

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-I)
KOLKATA**

C.P (I.B) No. 139/KB/2022

*A petition 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.*

In the matter of:

Shushila Jain

...Operational Creditor

And

Katha-O-Kahani (Book Sellers) Private Limited

... Corporate Debtor

Order Pronounced on : 21/12/2023

Coram:

Shri Rohit Kapoor, Member (Judicial)

Shri Balraj Joshi, Member (Technical)

Appearances (via video conferencing / physically)

Ms. Manju Bhuteria, Adv. : For the Operational Creditor

Mr. Ranit Bag, Adv.

Ms. Pooja Jewraika, Adv.

Mr. Rahul Poddar, Adv.

Mr. Siddhartha Mitra, Sr. Adv. : For the Corporate Debtor

Mr. Sayantan Basu, Adv.

Mr. Tinkari Jana, Adv.

Mr. Gopal Das, Adv.

Mr. Sourav Jana, Adv

ORDER

Per: Rohit Kapoor, Member (Judicial)

1. The Court convened through hybrid mode.

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2. This is a Company Petition filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (the Code) by **Sushila Jain** (Operational Creditor), seeking to initiate Corporate Insolvency Resolution Process (“CIRP”) against **Katha – O – Kahini (Book Sellers) Private Limited** (“Corporate Debtor”).
3. The Corporate Debtor is a public company incorporated on 02.08.1989. The authorized share capital of the company is ₹2,00,00,000/- and the paid-up share-capital of the company is ₹1,96,14,000/-.
4. The total amount claimed by the Operational Creditor is ₹3,84,04,214/-. The Demand notice under section 8 of the Code was issued by the Operational Creditor on 14.01.2022. Reply to the demand notice was issued by the Corporate Debtor on 21.02.2022. the date of default is 01 March 2020.
5. Part I of the petition contains the details of the applicant.
6. Part II of the petition contains the details of the Corporate Debtor.
7. Part III of the petition contains the details of the proposed Interim Resolution Professional.
8. Part-IV contains particulars of Operational Debt.
9. Part-V of the petition contains the details of the Operational Debt (Documents, Records & Evidence of Default).

10. Submissions on behalf of the Operational Creditor

10.1 The Ld. Counsel on behalf of the Operational Creditor submitted that The Ld. Counsel for the Operational Creditor has submitted that Smt. Sushila Jain (“the Operational Creditor” or “landlady”) had on by Four Separate Agreements¹ dated 24.08.2016, 01.11.2017, 01.10.2018 and 01.02.2019 (hereinafter collectively referred to as “the agreements”) let out the ground and first floor of the building at premises number 100/ A and B, KabiSukanta Sarani, Police Station - Beliaghata, Kolkata, West Bengal 700085 (hereinafter alternatively referred to as “the demised premises”) to the Respondent/Corporate Debtor.

¹ Annexure C, D, E & F to the petition

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- 10.2 The composite rent payable by the corporate debtor to the operational creditor for the rental dues against the demised premises was Rs. 5,28,107/-, inclusive of GST per month.
- 10.3 The tenanted premises was to be used by the corporate debtor for commercial purposes, that is for the business of selling, distributing, publishing, binding of books and other related activities in which the corporate debtor is engaged. It was made clear in the terms of the said agreements that the demised premises could only be used for office or warehouse purposes and not for any other purposes.
- 10.4 The corporate debtor defaulted in making payment of the monthly rent, hire charges and municipal taxes on and from the month of March, 2020. As such, till January 14, 2022, a sum of Rs.1, 33, 41, 744/- became due and payable by the corporate debtor along with an interest at the rate of 18% per annum being the contractual rate of interest as agreed between the operational creditor and the corporate debtor.
- 10.5 The operational creditor issued a demand notice² in terms of section 8 (1) of the Code and served upon the respondent- corporate debtor on January 14, 2022. The corporate debtor responded to the said letter by a reply³ dated February 21, 2022. It is clear from the contents of the said letter that there was no existence of a dispute or record of pendency of any suit or arbitration proceedings filed before the receipt of such notice, as issued by the operational creditor. The reply filed by the corporate debtor is patently feeble legal submission and an assertion of imaginary fact, unsupported by evidence and as such is a spurious defence which is a mere bluster. The defence sought to be raised by the corporate debtor is spurious, hypothetical illusionary.
- 10.6 The corporate debtor defaulted in payment of rent with arrears together with damages and interest calculated till March, 2022. Further, the corporate debtor has not disputed the tenancy agreements in issue and/or the rentals which are liable to be paid by the corporate debtor and which the said corporate debtor has failed to pay. The rentals arising out of the use and occupation of the demised

² Annexure G to the petition

³ Annexure H to the petition

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premises is for commercial purpose and as such is an operational debt as envisaged under section 5 (21) of IBC.

