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

Coram : (1) Shri Madan B. Gosavi,
Hon'ble Member (J)
&
(2) Shri Virendra Kumar Gupta,
Hon'ble Member(T)

CP (IB) No. 1694/KB/2018

In the matter of:

An application for initiation of Corporate Insolvency Resolution Process under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the matter of:

M/s. Sendoz Commercials Private Ltd., a Private Non-Government Company, limited by shares, registered under the provisions of the Companies Act, 1956, bearing CIN: U51909WB1999PTC090775 and having its registered office at 644, Marshall House, 25, Strand Road, Kolkata- 700 001;
...**Petitioner/Operational Creditor**

-Versus-

In the matter of:

M/s. Kohinoor Paper and Newsprint Private Ltd., a Private Non-Government Company, limited by shares, registered under the provisions of the Companies Act, 1956, bearing CIN: U21019WB2006PTC112244 and having its registered office at 11, Allenby Road, Kolkata- 700 020;

....**Corporate Debtor**

Counsel appeared:

Ms. Iti Dutta, Advocate	] Operational Creditor
Mrs. Priti Jain, Advocate	]
Ms. Shonia Ramchand, Advocate	]
Ms. Ledia Dasgupta, Advocate	] Operational Debtor
Mr. Pratit Sarkar, Advocate	]

Date of Pronouncement of Order: 26.09.2019

ORDER

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

M/s. Sendoz Commercials Private Ltd. - the Operational Creditor, filed this application under section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **M/s. Kohinoor Paper and Newsprint Private Ltd** - Corporate Debtor to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor as the Corporate Debtor committed default in paying the operational debt of Rs.32,18,824/-.

2. It is stated that by various invoices dated 01.08.2016, the financial creditor sold and supplied certain goods to the corporate debtor amounting to Rs.46,12,639/- was due and payable by the corporate debtor to the operational creditor (alongwith the interest).

3. On 30.11.2018, operational creditor personally served to the corporate debtor notice of demand under section 8 of IBC. In spite of receipt of demand notice, corporate debtor did not pay the amount. Corporate Debtor did not reply the notice pointing out any dispute about the amount claimed or goods received.

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4. Name of proposed Interim Resolution Professional, Mr. Uday Narayan Mitra of 72/1, Dawn Gazi Road, Post Office Bally, Dist- Howrah, West Bengal- 711 201, having registration no. IBBI/IPA-001/IP-P00793/2017-18/11360 and Email Id. udaynarayanmitra@yahoo.co.uk is suggested against whom no disciplinary proceeding appears to be pending. Since corporate debtor is in default of non-payment of the operational debt, this proceeding is filed.

5. Corporate Debtor was served with the notice of this application as contemplated under rule 6(2) of I & B Code (Application to Adjudicating Authority Rules) 2016. One Mr. Vijay Bothra, the director and authorised signatory of the corporate debtor appeared and filed affidavit-in-reply. In para 4 of the affidavit-in-reply, it is stated that due to non-availability of funds from the bank of the corporate debtor and non-payment from the corporate debtor, the business of the corporate debtor has come to a standstill and the corporate debtor is continuously facing losses. In short, debt and its default is admitted by the corporate debtor. Corporate Debtor did not dispute that he received demand of notice under section 8 of IBC.

6. The operational creditor filed affidavit stating that he did not receive any notice or reply and the corporate debtor did not pay amount. He also complied with the provisions of sections 9(3)(b) and 9(3)(c) of I&B Code. The application is defect -free. In view of the facts and evidence on record, I hold that the application deserves to be admitted. I pass the following order:

ORDER

- (i) The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Resolution Process in respect of **M/s. Kohinoor Paper and**

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Newsprint Private 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:
 - a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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.

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- 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.
- vi) The order of moratorium shall affect 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 Section 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) As per the proposal by the Operational Creditor for the appointment of Interim Resolution Professional (IRP), Mr. Uday Narayan Mitra (Mob. No.9433532994) of 72/1, Dawn Gazi Road, Post Office Bally, Dist- Howrah, West Bengal- 711 201, having registration no. IBBI/IPA-001/IP-P00793/2017-18/11360 and Email Id. udaynarayanmitra@yahoo.co.uk is appointed as the Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.

x) The Operational Creditor to pay to IRP a sum of Rs.50,000/- as payment of his fees as advance, 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.

xi) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016

xii) Registry is hereby directed to communicate the order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post and also by email as per provisions of IBC.

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

List the matter on **06.11.2019** for filing progress report.


(Virendra Kumar Gupta)
Member (T)


(Madan B. Gosavi)
Member (J)

Signed on this, the 26th day of September, 2019.