from the date of the application.
9. Further in compliance of Section 10 (3) (b) of the Code the applicant has proposed the name of Sanjay Badrilal Punglia, Registration Number: -

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IBBI/IP-001/IPP00855/ 2017-18/11437, as the Interim Resolution Professional. The applicant company has obtained a written communication in Form-2 from the Insolvency Professional for appointment as an IRP. In the Form-2 filed along with the application it has been affirmed by the Proposed IRP that she is a registered Insolvency Professional and qualified to practice as an Insolvency Professional. Further it has been affirmed that there are no disciplinary proceedings pending against the proposed IRP.

10. In view of the above it is clear that a default has occurred and the present application under Section 10 is complete and that the applicant is not ineligible under Section 11 of the Code. Further all requirements prescribed under sub-section 3 (a) and (b) of Section 10 of the Code have also been complied with.
11. The Corporate Debtor has also placed on record copy of a special resolution passed by the shareholders, ratifying the decision to file the present petition in terms of the amended provisions of Sec 10. The particulars of the debts owed by the Corporate Debtor, with amounts due to each of them have also been furnished.
12. The Insolvency and Bankruptcy Code, 2016 is a complete Code in itself. The provisions of the Code are to be mandatorily followed. Adherence to

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the statutory requirements has to be in toto. Section 10 (4) (a) of the Code mandates the Adjudicating Authority to admit the application if it is complete. When the language of the Code is clear and explicit, the Adjudicating Authority must give effect to it.

13. In view of the above, we are satisfied that the present application is complete and that the applicant corporate debtor has committed a default. Therefore, as the application is complete, the present petition is Admitted.

14. A moratorium in terms of section 14 of the Code is being issued prohibiting the following:

- *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;*
- *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 or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and*



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Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

- *recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.*

15. It is further directed that:

- *The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.*
- *The provisions of sub-section (1) of section 14 of the Code shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.*

16. As proposed, Sanjay Badrilal Punglia Registration Number: -IBBI/IP-001/IPP00855/ 2017-18/11437 is appointed as the Interim Resolution Professional, who shall inter-alia take relevant steps as envisaged under Section 15, 17 and 18 of the Code. The IRP is directed to submit his interim report. A part from publication, he shall also issue notices to all creditors as reflected in the records of the Corporate Debtor. A service report/

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affidavit in this regard with tracking details shall be furnished along with the first/ interim report of the IRP.

17. The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process as per sub-section (4) of Section 14 of the Code.

18. Let the copy of the order be supplied to the parties including the interim resolution professional.

Sd/-

(SHRI RAGHU NAYYAR)
MEMBER (T)



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Sd/-

(SHRI P. S. N. PRASAD)
MEMBER (J)

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