10.7 As such, in the aforementioned facts and circumstances, the operational creditor is constrained to file the present application in the prescribed format under section 9 of the IBC for triggering the Corporate Insolvency Resolution Process against the corporate debtor.

10.8 The Corporate Debtor failed to make payments on and from March 1, 2020. The default thereafter is continuing in nature since the corporate debtor has failed to make payments thereafter against the rental and other dues in terms of the said agreement as referred to herein above. The cause of action for filing the instant application arose on March 1, 2020 which is not falling within the exception of Section 10A of the IBC Code. The total amount claimed to be due is Rs.3,84,04,214.16.

11. Submissions on behalf of the Corporate Debtor:

The submissions given in the reply affidavit have been summarised hereinunder:

- 11.1 In 2016, the respondent came to know from reliable sources that the petitioner was ready and willing to give on tenancy several godowns/office spaces. Accordingly, the respondent approached the applicant and the parties mutually agreed that the said godowns/office spaces would be given on monthly tenancy basis to the respondent upon execution of four tenancy agreements in respect of the same.
- 11.2 The Petitioner/ Operational Creditor, during the negotiations, had represented to the Respondent that the said premises which was previously owned by one M/s. Koley Biscuit Private Limited went into liquidation and was directed to be sold by the Official Liquidator, High Court, Calcutta. In the said auction held by the Official Liquidator, one Comsource Data System & Information Technology Private Limited was the highest bidder and became the sole and absolute owner of the said entire premises. with the specific right and authority to induct tenants in any portion of the said entire premises.
- 11.3 The Petitioner/ Operational Creditor approached Comsource Data System & Information Technology Private Limited and upon negotiation executed a rent

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agreement dated April 17, 2006 whereby the applicant was inducted as a tenant in respect of the total area of the entire premises. It was represented by the Operational Creditor/ Petitioner that one of the specific conditions of the tenancy of the applicant in respect of the said tenancy was that the applicant had the right to induct anyone in different portions of the said premises covering the entirety thereof by way of sub-tenancy or otherwise which consisted entirely of commercial space, out of which the portion as mentioned herein above was given as and by way of a tenancy to the respondent.

- 11.4 The applicant was fully entitled to exercise all rights in respect of any sub-tenancy created by her and she was alone entitled to realise the rent from persons occupying different portions of the suit premises including the respondent herein at the rate which the said sub-tenants were bound and obliged to pay to the applicant and no one else had any right to demand any occupation of any portion of the said premises and/or realise any rent from any of the tenants of the applicant other than the applicant herself. The respondent believing the said representation to be true and correct and relying on the same, agreed to take on tenancy the said godowns/ office spaces as mentioned hereinabove.
- 11.5 In terms of the said tenancy agreements executed between the petitioner and the respondent, and also upon being requested by the petitioner, the respondent made certain payment as advances to the applicant from time to time amounting to Rs.41,09,500/- Rs.35,00,000/-, Rs.13,26,558/- and Rs.17,00,000/- respectively against the said four agreements.. It was also agreed by and between the petitioner and the respondent that the said advances would be adjusted against the rent payable by the respondent in respect of the said four agreements. The total payment made by the respondent as advances to the applicant amounts to Rs.1,06,36,058/-.
- 11.6 The said rent has been paid by the respondent regularly to the applicant and the applicant has received the said rent at all material point of time without raising any objection and/or demur as can be seen from the rent receipts⁴.
- 11.7 In the reply dated 21st February, 2022 to the demand notice, it was stated that a sum of Rs.1,06,36,058/-, was lying as an advance with the petitioner. However,

⁴ Annexure "C" to the Reply

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thereafter upon reconciliation of the accounts of the respondent it was found that a sum of Rs.41,76,558/- was lying with the petitioner as an advance after adjustments. The mistake was bonafide and had been inadvertently stated in the said letter.

11.8 The advances so paid by the respondent to the applicant amounts to Rs.1,06,36,058/- and upon adjusting the said advances so paid against the actual rent payable by the respondent to the applicant up to May, 2022, the same amounts to Rs.96,36,291/-.

