IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P. (I.B) No. 202/KB/2021

In the matter of:

A Petition under section 10 of the Insolvency and Bankruptcy Code, 2016 read with rule 7 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations 2016.

And

In the matter of:

Sarga Udaipur Hotels and Resorts Private
Formerly known as
Shristi Udaipur Hotels and Resorts Private Limited
(CIN: U55101WB2007PTC112974)
Having its registered office at: -
Plot No. X-1, 2 & 3, Block-EP, Sector-V, Salt Lake City
Kolkata, West Bengal- 700091 *...Corporate Applicant*

Coram:

Shri Rohit Kapoor : Member (Judicial)
Shri Harish Chander Suri : Member (Technical)

Date of hearing: 30.03.2022
Order pronounced on: 29.04.2022

Appearances (through video conference)

For Corporate Applicant :
1. Mr. Ratnanko Banerji, Senior Advocate
2. Mr. SupriyoGole, Advocate
3. Ms. Pranvi Kaur, Advocate

ORDER

Per: Harish Chander Suri, Member (Technical)

1. This Court convened through video conference today.

2. The present Petition has been filed by Sarga Udaipur Hotels and Resorts Private Limited formerly known as Shristi Udaipur Hotels & Resorts Private Limited, CIN: U55101WB2007PTC112974, the

Corporate Applicant, under section 10 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiation of Corporate Insolvency Resolution Process (CIRP) against itself. The Application has been filed through its Director Mr. Dhananjay Kumar Sarkar, DIN: 08428045, duly authorised *vide* Board Resolution dated 26.07.2021. A copy of the Board Resolution dated 26.07.2021is annexed to the Application and marked as **Annexure-D** on **Pages 53**.

3. The Corporate Applicant was incorporated on 02.02.2007. It was formerly known as Shriti Udaipur Hotels & Resorts Private Limited. It is involved in the business of hotels, camping sites and other provisions of short-stay accommodations etc.

4. The Corporate Applicant has three directors, Mr. Alok Kumar Joshi (DIN:00718725), Mr. Vikram Kasera (DIN:00938920) and Mr. Dhananjay Kumar Sarkar (DIN:08105348).

5. The reasons for applying for initiation of the CIRP by the Corporate Applicant are as follows: -

   5.1 The Corporate Applicant had taken various loans and funds from various creditors and is unable to repay the loans as there is no inflow of funds.

   5.2. No new investors are willing to invest in the Corporate Applicant due to the prevailing circumstances and hence, the Corporate Applicant is not in a situation to continue as a going concern.

   5.3. The Financial Creditors have initiated proceedings under the SARFAESI Act, 2002 and several Operational Creditors have sent demand notices.

   5.4. The total debt owed to the Financial Creditors and Operational Creditors is Rs.29,52,27,575/- (Rupees Twenty Nine Crore Fifty Two

Lakh Twenty Seven Thousand Five Hundred and Seventy Five only) as on 15.07.2021.

6. The members of the Corporate Applicant have given their consent by way of a resolution passed in the Extraordinary General Meeting held on 27.07.2021 to file the application under section 10 of the Code. A copy of the Resolution dated 27.07.2021 is annexed to the Application and marked as **Annexure-F** at **Pages 55-56**.

7. That the Corporate Person has four Financial Creditors, *viz.* Housing and Urban Development Corporation Limited, Shristi Infrastructure Development Corporation Limited, Shristi Urban Infrastructure Development Limited, JSPTracomm Private Limited and Operational Creditors as given in **Annexure H at Pages 59**.

8. In support of its Application, the Corporate Applicant has submitted, *inter alia*, the following documents: -

   (a) Audited Financial Statements for the Financial Years 2019-2020 and 2020-2021 and provisional Financial Statement for the Financial Year 2021-22.

   (b) Copies of loan sanction letter and agreements received wntered into with the Financial Creditors.

   (c) Statement of Affairs of the Corporate Applicant as on 15.07.2021.

   (d) Bank Statements of the Corporate Applicant

   (e) List of secured, unsecured, and sundry creditors and statutory liability.

9. The Corporate Applicant has proposed the name of **Mr. Rajesh Lihala** (Regn. No. IBBI/IPA-001/IP-P00525/2017-18/10950) having **email i.d. lihalaco@gmail.com,** mobile no. 9830160201, to function as the

Interim Resolution Professional (IRP). Mr. Rajesh Lihala has submitted his written communication in Form 2. The written communication is annexed to the application and marked as **Annexure-G** on **Pages 57-58**.

10. We have heard the learned Authorised Representative appearing for the Corporate Applicant and have perused the documents on record.

11. There is no dispute from any quarter that the debt is due and payable by the Corporate Applicant to various creditors and that the Corporate Applicant is unable to pay the same.

12. The Corporate Applicant has furnished the books of accounts for the relevant period under section 10(3)(a); the Corporate Applicant has proposed the name of the IRP who has submitted its written consent (section 10(3)(b)); the Corporate Applicant has also filed the Special Resolution passed by shareholders in Annual General Meeting dated 27.07.2021under section 10(3)(c).

13. The Petition is free from defects and complete in all aspects as required under the law. The Petition shows that the Corporate Applicant is in default of a debt that is due and payable, and the default is more than the threshold amount as stipulated under section 4(1) of the Code at the relevant time. The default stands established and there is no reason to deny the admission of the present Petition.

14. Therefore, in the light of the facts stated in the application and the evidence placed on record, this Adjudicating Authority admits this Application and orders initiation of CIRP against the Corporate Debtor under the following terms: -

    (a) The Application bearing C.P.(IB) No. 202/KB/2021 filed by the Corporate Applicant under section 10 of the Insolvency & Bankruptcy Code, 2016, is hereby admitted for initiating the

Corporate Insolvency Resolution Process in respect of SargaUdaipur Hotels & Resorts Limited [CIN: U55101WB2007PTC112974].

(b) There shall be a moratorium under section 14 of the IBC.

(c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

(d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(e) As per the proposal given by the Corporate Applicant, **Mr. Rajesh Lihala** (Regn. No. IBBI/IPA-001/IP-P00525/2017-18/10950) having **email i.d.lihalaco@gmail.com,** mobile no. 9830160201, is appointed as the IRP for ascertaining the particulars of Creditors and convening a Committee of Creditors for evolving a Resolution Plan.

(f) During the CIRP period, the management of the Corporate Applicant shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the Code. The officers and managers of the Corporate Person shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow.

(g) The IRP/RP shall submit to this Adjudicating Authority periodical reports on quarterly basis with regard to the progress of the CIRP in respect of the Corporate Debtor.

(h) The Corporate Applicant to pay to IRP a sum of Rs.2,00,000/- (Rupees Two Lakh only) to meet the initial costs, 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.

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

(j) The Court Officer of this Court is hereby directed to communicate this Order to the Corporate Person and the IRP by Speed Post, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order.

(k) Additionally, the Corporate Person shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, by all available means for updating the Master Data of the Corporate Applicant. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

15. **CP (IB) No. 202/KB/2021** to come up on 16.06.2022 for filing the first progress report.

16. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Harish Chander Suri **Rohit Kapoor**

Member (Technical) **Member (Judicial)**

Order pronounced on the 29th day April, 2022

GGRB_LRA