SL. No.146

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II

(Video Conference)

CORAM: HON'BLE BHASKARA PANTULA MOHAN –MEMBER JUDICIAL
CORAM: HON'BLE DR.BINOD KUMAR SINHA-MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 21.07.2022 AT 10:30 AM THROUGH VIDEO CONFERENCE

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP (IB) No.186/7/HDB/2020
NAME OF THE COMPANY	Sri Ekshwaka Sands Pvt Ltd
NAME OF THE PETITIONER(S)	Potti Bhasker
NAME OF THE RESPONDENT(S)	Sri Ekshwaka Sands Pvt Ltd
UNDER SECTION	7 of IBC

ORDER

CP (IB) No.186/7/HDB/2020 is admitted. Orders pronounced vide separate sheets.

-Sd- -Sd-

MEMBER (T) MEMBER (J)

Syamala

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH - II

CP (IB) 186/7/HYD/2020
u/s. 7 of I&B Code, 2016 r/w Rule 4 of I & B (AAA) Rules, 2016

In the matter of:

Mr. Potti Bhaskar
Proprietor
M/s. Gayatri Minerals
Flat 201, Nitya Megha Nivas, Block-B
Road No.3, New Nagole
Hyderabad – 500 035

.... Petitioner/Financial Creditor

Vs.

1. **M/s. Sri Ekshwaka Sands Private Limited**
   1st Floor, Park Avenue, Begumpet
   Hyderabad – 500 016

   ... Corporate Debtor

2. **Mr. Vangapalli Mahender Rao**
   2-10-2061/1, Bhagya Nagar
   Karimnagar – 505 001

3. **Mr. Narayana Rao Kondrolla**
   Flat No.101, JB Sai, SN Ridge
   Plot No.8, Shilpa Hills
   IZZAT Nagar, Kondapur
   Hyderabad – 500 084

4. **Mr. Prabhakar Rao Nagavaram**
   2-8/A, Thurupupally, Devarakonda
   Nalgonda – 508248

5. **Mr. Venkateswara Ankala**
   13-2-37/A, Chaitanyapuri, Near Shivalayam
   Road No.2, Dilsukhnagar
   Hyderabad – 500 060

-Sd/-

6. **Mr. Seetharam Reddy Jakka**
Flat No.301, Keerthi Damodara Apartments
Vinay Nagar Colony
Saidabad
Hyderabad – 500 059

... Respondents

Date of Order: 21.07.2022

Coram:

Hon'ble Sri Bhaskara Pantula Mohan, Member (Judicial)
Hon'ble Dr. Binod Kumar Sinha, Member (Technical)

Counsels Present:

For the Petitioner	:	Mr.Y.Suryanarayana, Mr. N.N.Sarma, Mr. Sachin Sharma, Advocates
For the Respondent	:	Mr. Krupa Nandan Reddy, Mr.M. Vigneswar Reddy, Mr. K.V.Sairam, Advocates

[PER : BENCH]

ORDER

I. This is a petition filed by the Financial Creditor under Section 7 of Insolvency and Bankruptcy Code, 2016, r/w Rule 4 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the application, initiation of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and relevant Rules against the

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Corporate Debtor, alleging that the Corporate Debtor had failed in discharging the debt amount of Rs.55,47,414/- (Rupees Fifty Five Lakhs Forty Seven Thousand Four Hundred Fourteen only) which includes principal amount of Rs.42,76,700/- and total interest of Rs.12,70,714/-, interest @ 10.75% per annum for the period from 23.05.2017 to 16.03.2020. **Interest calculation sheet is filed at page nos. 11 to 12 of the application.**

II. The gist of the Financial Creditor's brief is –

i. Mr.Potti Bhaskar, for short, "Petitioner/Financial Creditor" is engaged in the business of mineral processing and supply of silica sand. M/s. Sri Ekshwaka Sands Private Limited & 5 others, for short, "Corporate Debtor/R1 to R6/Company". M/s. Sri Ekshwaka Sands Private Limited was incorporated on 18th July, 2016 and is engaged in similar activity of business as Financial Creditor. The Corporate Debtor approached the Financial Creditor for investment of funds for its initial operations. On the promise of allotment of equity shares in the Company, the Financial Creditor invested an amount of Rs.67,41,700/- in different tranches, starting from 23.05.2017. Subsequently, the Corporate Debtor returned an amount of Rs.50,00,000/- on 13.10.2017