11.9 Accordingly the balance amount of rent adjustable and/or payable by the applicant to the respondent in view of the amounts refundable and/or payable and/or adjustable against the alleged claim of rent as stated herein below is Rs. 1,33,41,744/-only.

11.10 The Petitioner committed several breached of the said agreements and has failed and neglected to comply with obligations cast on her under the terms and conditions of the said tenancy agreements. The respondent, as a result, had to spend a huge amount of money which are also adjustable against the said amount of Rs.96,36,291/-, so payable by the respondent to the petitioner.

11.11 Clause 10(e) of the said four agreements, inter alia, as follows:

"to keep the said premises in good condition including electricity connection of the said premises provision for uninterrupted water supply and sanitary pipe within the said unit."

The respondent has not paid the said sum of Rs.96,36,291/- to the petitioner in view of the said disputes as stated herein below:

- a. The petitioner failed and neglected to provide electric main line installation for the said premises for which the respondent had to bear a sum of Rs.30,000/- for such installation of electric main line. The said expenditure was incurred by the respondent was supposed to be borne by the applicant and accordingly the respondent is entitled to refund and/or adjustment of the said sum of Rs.30,000/- against any rent payable by the respondent to the applicant.
- b. The roof of the premises and the water and sewerage pipelines of the premises were severely damaged. Iron clamps of the said pipelines

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were rusted causing internal damage to the building. In spite of repeated representations being made by the respondent to the applicant to take necessary steps to keep the said premises in good condition, the applicant failed and neglected to take any steps for which continuous water seepage damaged the said building, books, materials and office equipments compelling the respondent to spend Rs.1,07,89,287/- to make the said premises a good usable place to carry on such business.

- c. The applicant was also liable to provide for uninterrupted water supply and sanitary pipes and keep the same in good condition. The applicant, however, failed and neglected to repair the said water and sanitary pipes nor did she keep the water supply connection and the sanitary pipes in usable condition in breach of the terms and conditions of the tenancy agreement. The respondent from time to time requested the applicant to keep the said water supply connection and sewerage pipes in proper good condition for which reason severe damage was caused to the roof and also the walls and internal structure of the building. The applicant having failed and neglected to take any step to keep the same in good condition the respondent had to spend a sum of Rs.84,999/- to keep the said building in a good habitable and usable condition by repairing such water supply and sanitary pipes and other related pipelines and water reservoir.
- d. Sometime in 2020 the Amphan struck West Bengal and due to the high wind speed of the storm and torrential rain the damaged outlet water pipeline draining water from the roof got blown away and parapets of the roof and the sunshades and other portion of the building got severely damaged due to water seepage and blockage of the water from flowing out from the roof causing dampening of the wall of the building and leading to damages to the stock of books and materials of the respondent amounting to Rs. 33,53,921/-.
- e. The respondent in order to keep the said premises in good condition for its business and habitable purpose incurred expenditure out of its pocket amounting to Rs. 1,07,89,287/-.

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- f. The petitioner was under the obligation to provide uninterrupted water supply to the respondent which the applicant failed and neglected to do for which reason water line connection had to be obtained by the respondent from the Kolkata Municipal Corporation by spending a sum of Rs.69,866/- and had to incur further expenses for getting drinking water connection line amounting to Rs.5,00,553/-. Such expenses had to be borne by the respondent in view of the breach committed by the applicant of the terms and conditions of the said agreements expenses of Rs.5,70,419/- which the respondent had to incur due to the breach committed by the applicant of the terms and conditions of the agreements.
- g. The applicant in accordance with the terms and conditions of the tenancy agreement was liable to provide security services throughout day and night for the building entrances and the maintenance charges of the building. The applicant, however, failed and neglected to provide such security services. The respondent had to engage security services through agency incurring an expenses of Rs. 15,08,014.79 for such security services in order to maintain the security of the building and the materials lying therein and also for maintenance of the building.
- h. The extensive damage of the said premises in turn caused seepage of water into the building leading to damage to the stocks of materials being books and papers for non-maintenance of the said premises and the building by the applicant, which the applicant was obliged to perform under the terms and conditions of the agreements causing loss and damage to the respondent to the tune of Rs.78,43,822/-.

11.12 In view of the failure of the applicant to perform obligations under the said terms and conditions of the said agreements and in view of the expenses incurred by the respondent which expenses were not the obligation under the terms and conditions of the said agreements of the respondent, the respondent hereby claims a sum of Rs.1,46,20,663.79 from the applicant as counter claim against the purported demand of Rs. 3,84,04,214.16 along with interest @18% p.a. from

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each on which such expenses had been incurred till the date of receipt of the payments.

