

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

**CP (IB) No.1369/KB/2018**

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:

Sydarshan Agencies (P) Ltd (Sudarshan Agencies Private Limited)

.....Financial Creditor

And

In the Matter of:

LTS Plastics (India) Ltd.

..... Corporate Debtor

Order Delivered on 09<sup>th</sup> August 2019

**Coram:**

**Jinan K.R., Member (J)**

**Harish Chander Suri, Member (T)**

For the Financial Creditor

: Md. Dilawar Khan, Advocate

For Corporate Debtor

: 1. Mr. Debraj Sahu, Advocate  
2. Ms. Piyali Basak, Advocate

**ORDER**

**Jinan K.R., Hon'ble Member (Judicial)**

This is an application under Sec.7 of the Insolvency & Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 filed by Sydarshan Agencies (P) Ltd (Sudarshan Agencies Private Limited) against LTS Plastics (India) Ltd. (Corporate Debtor) for initiating corporate insolvency resolution process of the corporate debtor alleging that the corporate debtor committed default in  
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repayment of Rs.25,99,296.85 borrowed by the corporate debtor with interest @ 9% per annum and, therefore, compelled to file this application.

2. It is contended by the financial creditor that corporate debtor has availed loan of Rs.30 lakh agreeing to pay interest @ 9% per annum and money receipt was issued evidencing receipt of the amount on 23/11/2019. The loan was initially granted for the period of 120 days, was renewed upon verbal request on the part of the corporate debtor till 31/3/2017.

3. The corporate debtor never disputed its liability in relation to the said loan and in fact, paid timely interest on the same until 31/3/2016. The outstanding amount as on the date of filing of the application due is Rs.25,99,296.85. The corporate debtor issued confirmation of accounts from time to time but failed to pay balance outstanding despite demand, therefore, filed this application for initiating corporate insolvency resolution process.

4. The applicant has proposed the name of Shri Hrishkesh Dasgupta having registration No.IBBI/IPA-003/IP-N00082/2017-2018/10705 e-mail id [hkdaspt@gmail.com](mailto:hkdaspt@gmail.com) as the IRP and further contends that since the corporate debtor defaulted in repaying of the loan amount, this application is liable to be allowed.

5. The respondent entered appearance and filed reply affidavit but not disputed its liability to pay the loan amount. It contends that it will pay back the amount found due if the market does well. Corporate debtor has challenged the legal entity of the name of the financial creditor but not disputed its liability. The corporate debtor contended that they had made payment to loan amount up to 30/9/2018 but due to slump in the market the corporate defaulted in repayment of the remaining balance of the loan amount and that it has full intention to repay the dues once the market starts doing will again.

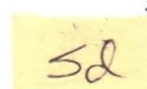
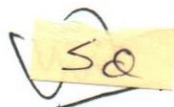
6. Rejoinder seen filed on the side of the financial creditor contending that there is no misrepresentation of fact regarding the name of the financial creditor and that it is registered under the provision of the Companies Act and that the certificate of incorporation shows the correct name of the financial creditor and it has got CIN as shown in the application. It reiterates the application is liable to be admitted.

7. Heard Both sides. Perused the records.

8. This is an application filed by one Sydarshan Agencies (P) Ltd (Sudarshan Agencies Private Limited) having identification No.U25209WB1997PTC085891 for initiating corporate insolvency resolution process as against the corporate debtor. By filing reply affidavit the corporate debtor admitted the availing the loan from the financial creditor. There is no dispute as to the nature of debt. The financial creditor alleged that the corporate debtor has borrowed Rs.30 lakh agreeing to pay interest @9% per annum and to prove that amount has been paid to the corporate debtor, produced a copy of receipt Annexure D dated 23/11/2016 and balance outstanding is Rs.25,99,296.85 and produced balance confirmation account admitted by the corporate debtor as Annexure G. It shows that balance outstanding as on 1/4/2016 is Rs.25,99,296.85.

9. According to the Ld. Counsel for the financial creditor the loan sanction letter also issued to the corporate debtor on 23/11/2013 and to prove that produced Annexure F, to prove that the debt due to the financial creditor. The information utility certificate not at all produced however, produced statement of bank account. So also produced the Form 26AS of corporate debtor to show that TDS has been deducted which shows that the corporate debtor has deducted tax for the financial years 2013, 2014 and 2018.

10. The above said evidence led on the side of the financial creditor proves that the amount of Rs.25,99,296.85 is due as claimed by the financial creditor




and the corporate debtor does not dispute the liability and there is no challenge as to the confirmation of account relied upon by the financial creditor. Nothing shows that the claim is barred by limitation and being satisfied that there is no disciplinary proceedings pending against the proposed resolution professional. The application filed under section 7 of the Code is otherwise complete and it is liable to be admitted. Accordingly this application is admitted upon the following orders:-

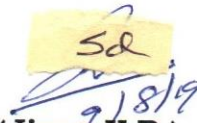
**ORDER**

- i. The application filed by the Financial Creditor under section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, LTS Plastics (India) Ltd. is hereby admitted.
- ii. We declare a moratorium and public announcement in accordance with Sections 13 and 15 of the IBC, 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 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.
  - 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. Shri Hrishkesh Dasgupta having registration No.IBBI/IPA-003/IP-N00082/2017-2018/10705 e mail id [hkdaspt@gmail.com](mailto:hkdaspt@gmail.com) 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 Financial Creditor to deposit a sum of Rs.5 lakh in escrow account as preliminary expenses to be rendered by the IRP in the account maintained by Deputy Registrar, NCLT Kolkata Bench. This amount can be withdrawn by the IRP/RP with the approval of the CoC as fees and expenses as per Regulation 33(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016.
- 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. Registry is hereby directed under section 7(7) of the I.B.Code, 2016 to communicate the order to the Financial Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.
11. List the matter on 18/9/19 for the filing of the progress report.
12. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

  
**(Harish Chander Suri)**  
Member (T)

  
**(Jinan K.R.)**  
Member (J)

Signed on 9<sup>th</sup> August 2019