-Sd/-

stating that there is a technical problem in allotting the shares.

ii. The Respondents again approached the Petitioner stating that the technical problem for allotting the shares was resolved and requested the Petitioner to invest in the Company and the Petitioner invested an amount of Rs.25,35,000/-.

iii. The Company Secretary sent an email on 17.02.2018 and 24.09.2018 advising the Petitioner to submit his DIR-2 and DIR-8 and other KYC details, which are filed **at page nos. 27 and 28 of the application**. But the Petitioner orally informed that he will join as Director only after allotment of shares. Even then the Corporate Debtor did not allot any shares and the Petitioner did not give any consent for appointment as Director in the Company.

iv. It is stated that having lost confidence in the Company, the Petitioner insisted for repayment of the monies invested in the Company, vide email dated 02.10.2018. **A copy of the email is filed at page 29 of the application.**

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v. When the Corporate Debtor failed to return the money despite continuous follow up, the Financial Creditor got issued a Legal Notice dated 07.03.2020, demanding the Corporate Debtor to pay the total outstanding debt amount of Rs.42,76,700/- with bank interest @ 10.75% per annum. However, even on service of Legal Notice, the Respondent failed to send any reply within the statutory time period of 7 days mentioned in the Legal Notice to indicate either payment of debt or existence of dispute.

vi. It is submitted that a Bank Statement of Financial Creditor for the period from **01.05.2017 to 30.09.2018 is filed at page nos. 13 to 26 of the application.**

vii. GST Registration Certificate and KYC details of Financial Creditor are filed at page nos. 35 to 39 of the application.

viii. It is averred that outstanding amount due to the Financial Creditor have never been disputed by the Corporate Debtor in any manner whatsoever.

ix. It is averred that the Petitioner left with no further option, filed the instant petition.

-Sd/-

III. The averments made in the Counter dated 09.09.2020 filed by the Corporate Debtor are briefly described as follows:

i. That the present proceedings initiated by the Financial Creditor is liable to be rejected prima facie as the alleged Debt is not a Financial Debt. The amount invested by the Financial Creditor is as a stake holder in the Corporate Debtor Company. The Financial Creditor never contributed the equity for the project as a Creditor but invested as a stakeholder. The documents placed by the Financial Creditor clearly evidences that the disbursement of alleged debt amount is not a loan amount, as such, the Financial Creditor shall not be treated as Financial Creditor as per the Code as the same is not the Financial Debt, which hits by Section 5(8) of the Code;

ii. That there is no relationship between the parties herein as creditor-debtor, as such the question of default as per section 3(12) of the Code does not arise.

iii. It is denied that the former promoter directors requested the Financial Creditor to invest in the Company.

-Sd/-

iv. Originally, Mr. S.M.Bala Subramaniam, Mr. M. Madhusudhan Reddy, Mr. N. Prabhakar Rao and Mr. A. Venkateswara Rao were promoter directors of the Corporate Debtor. Respondent Nos. 2, 3 & 6 were induced into the company during 2018, as such, the question of promise by these directors does not arise and the transactions held between both the parties were prior to inducting these respondents as directors of the Corporate Debtor. The alleged entire amount was transferred during the span of Mr. M.S.Balasubramaniam, Mr. Madhusudhan Reddy and Mr. A. Venkateswar Rao, who are the Managing Director and Directors respectively. Respondent No.4 never involved in the said transaction.

v. It is denied that the amount due to the Financial Creditor is Rs.55,47,412/- and on promise of allotment of equity shares, the Financial Creditor invested Rs.67,41,700/- in tranches from 23.05.2017. It is averred that the Financial Creditor with an intention to become director/stakeholder had invested amount but not advanced the alleged amount to the Corporate Debtor as a debt.

vi. It is denied that the Petitioner helping Corporate Debtor company in getting Asset Based Lending from

-Sd/-

SBI, Banjara Hills for Rs.87.00 lakhs during October, 2017.

