

IN THE NATIONAL COMPANY LAW TRIBUNAL,

KOLKATA BENCH, KOLKATA

CP(IB) No. 466/KB/2019

IN THE MATTER OF

An application Under Section 9 of the Insolvency and Bankruptcy Code, 2016 ,of the Insolvency and Bankruptcy ((Application to Adjudicating Authority) for initiation of Corporate Insolvency Resolution Process.

And

IN THE MATTER OF

Spectrum Artcomm Private Limited ,having its registered office at 10/2B, Rani Shankari Lane Kolkata-700026, West Bengal.

.....Operational Creditor

Versus

New Town Grand Realtors LLP, having its registered office at Infinity Benchmark, 6th Floor, Office No-8 PLGI Block-EP & GP Sec-V, Salt Lake Kolkata-700091, West Bengal.

.....Corporate Debtor

Date of Hearing : 29.10.2019

Order Delivered on : 31.10. 2019

Coram:

Madan B Gosavi, : **Member (J)**

Virendra Kumar Gupta, : **Member (T)**

For the Operational Creditor : Mr. Anil Kumar Dubey, PCS

50
PJ

50

ORDER**Per Virendra Kumar Gupta, Member (T)**

This application Under Section 9 IBC has been filed by the Operational Creditor namely Spectrum Artcomm Private Limited to initiate Corporate Insolvency Resolution Process against Corporate Debtor namely New Town Grand Realtors LLP. The amount of default has been claimed at Rs. 3,55,323/- (Rs. Three Lakhs Fifty Five Thousand Three Hundred and Twenty Three only).

2. The facts, in brief, are that the Operational Creditor did printing assignment for the Corporate Debtor in consequence of purchase orders issued by the Corporate Debtor. The Creditor raised six invoices in financial year 2017-18 which have remained unpaid. The Cheque issued by the Corporate Debtor in May, 2018 for Rs. 1 lakh also bounced.

3. The learned PCS appearing on behalf of the Operational Creditor narrated these facts and drew our attention to the documentary evidences placed on record to substantiate its such claims. It was specifically pointed out that notice under section 8 had been delivered and produced certificate from the Postal Department to show that compliance to the relevant regulations has been done. He also submitted that the affidavit of compliance under section 9(3) (b) had also been submitted.

4. We have considered the submissions made by the Operational Creditor and have also perused the matter on record. The supplies are

SQ

SQ

made by the Operational Creditor are duly evidenced by the documentary evidence. The amount of total outstanding is an excess threshold limit of Rs. 1 lakhs. No pre existing due exits. Notice under section 8 has been delivered. The petition is otherwise complete in all respects and complies with the requirement of sections 8/9 of the IBC read with relevant regulations made thereunder.

5. The name of IRP has not been proposed as it is not mandatory in case of applications filed under section 9 of IBC, 2016.

6. We would appoint an IRP from the approved list maintained by IBBI who is qualified and against whom no disciplinary proceedings are pending. Consent of such IRP would be taken within one week from the date of up loading of this order. In case consent is not given then any other person will be appointed as IRP.

7. We admit this petition, and order as under:-

ORDER

- i) The application filed by the Operational Creditor under section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, New Town Grand Realtors LLP is hereby **admitted**.
- ii) We declare a moratorium and cause public announcement in accordance with Sections 13 and 15 of the I&B Code, 2016.
- iii) The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The Interim Resolution Professional shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for

sd

sd

the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

- iv) Moratorium under Section 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 judgment, 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 the possession of the corporate debtor.
- v) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.
- vi) 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.

SQ

SQ

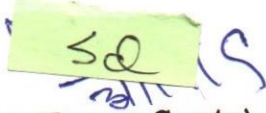
- vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii) Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan 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.
- ix) Necessary public announcement as per Section 15 of the IBC, 2016 may be made.
- x) **Mr. Samir Kumar Bhattacharyya, IRP Registration No. IBBI/IPA-002/IP-N00273/2017-2018/10831**, E-mail: skb.resolution@gmail.com, mobile no.8584947677, is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.
- v. The Operational Creditor to pay a sum of Rs. 25000/- (Rs. Twenty Five Thousand) to IRP as advance fee as per Regulation 33(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 which shall be adjusted from final bill. In case further funds are required during Corporate Insolvency Resolution Process and if not provided by Committee of Creditors then IRP/RP can approach this Tribunal for that purpose.
- xii) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- Xiii) List the matter on **18.12.2019** for the filing of the progress report.

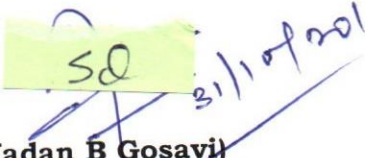
5d

5d

- xiii) Registry is hereby directed under section 7(7) of the I.B. Code, 2016 to communicate the order to the Operational Creditor, the Corporate Debtor and to the IRP by Speed Post as well as through e-mail.

Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.


(Virendra Kumar Gupta)
(Member (T))


(Madan B Gosavi)
(Member (J))

Signed on 31st October, 2019