

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

**Coram : (1) Shri Madan B. Gosavi, Hon'ble Member (J)
(2) Shri Virendra Kumar Gupta, Hon'ble Member(T)**

CP(IB) 198/KB/2018

In the matter of:

An application under section 10 of the Insolvency and Bankruptcy Code, 2016 read with sub-rule(1) of Rule 7 of the Insolvency And Bankruptcy Board of India (Liquidation Process) Regulation, 2016;

-And-

In the matter of:

M/s. Bripranil Industries Limited, having its office at 22, Biplabi Rash Bihari, 4th floor, Room No.41, Kolkata- 700 001,
CIN No.U52335WB1974PLC029085

...Corporate Applicant

-And-

In the matter of:


M/s. Bripranil Industries Limited, having its office at 22, Biplabi Rash Bihari, 4th floor, Room No.41, Kolkata- 700 001,
CIN No.U52335WB1974PLC029085

...Corporate Debtor

Counsel appeared:

- | | | |
|---------------------------------|---|---------------------|
| 1. Mr. Manju Bhuteria, Advocate |] | For the petitioner |
| 2. Ms. Anamika Pandey, Advocate |] | |
| 3. Ms. Amrita Pandey, Advocate |] | |
| | | |
| 2. Mr. Amit Sharma, Advocate |] | For KSIIDC and KSFC |
| 3. Mr. Pankaj Ladia, Advcate |] | |





Date of Pronouncement of Order: 18.12.2019

ORDER


Per Shri M. B. Gosavi, Member(J):

M/s. Bripranil Industries Limited, the Corporate Person filed this application under section 10 of IBC to start Corporate Insolvency Resolution Process (in short, CIRP) stating that it has committed default in paying the debt (financial as well as operational) to the tune of Rs.22,08,05,811/-.

2. We have directed the corporate person to serve notice of this application to all the creditors and also publish the notice of application to the leading newspaper having wide circulation so that all its creditors may come to know about filing of this application. Accordingly, notices were served and also published and affidavit filed. Two creditors of the Corporate Person, KSIIDC and KSFC filed appearance and also filed objection against admission of the corporate applicant in CIRP.

3. We heard the Ld. Counsel, Mrs. Manju Bhuteria for the petitioner and the Ld. Counsel, Mr. Amit Sharma for the Objector at length.

4. In this case, there is absolutely no dispute about two facts that the debt of more than Rs.200 crores due and payable by the corporate person to the various creditors and corporate person could not pay debt. It has committed default in paying the debt. Even two creditors, who have objected this application have also admitted the fact that corporate person have committed default in paying the debt. They raised objection only on the ground that amount receivable by them shown to be less in this application by the corporate person than what is actually due. In our considered opinion, those creditors are at liberty to submit their claim to the



RP during CIRP and RP may call on that. In fact, stage to consider their claim is yet to arrive in this proceeding.

5. In this proceeding, corporate person submitted information relating to its books of accounts for the relevant period (section 10(3)(a) of IBC). It is suggested that name of Mr. Abhijeet Jain having registration no. IBBI/IPA-002/IP-00178/2016-2017/1308 of Diamond Chambers, 4, Chowringhee Lane, Block-1, 4th floor, Suit No. 4M, Kolkata- 700 018 for appointment as the IRP. Proposed IRP has submitted in his written communication in Form-2 that there is no disciplinary enquiry pending against him. Section 10(3)(b) of IBC. Corporate Person produced on record Special Resolution passed by shareholders in Extra Ordinary General meeting dated 03.01.2018. (section 10(3)(c) of IBC)

6. From the evidence on record, we hold that application is defect-free and we have no hesitation in admitting the corporate person in CIRP by the following order.

ORDER

- (i) The application filed by the Corporate Person under Section 10 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process in respect of **M/s. Bipranil Industries Limited**. Moratorium order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.
- (ii) The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Sec.15. The public





announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

(iii) Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.

iv) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

v) 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.





vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.

vii) 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 Sec.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.

viii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the resolution professional upon receipt of the copy of this order.

(ix) As per proposal given by the Corporate Person, Mr. Abhijeet Jain having registration no.IBBI/IPA-002/IP-00178/2016-2017/1308 of Diamond Chambers, 4, Chowringhee Lane, Block-1, 4th floor, Suit No. 4M, Kolkata- 700 018 for appointment as the IRP is appointed as the Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.

x) The Corporate Person to pay to IRP a sum of Rs.1,00,000/- as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment.

xi) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016

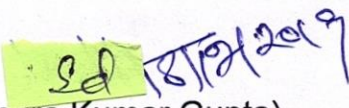
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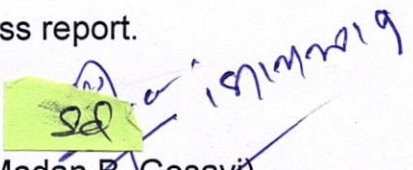
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xii) Registry is hereby directed to communicate the order to the Corporate Person, Corporate Debtor and to the Interim Resolution Professional by Speed Post and also by email.

Let the certified copy of the order be issued upon compliance with requisite formalities

List the matter on **30.01.2020** for filing progress report.


(Virenra Kumar Gupta)
Member (T)


(Madan B. Gosavi)
Member (J)

Signed on this, the 18th day of December, 2019.