THE NATIONAL COMPANY LAW TRIBUNAL
NEW DELHI BENCH
AT NEW DELHI-VI

Company Petition No. (IB)-75(ND)/2021

Under Section 10 of the Insolvency and Bankruptcy Code, 2016

In the matter of:

M/s Seed Sustainability Services Private Limited

......Applicant/ Corporate Debtor

CORAM:

MR. P.S.N PRASAD, MEMBER (JUDICIAL)

DR. V.K SUBBURAJ, MEMBER (TECHNICAL)

Judgment delivered on: 04.03.2021

ORDER

Per Dr. V.K Subburaj, Member (T)

1. Unable to liquidate its outstanding debts, the Corporate Debtor has filed this petition under Section 10 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') for initiation of its Insolvency Resolution Process.

2. The Applicant company, 'M/s Seed Sustainability Services Private Limited was incorporated on 18.04.2018 under the companies Act bearing CIN No. U85100 DL2011 PTC216414. The Applicant Company has its registered office at 81/2, Sri Aurobindo Marg,

Adhchini, New Delhi-110017 which lies within the territorial jurisdiction of this Tribunal. The Corporate Applicant is engaged in the business of incorporating Financial Inclusion projects and undertaking outsourced implementation work of social impact projects, for example, need assessment studies, awareness camps etc.

3. The present application has been filed vide a Board Resolution dated 01.12.2020 taking note of continued default as well as the inability of the corporate debtor to pay its operational debt and thus resolved to initiate the proceedings for a Corporate Insolvency Resolution Process to overcome the distressed situation and also to restructure the business if possible.

4. As per averments, the operations of the company adversely impacted with a general slowdown in the working economy in late 2018 which further impacted when the promoter and MD of the company, Shri. Anirban Roy, passed away due to ill health.

Further it is submitted that due to passing of the main visionary of the company coupled with the change in law restraining the companies from outsourcing their social work to another company as well as the impact of COVID-19 led the corporate debtor's inability to pay the operational debt. Furthermore, the company is in default to pay the debts which are in the nature of statutory dues with respect to

Employees Salary, Service Tax, Goods and Service Tax, Tax Deducted at Source, Employees State Insurance and Provident Fund.

Due to acute financial constraints, the Corporate applicant has defaulted in the repayment of the amount of default in aggregate towards all the operational creditors for Rs. 1,99,83,522/-.

5. There is no dispute that the applicant company has admittedly defaulted in liquidating its debts and is unable to meet its financial obligations and therefore seeks to file the present this application in terms of sub section (1) of Section 10 of the Code.

6. 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 alongwith, it has been deposed that no CIRP has ever been initiated nor any liquidation order or winding up order been passed against it.

7. 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 its audited financial statements for the financial years i.e. 2017-18 and 2018-19.

8. Further in compliance of Section 10 (3) (b) of the Code the applicant has proposed the name of Mr. Vaneet Bhatia, registration no. IBBI/IPA-002/IP-N00908/2019-2020/12942 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 he 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 him.

9. In terms of the amended provisions of Sec 10, the Corporate Debtor has also placed on record the special resolution passed by the shareholders ratifying the decision to file the present petition. The particulars of the debts owed by the Corporate Debtor with amounts due to each of them have also been furnished.

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 Insolvency and Bankruptcy Code, 2016 is a complete Code in itself. The provisions of the Code are to be mandatorily followed. Adherence to 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 has to give effect to it.

12. On filing of the present petition, notice was duly effected on the major creditors of the Corporate Debtor. However no objection was received.

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. The application therefore merits consideration and is Admitted.

14. A moratorium in terms of section 14 of the Code is being issued prohibiting forthwith 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 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.*

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.*

15. We confirm the appointment of Mr. Vaneet Bhatia, registration no. IBBI/IPA-002/IP-N00908/2019-2020/12942 as the Interim Resolution Professional. He shall take steps as envisaged under Section

15, 17 and 18 of the Code. Steps shall also be taken to serve the IT Dept. of the proposed Resolution and to file their Claim, if any. The IRP is directed to submit his interim report. Apart from publication, he shall also issue notices to all creditors as reflected in the records of the Corporate Debtor.

16. 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.

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

—Sd—
V.K Subburaj
Member(T)

—Sd—
P.S.N Prasad
Member(J)