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**In the National Company Law Tribunal
Kolkata Bench
Kolkata**

**CORAM: Shri Madan B. Gosavi,
Member (Judicial)
&**

**Shri Virendra Kumar Gupta,
Member(Technical)**

CP(IB)No.126/KB/2019

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:

Indian Overseas Bank, having its registered office at 763, Anna Salai, Chennai-600002, India.

.....Financial Creditor

In the Matter of:

M/s. Linus Agroventures Private Limited, a company having its registered office at Mouza Radhanagar, Avirampur 24 Parganas North, Radhanagar Avirampur, West Bengal-743502, India.

..... Corporate Debtor

Counsels appeared:

For Financial Creditor

1. Mr. Ramesh Chander Prusti, Advocate
2. Ms. Mahuya Ghosh, Advocate

Date of pronouncement of order: 19th February, 2020.

ORDER

Per Shri M.B. Gosavi, Member (J):

1. **Indian Overseas Bank**, the Financial Creditor filed this application under Section 7 of Insolvency and Bankruptcy Code, 2016 against **M/s Linus Agroventures Private Limited** (Corporate Debtor) to start Corporate Insolvency Resolution Process (in short "CIRP") of the Corporate Debtor on the ground that the Corporate Debtor committed default in paying Financial debt of Rs. 68,81,28,159/- (Rupees Sixty Eight Crore Eighty One Lakh Twenty Eight Thousand One Hundred and Fifty Nine Only).
2. The following facts are not in dispute: -
 - 2.1 Firstly, on 04.01.2013, the Financial Creditor have granted and disbursed loan of Rs. 35 Crore to the Corporate Debtor and credit facility to the extent of Rs. 12 Crore. The loan amount and credit facility extended and enhanced from time to time. The loan was restructured on 18.02.2014 and 08.01.2015. The Corporate Debtor did not repay the loan as agreed. Hence, loan account declared NPA on 30.06.2015. Financial Creditor sent notice under Section 13(2) of the SURFAESI Act, 2002 and started recovery proceeding before Hon'ble Debt Recovery

Tribunal. This Petition is filed to start CIRP of the Corporate Debtor on the ground of default of payment of financial debt.

3. Corporate Debtor served with the notice of this application. It has appeared through one Mr. Anjan Roy, one of the directors of the Corporate Debtor. He filed affidavit in reply. As noted above, most of the facts are not disputed. It is only contended that the debt is time barred.
4. We have gone through the material on record. We heard Ld. Counsel for the Financial Creditor. None for the Corporate Debtor appeared on the date of hearing. We directed Corporate Debtor to file written notes of arguments but till date no written notes is produced by the Corporate Debtor. Only point arise for our determination that whether debt is time barred.
5. It is not in dispute that loan account of the Corporate Debtor declared to be NPA on 30.06.2015. This Petition is filed on 17.01.2019. Although, it appears to be filed three years after the loan account was declared as NPA. However, the Financial Creditor produced along with supplementary affidavit various proposals given by the Corporate Debtor admitting the existing debt and filing One Time Settlement (OTS) Scheme. Those letters dated 02.03.2016 annexed to the supplementary affidavit as Annexure A and letter dated 24.03.2017 at Annexure B. Perusal of the letters shows that the Corporate Debtor admitted in an equivocal term that it is liable to pay the debt. It is also mentioned that the Corporate Debtor would pay the debt if loan proposal is restructured. We hold that it is the admission of liability of the debt on behalf of the Corporate Debtor. This Petition is filed well within period of three years thereafter. It is within time to answer sole point in affirmative.

Sd/

Sd/

6. The Financial Creditor suggested name of one Mr. Anup Kumar Singh having registration no. IBBI/IPA-001/IP-P00153/2017-18/10322 for appointment of Interim Resolution professional (in short "IRP"). It appears from record that no disciplinary proceeding is pending against the IRP. From evidence on record, we hold that the Financial Creditor established that the Corporate Debtor committed default in paying the financial debt of more than Rs. 68 Crores. This application is well within time. It is defect free. Hence, we admit the Corporate Debtor in CIRP with 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, **M/s Linus Agroventures Private Limited** 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.

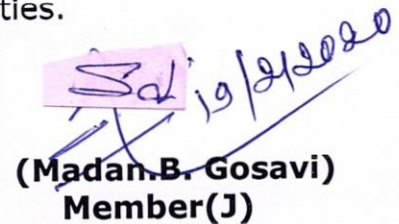
- ix) Necessary public announcement as per Section 15 of the IBC, 2016 may be made.
- x) Mr. Anup Kumar Singh having registration no. IBBI/IPA-001/IP-P00153/2017-18/10322, email id. anup.singh@sumedhamanagement.com, is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.
- xi) The Financial Creditor to pay sum of Rs. 1,00,000/- (Rupees One Lakh Only) to IRP as advance fees as per Regulation 33(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 which shall be adjusted from final bill.
- 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 9(5) 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.

List the matter on **07.04.2020** for the filing of the progress report.

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 this, the 19th day of February, 2020.

Deeksha(steno)