

NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH

(IB)-2239 (ND)/2019

In the matter of

Mr. Balram Singh

Having its Registered Office at:
A-1/30, Ground Floor, South City-2
Sector-49, Gurugram
Haryana-122002

.....**Financial Creditor**

V/s

M/s Soni Infratech Private Limited

Having its Registered Office at:
F-461/8, KH-728, Jaitpur Ext-II
T.NO.435, Badarpur, New-Delhi-110004

.....**Corporate Debtor**

SECTION: 7 of IBC, 2016

Order delivered on: 22.11.2019

CORAM:

SMT. INA MALHOTRA, HON'BLE MEMBER (J)
SMT. SAROJ RAJWARE, HON'BLE MEMBER (T)

ORDER

PER SMT. INA MALHOTRA, MEMBER (J)

The petitioner as a Financial Creditor has prayed for initiation of the Corporate Insolvency Resolution of the Respondent/Corporate Debtor under Section 7 of the Insolvency & Bankruptcy Code, 2016 (herein after referred to as the "Code") for its inability to liquidate its debt.

(IB)-2239(ND)/2019

Mr. Balram Singh V. Soni Infratech Pvt



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Handwritten signature and date: 26/11/19

2. As per averments, the Financial Creditor is engaged in the business of real estate development and was developing a project housing project in sector 68, Gurgaon under the name and style of "Orion Galaxy". Initially the unit was booked by one Ms. Deepa Sukhwani who transferred the booking to Mr. Dushyant Manuja and Mr. Pankaj Manchanda. The petitioner herein purchased the booking from the aforementioned persons. The Corporate Debtor duly transferred the aforesaid booking in the name of the petitioner and allotted him Flat No. 203, Floor 2, Tower 6. The petitioner has paid a sum of Rs. 32,27,591/- against said allotment.

As the construction of the unit was nowhere in sight, the petitioner cancelled his booking and asked for his refund vide his letter dated 31.07.2018.

3. The Corporate Debtor in its reply filed has admitted that the project could not be completed for reasons beyond control. They confirm the cancellation of the unit and their undertaking to refund the principal amount. Letter to this extent is also on record. However on account of financial constraints, they are unable to do so. The AR of the company who was present in Court has also confirmed this submission. It is an admitted fact that the Corporate Debtor has defaulted in repaying the debt due to ^{the} financial creditor on account of its financial crises.

4. In view of the facts and circumstances of the case and the documents on record, the prayer of the Financial Creditor merits



consideration. This petition is therefore Admitted. A moratorium in terms of Section 14 of the Code comes into effect forthwith, staying:

"(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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;

(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.

Further,

(2) 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.



(3) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator. (4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process:

"Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 or passes an order for liquidation of corporate debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be."

5. The Financial Creditor has proposed the name of Mr. Bhim Sain Goyal as the IRP in this case. His particulars are: Registration No. IBBI/IPA-002/IP-N000726/2018-19/12216 email- bsgoyal1@gmail.com address: 405, Skylark Building, 60, Nehru Place, National Capital Territory of India, 110019. We therefore confirm him as the IRP in this case. He is directed to take all such steps as are mandated under the Code, more specifically under Sections 15, 17, 18, 20 and 21. The IRP shall file his report as per statutory requirements.



6. Copy of the order be communicated to both the parties as well as to the IRP.
7. To come on 6th January 2020 for further consideration.

-sd-
(Saroj Rajware)
Member (T)



-sd-
(Ina Malhotra)
Member (J)

Ina 26.11.19
Deputy Registrar
National Company Law Tribunal
CGO Complex, New Delhi-110003