vii. It is denied that the promoter informed the Petitioner that there is a technical problem in allotting the shares and returned Rs.50 lakhs after sanction of ABL facility and the technical problem was resolved and requested the Petitioner to invest Rs.25,35,000/- by February, 2018.

viii. The respondents are not aware that the Company Secretary sent an email for submitting DIR-2, 8 & KYC details for appointing the Petitioner as director of the Corporate Debtor Company on 17.02.2018.

ix. It is averred that the Corporate Debtor Company inducted Mr.J. Seetarami Reddy/R6 as Additional Director on 17.02.2018 and Mr. V.Mahinder Rao/R2 and Mr.K.Narayana Rao/R3 as Directors on 12.06.2018. The Financial Creditor does not disclose with whom he insisted for repayment of money invested. Knowing about the losses of the Corporate Debtor, the Financial Creditor had started taking back his investment amount in portions in active support of the promoter directors. Mr. Bala Subramanyam ceased to be Director since December, 2018. The Financial Creditor in active collusion with Mr. Bala

-Sd/-

Subramanyam, Mr. Madhusudhan Reddy, and Mr. A. Venkateswar Rao/R5 had initiated the present proceedings.

x. The Financial Creditor suppressed the fact that the former Promoter Directors i.e. Mr. Bala Subramanyam, Mr. Madhusudhan Reddy, Mr. N.Prabhakar Rao/R4 and Mr. A. Venkateswar Rao/R5 had floated the Corporate Debtor Company. The respondents have no knowledge about the amount, as such, the question of due to the Petitioner does not arise.

xi. The respondents invested huge amounts, however, due to huge losses incurred to the company in the last two years, they have not received any profits from the Corporate Debtor.

xii. While appointing these respondents as directors, Mr. Bala Subramanyam and Mr. Madhusudhan Reddy declared that there are no debts or outstanding loan or liabilities to be paid to anybody and Mr. Bala Subrahmanyam cleared his home loan from the amounts paid by these respondents.

xiii. The Financial Creditor himself admitted that he invested alleged amount, which does mean a capital. The Financial Creditor nowhere in the entire pleadings

-Sd/-

ascribed that he advanced the alleged amount as loan or as the debt and failed to prove the existence of an agreement for payment/repayment of alleged amount advanced and interest, as such, there is no Creditor/Debtor relationship among the parties hereto, hence the alleged amount is not a Financial Debt.

IV. The averments made in the Rejoinder dated 03.12.2020 filed by the Corporate Debtor are briefly described as follows:

i. It is averred that all the averments, allegations and contentions made in the counter are denied as false and baseless.

ii. Mr. Mahender Rao Vangapalli claims to be the Managing Director of the Company but as per the records of the ROC, he is only a Director of the Company.

iii. It is averred that the Financial Creditor was requested by the Promoters of the Company during the stage of incorporation of the Company to infuse a sum of Rs.1,02,76,700/- from 23.05.2017 to 28.09.2018. After a loan being sanctioned to the Company from SBI, Banjara Hills Branch, the share

-Sd/-

application money of Rs.50.00 lakhs was returned on 13.10.2017. Once again at the behest of the Promoter, the Financial Creditor further infused an amount of Rs.25,35,000/- from 04.12.2017 to 14.09.2018. After umpteen numbers of requests, the Corporate Debtor did not allot shares and instead repaid Rs.10,00,000/- on 11.05.2018. The Company Secretary on 17.02.2018 sent a mail requesting the Petitioner to sign Form DIR-2 and DIR-8 for appointing the Applicant as a Director but the Petitioner refrained from giving consent for being appointed as a director as there was no reply or evidence of allotment of shares.

iv. Since the shares were not allotted for the impugned amount of Rs.43,76,700/-, the Petitioner relied upon the provisions of Section 42(6) of the Companies Act, 2013, which reads as under:

> *(6) A company making an offer or invitation under this Section shall allot its securities within sixty days from the date of receipt of the application money for such securities and if the Company is not able to allot the Securities within that period, it shall repay the application money to the subscribers within 15 days from the date of completion of 60 days and if the company fails to repay the application money within the aforesaid period, it shall be liable to repay that money with interest at the rate of twelve percent per annum from the expiry of the sixtieth day:*

-Sd/-

Provided that monies received an application under this Section shall be kept in a separate Bank Account in a scheduled Bank and shall not be utilized for any purpose other than –

a) For adjustment against allotment of securities; or

b) For the repayment of monies where the Company is unable to allot securities".

