IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I
KOLKATA

<u>CP (IB) NO.51 /KB/2021</u>

A petition under Section 10 of the Insolvency and Bankruptcy Code,2016 read with rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules,2016;

In the matter of

GSA Retail Limited, a company incorporated under the Companies Act,1956 has its registered office at 116F, B.T Road, NTC Compound, Kamarhati, Kolkata-700058, West Bengal.

…Corporate Applicant

Coram:

Shri Rajasekhar V.K: Member (Judicial)

Shri Balraj Joshi: Member (Technical)

Appearances:

For the Corporate Applicant: Mr. Subodh Kumar Agrawal, PCA

Order reserved on: 24.05.2022
Order pronounced on: 07.06.2022

<u>ORDER</u>

Rajasekhar V.K, Member (Judicial)

1. This is a company petition filed under section 10 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiation of Corporate Insolvency Resolution Process [CIRP] in respect

of GSA Retail Limited *(Corporate Debtor)*, being the Corporate Applicant itself.

2. The Corporate Applicant was incorporated on 11th January 2011 under the Companies Act, 1956 with the Registrar of Companies, West Bengal, Kolkata. Its Corporate Identity Number (CIN) is U17120WB2007PLC115418. Its registered office is situated at 116F, B.T Road, NTC Compound, Kamarhati, Kolkata-700058, West Bengal. Therefore, this Bench has jurisdiction to deal with the petition.
3. The corporate Applicant is engaged in the business of dealing with various (branded & non-branded) apparel, garments, appliances, etc. and selling the products of reputed companies.
4. Currently, the corporate applicant operates and manages six (6) retail shops in West Bengal and Nagaland. However, the sales graph has been declining since 2015, partly due to the closure of non-viable stores and partly due to the release of old stocks at a reduced price, and the consistent losses in the preceding years grew further due to the impact of the lockdown due to covid, and consequently, the stocks and inventories became junk.
5. As the Corporate Debtor obtained loans from banks, NBFCs, and other body corporates for the purpose of working capital and meeting various business requirements, it has repeatedly failed to pay the principal and interest, making repayment appear impossible, wherein it has operational creditors who require periodic payments to maintain a healthy supply chain but are unable and incapable of repaying and operating its business. The following documents were cited by the petitioner in the petition and Supplementary Affidavit which are as follows:
    (a) A copy of the Board Resolution dated 5th January 2021 authorizing Mr. Shambhu Nath Jajodia, Director of the company to file the petition. (Page 51 of the petition).
    (b) Board Resolution dated 5th January 2021 wherein resolution was passed to call EGM on 29th January 2021 to consider

and approve filing of an application under Section 10 of IBC. (Page 52 of the petition)

(c) Extract of the Minutes of EGM held on 29th January 2021 wherein Special Resolution was passed for filing an application under Section 10 of IBC. (Page 53 of the petition)

(d) List of Financial Creditors is contained on Page 73-75 of the petition.

(e) List of Operational Creditors is contained on Page 57-72 of the petition.

(f) Consent of Interim Resolution Professional (IRP) in Form-2 is placed on Page 54-56 of the petition

(g) Copies of certificates of Registration of Charge issued by the Registrar of Companies, Kolkata, is placed on Page 76-105 of the petition.

(h) Copy of Audited Financial Statement four the Financial Year 2018-19 and 2019-20 is placed on Page 106-145 of the petition.

(i) A copy of master data of the Corporate Applicant from the website of MCA. (Page 150 of the petition)

6. The Corporate Applicant has also filed a supplementary affidavit (SA) to bring on record certain facts and documents which were necessary for proper adjudication of the instant petition and the supplementary affidavit is duly affirmed on 15th September 2021.
7. According to the Supplementary affidavit, the Company has various kinds of financial creditors (secured and unsecured) as well as over 700 operational creditors. The Corporate Applicant has submitted information on operational creditors on page 93 and stockholders on page 149 of the Supplementary Affidavit.
8. ICICI Bank and Axis Bank are the secured financial creditors, while the unsecured financial creditors in the nature of NBFCs are five (5) in

number, namely Bajaj Finance Limited, UGRO Capital Limited, India Infoline Finance Limited, Capital Float Financial Services Private Limited, and Edelweiss-ECL finance Limited, and in the nature of body corporates are thirty-two (32) creditors, while other banks have six (6) and three (3) as related/unrelated parties, the specifics of which are included as Annexure-G to the petition on pages 73-75. The Corporate Applicant has also appended demand notices from its financial and operational creditors to demonstrate the default and that the corporate applicant has not repaid the sum of Rs.5,79,22,900 to the secured creditors and Rs.6,38,64,485/- to unsecured creditors and the Rs.8,63,09,931/- to the operational creditors. As a result, it is clear from these records that the Corporate Applicant is in default.

9. The Corporate Applicant has proposed **Mr. Vishnu Kumar Tulsyan** [IBBI Registration No. IBBI/IPA-001/IP-P01428/2019-2020/12525] as the Interim Resolution Professional to carry out the functions enumerated in the Code. A copy of Form-2 and Form B being Authorisation for Assignment (AFA) as required in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016, is annexed to the petition on pages 54-56.

10. We have heard the arguments made on behalf of the Corporate Applicant and perused the petition and the supplementary affidavits and the supporting documents annexed to the petition and the supplementary affidavits.

11. We are of the view that the petition made by the Corporate Applicant is complete in all respect as required by law. It clearly shows that the Corporate Applicant is in default and there is no reason to deny admission of this petition. In view of this, the Adjudicating Authority admits the petition and orders initiation of CIRP against the Corporate Applicant. It is accordingly hereby ordered as follows:

    a) The Application bearing C.P.(IB) No. 51/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 **GSA Retail Limited** [CIN: U17120WB2007PLC115418].

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. Vishnu Kumar Tulsyan** [IBBI Registration No. IBBI/IPA-001/IP-P01428/2019-2020/12525] having **email id. tulsyanvk@gmail.com**, 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 RP as the case may be, 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 a 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 Lacs 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, Kolkata, 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.

12. **CP (IB) No. 51/KB/2021** to come up on **27.07.2022** for filing the first progress report.

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

BALRAJ JOSHI
Digitally signed by BALRAJ JOSHI
Date: 2022.06.07 17:12:50 +05'30'

(Balraj Joshi)
Member (Technical)

Rajasekhar V K
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(Rajasekhar V.K)
Member (Judicial)

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