

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

**TP No. 199/CTB/2019
-IN-
CP (IB) No. 4392/MB/2018**

**CORAM: 1. Ms. Sucharitha R. (J)
2. Shri Satya Ranjan Prasad (T)**

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the Matter of:

Kotak Mahindra Bank Limited, a Company incorporated under the provisions of the Companies Act, 1956 and having its Registered Office at 27 BKC, C-27, G Block, Bandra-Kurla Complex, Bandra (East) Mumbai – 400 051 and having one of its Office at 6th Floor, 12BKC, G Block, Bandra-Kurla Complex, Bandra (East), Mumbai – 400 051.

... .. **Applicant/ Financial Creditor**

-Versus-

In the Matter of:

M/s Annapurna Malleables Pvt. Ltd., a Company registered under the Companies Act, 1956 having its Registered Office at 19, New Industrial Area, Sarora Ring Road No. 02, Raipur – 493 221, C.G.

... .. **Respondent/ Corporate Debtor**

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Counsels appeared:

1. Mr. Joy Saha, Sr. Adv.]
2. Mr. Avishek Roy Chowdhury] For the Financial Creditor.

Date of pronouncement of Order: 4th day of September, 2019.

ORDER

Per Ms. Sucharitha R., Member (J):

1. This application is filed under Section 7 of Insolvency and Bankruptcy Code, 2016 (For brevity IBC, 2016) by **Kotak Mahindra Bank Ltd./Financial Creditor** against the **M/s Annapurna Malleables Pvt. Ltd./Corporate Debtor** to start Corporate Insolvency Resolution Process as the Corporate Debtor committed default in repayment of financial debt to the tune of Rs. 45,54,87,529/- (Forty-Five Crores Fifty-Four Lakhs Eighty-Seven Thousand Five Hundred and Twenty-Nine) as on 31st October, 2018. This application was originally filed before NCLT, Mumbai Bench and number as CP (IB) No. 4392/MB/2018. After the constitution of this Bench the matter was transferred and renumbered as TP No. 199/CTB/2019. The matter came up before NCLT, Mumbai Bench

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on 18.01.2019. The Hon'ble Member have ordered notices by way of publication in the Newspaper and also by registered post. Meanwhile, the matter was transferred to the Bench. With this matter came up on 1st July, 2019. There was no representation. Hence, fresh Notice was ordered to the Financial Creditor, returnable on 23rd July, 2019.

2. One Mr. Avishek Roy Chowdhury appeared on behalf of the Financial Creditor and filed Vakalatnama. No one appear for the Corporate Debtor. This Bench directed the applicant to issue Notice to the registered office address of the Corporate Debtor and also by E-mail and file affidavit-of-service before this Bench on 13th August, 2019. The applicant stated that the registered post was returned with an endorsement "Closed". The Corporate Debtor was set ex-parte when this matter was taken up on 22nd August, 2019.

3. The Financial Creditor/applicant is the assignee of the State Bank of India by Deed of Assignment dated 23rd March, 2016. State Bank of India assigned its claims against the Corporate Debtor to this applicant. The Corporate Debtor availed various financial facilities with State Bank of India during 1998 to May, 2000. The credit facilities granted by State Bank of India were duly secured by mortgage of immovable properties and hypothecation of movable properties. The loan facilities were time and

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again renewed/revised. However, the Corporate Debtor did not repay the loan. Hence, State Bank of India filed original application before the Hon'ble Debts Recovery Tribunal, Jabalpur and the same is pending in the file of the Hon'ble Debts Recovery Tribunal, Jabalpur. The applicant/Financial Creditor submits that as on 31st October, 2018 sum of Rs. 45,54,87,529/- (Forty-Five Crores Fifty-Four Lakhs Eighty-Seven Thousand Five Hundred and Twenty-Nine) is due and payable by the Corporate Debtor to the applicant. The learned Counsel for the applicant quotes as follows: -

1. *M/s Unigreen Global Pvt. Ltd. Vs. Punjab National Bank & Others (NCLAT) Company Appeal (AT) (Insolvency) No. 81 of 2017.*

2. *Mobilox Innovations Private Limited Vs. Kirusa Software Private Limited Supreme Court – Civil Appeal No. 9405 of 2017 decided on 21st September, 2017.*

4. Therefore, the institution of original application before the Hon'ble Debts Recovery Tribunal, Jabalpur is not in impediment to file the present proceeding under IBC, 2016.

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5. We have gone through the records, proceeding and the documents filed by the applicant. The consideration under Section 7 of Insolvency and Bankruptcy Code, 2016 is whether the Financial Creditor can start Corporate Insolvency Resolution Process of the Corporate Debtor. The applicant has established that the loan amount was given and availed by the Corporate Debtor and there is an outstanding of Rs. 45,54,87,529/- (Forty-Five Crore Fifty-Four Lakh Eighty-Seven Thousand Five Hundred and Twenty-Nine) due and payable by the Corporate Debtor and the Corporate Debtor has committed default in repayment of the amount.

6. The applicant/Financial Creditor has suggested name of **Mr. Bhavesh Rathod** residence of A/101, Shelter CHSL, CSC Road, Opp. Shakti Nagar, Dahisar (E), Mumbai – 400 068. There is nothing on record to show that any disciplinary proceeding is pending against the proposed IRP. This application is defect free. Hence, this application is admitted by following Order.

ORDER

i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate

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Insolvency Resolution Process against the Corporate Debtor **M/s Annapurna Malleables Pvt. Ltd.** is hereby admitted.

ii) We declare a moratorium and public announcement in accordance with Sections 13 and 15 of the Insolvency & Bankruptcy Code, 2016.

iii) 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 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 or any 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;

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- 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.
- 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

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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 Insolvency & Bankruptcy Code, 2016 may be made.
- x) **Mr. Bhavesh Rathod** residence of A/101, Shelter CHSL, CSC Road, Opp. Shakti Nagar, Dahisar (E), Mumbai – 400 068 is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a Resolution Plan.
- xi) The Resolution Professional should convene a meeting of the Committee of Creditors and submit the Resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within **105 days** from the insolvency commencement date. The Interim Resolution Professional is directed to produce **Form - 2** and written communication within **one week** from the date of the receipt of the Order.
- xii) Registry is hereby directed under Section 7 (7) of the Insolvency & Bankruptcy Code, 2016 to communicate the Order to the Financial Creditor, the Corporate Debtor and to the IRP by Speed Post as well as through e-mail.

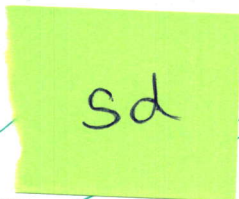
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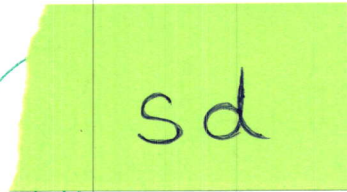
Interim Resolution Professional to file 1st Progress Report
on 14.10.2019.

List the matter on 14.10.2019.

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



Shri Satya Ranjan Prasad
Member (T)



Ms. Sucharitha R.
Member (J)

Signed on this, the 4th day of September, 2019.

Santosh_P.S.