

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

**CP (IB) No. 62/CTB/2019**

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

**In the Matter of:**

An application under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

-And-

**In the Matter of:**

**M/s Apeejay Surrendra Park Hotels Limited**, having its Registered Office at: 17, Park Street, Kolkata, West Bengal, Kolkata - 700 016.

.... **Operational Creditor/ Applicant**

-Versus-

**In the Matter of:**

**M/s Gurusukh Vintrade Services Pvt. Ltd.** having its Registered Office at: Maharshi Valmiki, Ward No. 28 Telibandha, Raipur Chhattisgarh, Raipur - 492 006.

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

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**Counsels appeared for the Petitioners: -**

1. Sreejit Mohanty, Adv.

**Date of pronouncement of Order: 14<sup>th</sup> day of November, 2019.**

**ORDER**

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

1. This Petition is filed under Section 9 of the Insolvency & Bankruptcy Code, 2016 (for brevity IBC) read with Rule, 6 of the IBC (Application to Adjudicating Authority) Rules, 2016. The petitioner **M/s Apeejay Surrendra Park Hotels Limited**, is the Operational Creditor/ Applicant of this application is a Registered Company under Section of the Companies Act, 2013. The Application is filed against the Corporate Debtor **M/s Gurusukh Vintrade Services Pvt. Ltd.** Company Registered under Companies Act, 1956.
2. The respondent is **M/s Gurusukh Vintrade Services Pvt. Ltd**, registered under Companies Act, 1956 and **CIN: U51101CT2010PTC021840** is represented herein by corporate Debtor.

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3. The transactions were of the year from 01.07.2016 to 30.04.2019. The application has been filed on 21.06.2019. Hence, the claim is well within the period of limitation.
4. The Registered Office of the Corporate Debtor is within the state of Odisha; hence, this Adjudicating Authority has jurisdiction.
5. The notice was returned unserved for want of “sufficient address”. Notice by way of publication was affected. The respondent was called absent and set exparte on 20.08.2019. There is no representation from the Corporate Debtor. Hence, we are inclined to proceed exparte.
6. The applicant submits that, the applicant (herein after, “Operational Creditor”) is engaged in the business of owning and operating luxury boutique hotels under, inter alia, the brand name of ‘Zone by the Park’. It is further submitted by the applicant that the Corporate Debtor is the lessee of a plot of land measuring 30,000 sq. ft (approx.) and has constructed 72 rooms four-star hotel, with food and beverages facilities along with 9,000 sq. ft. banquet hall and conference hall.
7. That Corporate Debtor and Operational Creditor duly executed a Management and Technical Services Agreement dated 26.09.2012 at New Delhi, where in the Corporate Debtor engaged Operational Creditor to provide

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pre-operation advice for setting up and further for management and operation of 72 rooms, 4-star hotel with food & beverages facilities along with 9,000 sq. ft banquet hall and two conference halls in lieu of Management and Technical fees as defined under Clause 5 of the said Agreement dated 26.09.2012.

8. The applicant submits, under various invoices, an amount of Rs, 1,45,99,236 (One Crore Forty-Five Lakh Ninety-Nine Thousand Two Hundred and Thirty-Six only) are due and payable by the Corporate Debtor are filed before this Adjudicating Authority.
9. The Operational Creditor further submits monthly as well as quarterly Invoices for the payment of management & marketing fees by the Corporate Debtor from December, 2017 to April, 2019. Copies of monthly along with quarterly Invoices raised from December, 2017 to April, 2019 along with summary of calculation of outstanding management & marketing fees along with interest payable is due and payable by the Corporate Debtor.
10. The applicant submits that since the opening of the Hotel by the Corporate Debtor, there were defaults and delays in the payment of management & marketing fees. The Operational Creditor has time and again sent various reminder though emails to the Corporate Debtor for payment of outstanding debts. The Operational Creditor had sent Legal Notice dated

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30.11.2017 for repayment of the unpaid amount to the tune of Rs. 52,07,736/- (Fifty-Two Lakh Seven Thousand Hundred and Thirty-Six only) and the Operational Creditor had acknowledged the said notice vide Letter dated 15.12.2017 and has promised to settle the dues.