- 11.13 The corporate debtor never defaulted in making payment of the monthly rent, hire charges and municipal taxes on and from the month of March, 2020. In fact, the Corporate Debtor had incurred a sum of Rs.2,42,56,954.79 by way of expenses which were the obligations of the applicant to incur and/or to do the needful under her obligations of the terms and conditions of the tenancy agreements, and the said amount was not reimbursed by the applicant in spite of repeated requests by the respondent. The applicant, however, requested the respondent that the said amount be adjusted against the monthly rent by the respondent. In view of such representation, the respondent was of the view that the said amount of Rs. 2,42,56,954.70 would be adjusted against the monthly rent.
- 11.14 After the statutory notice was issued by the applicant, the respondent was shocked and surprised to see that the said representation as made by the applicant for such adjustment was not complied with and another breach of such representation has been committed by the applicant.
- 11.15 The respondent at no point of time has defaulted in making payment of the said rent which in fact was to be adjusted and still now a sum of Rs. 1,46,20,663.79 is due by the applicant to the respondent.
- 11.16 It is denied and disputed that till January 14, 2022 a sum of Rs.1,33,47,744/- has become due and payable by the corporate debtor along with an interest @ 18% p.a. being the contractual rate of interest as agreed by and between the operational creditor and the corporate debtor, as alleged or at all, and it is specifically denied that there has been agreement with regard to the contractual rate of interest by and between the operational creditor and the corporate debtor.
- 11.17 The instant petition under the Insolvency & Bankruptcy Code, 2016 is not maintainable before this Adjudicating Authority. The said alleged claim arises out of default committed by the respondent under four tenancy agreements. The said tenancy agreements, however, specify that the said tenancy agreements shall be governed by the West Bengal Premises Tenancy Act, 1997 (West Bengal Act XXXVII of 1997 as amended by the West Bengal Premises Tenancy (Amendment) Act, 2010 (WB Act XXIX of 2010) and/or its modification may be

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made from time to time. The tenancy agreements being governed by the West Bengal Premises Tenancy Act, 1997 and the said claim having arisen out of disputes related to and/or arising and/or touch the said tenancy agreements, the instant insolvency proceeding initiated by the applicant cannot be entertained and/or tried before this Adjudicating Authority and the said proceeding hence ought to be dismissed.

12. Rejoinder on behalf of the Operational Creditor:

12.1 The corporate debtor/Respondent had entered into an agreement with the operational creditor on February 1, 2016 for a smaller plot/space in the same property at 100/A & B, KabiSukanta Sarani, Kolkata, West Bengal - 700085. It is against the said agreement that the respondent had made an advance of Rs. 42,00,000/- (Rupees Forty Two Lakhs) to the operational creditor. Out of the said advance, a sum of Rs. 8,00,000/- (Rupees Eight Lakhs) was towards the security deposit in terms of the agreement dated February 1, 2016. The balance sum of Rs. 34,00,000/- (Rupees Thirty Four Lakhs) was paid as an advance to the operational creditor and it was duly agreed by and between the parties that adjustment would be made against the rentals @ Rs.1,00,000/- (Rupees One Lakh) per month and the balance sum for the monthly rentals would be separately payable by the respondent to the operational creditor.

12.2 The bills for rentals as raised by the operational creditor which were required to be paid by the respondent included all the taxes. The said agreement was continued with by the parties till July, 2016. The adjustment against the advance of Rs. 34,00,000/- (Rupees Thirty Four Lakhs) duly exhausted in the month of 1 June, 2019.

12.3 The agreements which were subsequently entered into by the operational creditor from the month of August, 2016, dated August 24, 2016; November 1, 2017; October 1, 2018 and February 1, 2019 were for a larger area against office spaces in the same premises as more fully stated in the said petition.

12.4 It is noted in Clause 17 of each of such agreements that if the corporate debtor would fail to hand over actual vacant and peaceful possession of the property in issue upon expiry of the agreement or an earlier termination for any reason, the operational creditor would be entitled to recover damages @2 times of the rent

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for the wrongful use of the said units and for failure of the respondents to hand over actual vacant and peaceful possession thereof to the operational creditor. It is not in dispute that the said agreements have been duly terminated by the operational creditor due to the failure of the corporate debtor in paying rents as was mandated by the agreements between the parties.

12.5 Even if the collection of due rentals is considered from the month of March, 2020 till the date of filing of the petition, a sum of Rs. 3,84,04,214.16 remains due and payable to the operational creditor by the corporate debtor.

12.6 It is reiterated that the petition is not hit by Section 10A of the IBC, 2016. Moreover default has not been committed after March 25, 2020 in the facts of the instant case. It was made clear in the agreement between the parties that the monthly rentals should be paid on or before the 10th of every English calendar month and as such, the date of default is March 10, 2020. Hence, the provisions of Section 10A of IBC, 2016 would not have any application in the matter.

12.7 The corporate debtor has not disclosed true and correct facts and has refrained from indicating that there was a prior agreement between the parties dated February 1, 2016 whereby smaller areas of the same property were rented out by the operational creditor to the corporate debtor. The advance of Rs. 42,00,000/- bifurcated as a sum of Rs.8,00,000/- against the security deposit and the balance sum of Rs.34,00,000/- against the rentals for the property were duly adjusted in terms of the said agreement between the parties. The four agreements in issue were entered into by and between the parties since the corporate debtor was in need of larger areas to be used as godown and office spaces in the same premises.

13. Analysis and Findings:

13.1 Heard the Ld. Counsels on behalf of the Operational Creditor and the Ld. Counsel on behalf of the Corporate Debtor and perused the records.

13.2 It be also noted from the record of proceedings, Corporate Debtor sought time for exploring the settlement with the Operational Creditor on 29th of March, 2023. Ld. Counsel appearing for Corporate Debtor sought final opportunity in this regard. Thereafter, the Corporate Debtor reported that there has been no settlement though the effort was made. In view of this position, this matter was taken up for hearing on its merits.

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- 13.3 The question to be adjudicated upon by this Adjudicating Authority is whether the rent payable for tenancy agreement is covered as an ‘operational debt’.
- 13.4 In this regard, it is relevant to note the order passed by the Hon'ble Supreme Court, in the matter of *Consolidated Construction Consortium Limited Vs. Hitro Energy Solutions Private Limited*⁵, wherein the Apex court has made the following observation:

“29 The primary source is Volume I of the Report of the Bankruptcy Law Reforms Committee. It notes that “[e]nterprises have financial creditors by way of loan and debt contracts as well as operational creditors such as employees, rental obligations, utilities payments and trade credit”. It provides that a corporate debtor will have financial and operational liabilities, and explains the difference as follows:

*"Liabilities fall into two broad sets: liabilities based on financial contracts, and liabilities based on operational contracts. Financial contracts involve an exchange of funds between the entity and a counterparty which is a financial firm or Intermediary. This can cover a broad array of types of liabilities: loan contracts secured by physical assets that can be centrally registered; loan contracts secured by floating charge on operational cash flows; loan contracts that are unsecured; debt securities that are secured by physical assets, cash flow or are unsecured. **Operational contracts typically involve an exchange of goods and services for cash. For an enterprise, the latter includes payables for purchase of raw-materials, other inputs or services, taxation and statutory liabilities, and wages and benefits to employees.**"*

(emphasis supplied)

Further, the Report also notes":

⁵ Civil Appeal No 2839 of 2020

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*"Here, the Code differentiates between financial creditors and operational creditors. Financial creditors are those whose relationship with the entity is a pure financial contract, such as a loan or a debt security. **Operational creditors are those whose liability from the entity comes from a transaction on operations. Thus, the wholesale vendor of spare parts whose spark plugs are kept in inventory by the car mechanic and who gets paid only after the spark plugs are sold is an operational creditor. Similarly, the lessor that the entity rents out space from is an operational Creditor to whom the entity owes monthly rent on a three- year lease. The Code also provides for cases where a creditor has both a solely financial transaction as well as an operational transaction with the entity. In such a case, the creditor can be considered a financial creditor to the extent of the financial debt and an operational creditor to the extent of the operational debt.**"*

(emphasis supplied)

30 It is thus clear that operational creditors are those whose debt arises from operational transactions, i.e., transactions which are undertaken in relation to the operation of an enterprise. As the examples in the BLRC Report suggest, these generally include transactions involving goods or services which are considered necessary for the operational functioning of an entity."