11. The applicant/petitioner states that since the respondent company failed in making payment of the outstanding to the tune of Rs. 1,45,99,236/- (Once Crore Forty-Five Lakh Ninety-Nine Thousand Two Hundred and Thirty-Six only) to the applicant/petitioner, the applicant/petitioner sent the Statutory Demand Notice dated 21.05.2019 under Section 8 in Form 3 under Insolvency and Bankruptcy Code, 2016 to the respondent company, to which no reply was received. Therefore, without finding any other alternative remedy the applicant approached this Adjudicating Authority.

12. The applicant/Operational Creditor has not proposed the name of any IRP. In view of the same, this Adjudicating Authority appoints **Mr. Umesh Chandra Sahoo** as IRP residence of Plot No-4, 2nd Floor, Snowdrop Apartment, Cuttack Road, Jharpada, Bhubaneswar having **Registration No.:** **IBBI/IPA-002/IP-N00621/2018-19/11855** and **E-mail Id.:** [info@nayadarshan.com](mailto:info@nayadarshan.com) There is nothing on record to show that any disciplinary proceeding is pending against the IRP.

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13. We have perused the affidavits, application and documents filed herein. In view of the above, we are inclined to **ADMIT** this petition by following Order.

**ORDER**

- (i) The application filed by the Operational Creditor under Section 8 and 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process against **M/s Gurusukh Vintrade Services Pvt. Ltd.** Moratorium Order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.
- (ii) The 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 Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- (iii) Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

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- 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 possession of the Corporate Debtor.
- (iv) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
- (v) 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.

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- (vi) The order of moratorium shall commence from the date of admission till the completion of the Corporate Insolvency Resolution Process.
- (vii) 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 Sec.31 or passes an order for liquidation of corporate debtor under Sec.33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- (viii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the Resolution Professional upon receipt of the copy of this order.
- (ix) **Mr. Umesh Chandra Sahoo** is appointed as Interim Resolution Professional registered with the ICSI Insolvency Professionals Agency having its **Registration No.: IBBI/IPA-002/IP-N00621/2018-19/11855** and E-mail Id. - [info@nayadarshan.com](mailto:info@nayadarshan.com) as Interim Resolution Professional for ascertaining the particulars of Creditors and convening a meeting of Committee of Creditors for evolving a resolution plan.

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- (x) We direct the Operational Creditor to deposit a sum of Rs. Two Lakh with Interim Resolution Professional to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Debtor) Regulations, 2016. The needful shall be done within three days from the date of receipt of this Order by the Operational Creditor. The amount, however, is subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Operational Creditor.
- (xi) Directions are also issued to the ex-management to provide all documents in their possession and furnish every information in the knowledge within a period of one week from the date of admission of the petitioner to the IRP, otherwise coercive steps to follow.
- (xii) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors.
- (xiii) Registry is hereby directed to communicate the order under Section 9 (5) (i) of the I.B. Code, 2016 to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post as well as through E-mail.

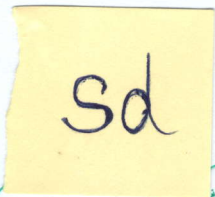
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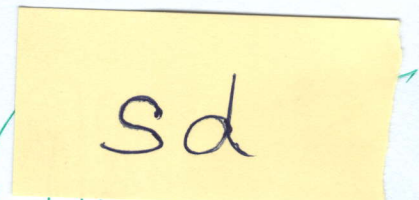
Interim Resolution Professional to file 1<sup>st</sup> progress report on  
**19.12.2019.**

List the matter on **19.12.2019.**

Let the certified copy of the order be issued upon compliance with  
requisite formalities.



**Shri Satya Ranjan Prasad  
Member (T)**



**Ms. Sucharitha R.  
Member(J)**

*Signed on this, the 14<sup>th</sup> day of November, 2019.*

***Santosh\_P.S.***