- 13.5 Further, the Hon'ble National Company Law Appellate Tribunal (NCLAT), in the matter of ***Jaipur Trade Expocentre Private Limited Vs. Metro Jet Airways Training Private Limited***⁶, has held that:

"13. The key question to be answered in the present Appeal is as to whether the license fee, which is claimed to be due from the Corporate Debtor, is an 'operational debt' within the meaning of Section 5(21) or not? Before we proceed with consideration of

⁶ Comp. Appeal (AT) (Indolvency) No. 423 of 2021

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submissions of learned Counsel for the parties, it is useful to notice certain terms and conditions of License Agreement dated 15.04.2017 entered between the parties. The Agreement contains following Recitals in Clause 1:

“1. GRANT OF DEMISED PREMISES ON LICENSE

- a. In consideration of the LICENSE FEE to be paid by the LICENSEE and the LICENSEE agreeing to observe and perform the covenants, terms and conditions herein contained, the LICENSOR hereby grants on LICENSE the Demised Premises to the "LICENSEE" and the "LICENSEE" has agreed to take the Demised Premises on LICENSE for the purpose of running an educational establishment as detailed hereinbefore, on the terms and conditions appearing hereinafter.*

In pursuance to the above LICENCE AGREEMENT, the LICENSOR hereby agrees to hand over the vacant and peaceful license of the Demised Premises to the LICENSEE on or before 1st June 2017.

- b. It is specifically agreed between the parties that the "LICENSEE" will not in respect of the Demised Premises create encumbrance of any kind such as mortgage, collateral security etc. or any other interest in favour of third party or otherwise.*
- c. At the time of signing of this License Agreement, the LICENSEE undertakes and warrants that it does not have any claim against the LICENSOR with regard to any item of work, quality of work, materials, installation etc. Any or all complaints that the LICENSEE had with respect to the Demised Premises have been sorted out by the LICENSEE with the LICENSOR before signing of this agreement.*

On termination of this agreement the LICENSEE undertakes to restore the demised premises to its original condition””

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*This Adjudicating Authority, previously, in the matter of **Kanchana Mukhopadhyay Vs. Emporium Training and Consultancy Private Limited** [CP (IB) No. 1369/KB/2019] has also held as follows :*

“In the light of the foregoing decisions, this Tribunal, therefore, is satisfied that the outstanding lease rental in case of a property so leased for commercial purposes, as in the instant case, will be covered under ‘operational debt’ within the meaning of section 5(21) of the Code.”(para 19)

- 13.6 In light of the aforementioned judgments, it is clear to us that the rent due for a leasehold property should be considered an ‘operational debt’ within the meaning of section 5(21) of the Code.
- 13.7 It is further noted that while the plea of pre-existing disputes was taken by the Corporate Debtor in the Reply- Affidavit, the same was not pressed on by the Ld. Counsel of the Corporate Debtor during the course of hearings. As such the same is not being considered by us during the adjudication of the instant petition.
- 13.8 Lastly, it is seen that the date of default mentioned in the petition is 01 March 2020 and the Corporate Debtor has not disputed the said date. As such, the instant petition filed on 28 April 2022 is well within limitation period.
- 13.9 In light of the aforesaid facts, circumstances and the law laid above, we are of the view that the Corporate Debtor has failed to repay its due debt to the Operational Creditor and that the instant petition is complete in all respects. As such, the same ought to be admitted.
- 13.10 It is, accordingly, hereby ordered as follows:-
- i. The application bearing **CP (IB) No. 139/KB/2022** filed by **Smt. Sushila Jain** (*Operational Creditor*), under section 9 of the Code read with rule 6 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against **Katha-O-Kahini (Book Sellers) Private Limited** (CIN:22219WB1989PTC047346), the Corporate Debtor, is **admitted**.
 - ii. There shall be a moratorium under section 14 of the IBC.
 - iii. 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

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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.

- iv. 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.
- v. **Rachna Anchalia** having registration number **IBBI/IPA- 001/IP-P01572/2019-2020/12602**, email: **ca.rachna1978@gmail.com** is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016.
- vi. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the Code.
- vii. During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor 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.
- viii. The IRP/RP shall submit to this Adjudicating Authority periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- ix. The Financial Creditor shall initially deposit a sum of ₹3,00,000/- (Rupees three lakh only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC). Further, the Fees of the IRP will be subject to the approval of the COC in accordance with Notification No. IBBI/2022-23/GN/REG091 dated 13.09.2022, issued by the Insolvency and Bankruptcy Board of India, as published in the in the Official Gazette.

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- x. In terms of section 7(5)(a) of the Code, Court Officer of this Court is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor 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.
- xi. Additionally, the Financial Creditor 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 Debtor. 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.

13.11 **CP (IB) No. 139/KB/2022** to come up on **25.01.2024** for filing the progress report.

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

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

Signed on this, the 21st day of December, 2023

SM(LRA)/Zia(Steno)