Thus, in case of non-allotment of shares, the amount received to purchase shares shall bear interest @ 12% per annum, if the said amount is not refunded within 60 days or fails to repay the application money.

v. The Company Secretary sent an email dated 30.08.2017 proposing to transfer shares from the existing shareholder to Mr. Potti Bhaskar enabling him to be eligible and participate in the rights issue, which is filed as **Annexure-I at page no.11 of the Rejoinder.** Once the transfer is complete, then the record date for rights issue and closure of the issue will be decided". This categorically establishes that the purpose of receipt of funds from Mr. Potti Bhaskar was for the issue of shares.

vi. That the non-refund of share application money would also qualifies as a debt as per IBC, 2016. It is relied on the Order passed by the **Hon'ble Tribumal, Mumbai Bench in the matter of Mr.**

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QamruddinFaizi Vs. Kaizen AAC Blocks Private Limited, held that, the share application money by the Corporate Debtor was neither utilized for the purpose of issuing of shares nor the amount refunded within 60 days. Hence, the Hon'ble Tribunal decided in favour of the Applicant and admitted the Application.

vii. In the Audited Financials of the Corporate Debtor for the period ending 2017-18, under the head of 'other Current Liabilities' in Note-7, an amount of Rs.46,86,700/- due to the Financial Creditor is reflected and also in the Books of Accounts of the Corporate Debtor Company under the Head of 'Unsecured Loan' as per Balance Sheet drawn as on 31.03.2018. Hence, the amount of Rs.46,86,700/- can be concluded as a Financial Debt. Further, the Corporate Debtor contends that the Financial Creditor has invested in the Company only as a stakeholder. Even if that version is accepted for the sake of argument, it becomes imperative to go back to the definition of 'Financial Debt' under Section 5(8) of the Code, which reads as follows:

"Financial Debt" means a debt alongwith interest, if any, which is disbursed against the consideration for the time value of money and includes–

-Sd/-

a. money borrowed against the payment of interest;

b. any amount raised by acceptance under any acceptance credit facility or its de- materialised equivalent;

c. any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

d. the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;

e. receivables sold or discounted other than any receivables sold on non-recourse basis;

f. any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;

[1][***Explanation***. -For the purposes of this sub-clause, -

i. any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and

ii. the expressions, "allottee" and "real estate project" shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);**]**

g. any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;

-Sd/-

h. any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;

i. the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;

viii. Thus, the money provided by the Petitioner to the Corporate Debtor is a financial debt as it has the commercial effect of a borrowing.

ix. The debt amount of Rs.43,76,700/- alongwith interest @ 12% is now being disputed at this point, is an afterthought and with malafide intention to deny the monies to the Financial Creditor. A copy of the mail dated 02.10.2018 is enclosed with the application as **Annexure-6 at page no.29 of the application.**

x. That the change in management will not affect the doctrine of estoppel as the Corporate Debtor has a perpetual succession and the past deeds of the directors will have legal sanctity though they are not on the Board of the Corporate Debtor as on date. The Corporate Debtor will be held liable and will be responsible for the past transactions of the company as the company is a going concern and a legal entity.

-Sd/-

xi. The Corporate Debtor/Respondents are trying to mislead the Hon'ble Tribunal by suppressing the fact that on 14.11.2018 on which 6th Respondent was also marked a copy of the mail for request to repay the money. The claim of the Corporate Debtor that during change of management, due diligence was carried as per clause (ii) of Point 14 stands in sharp contrast to facts evident from the Books of Accounts of the Corporate Debtor.

xii. The directors of the Corporate Debtor who have resigned and ceased to be the director of the company cannot be the ground for being absolved of their responsibilities. The money was not given to the Respondent directors personally rather it was transferred into the account of the company. So, it is a frivolous stand of the Respondents to foreign ignorance.

V. We have heard the Learned Counsels for both sides, perused the Record and Case Law.

VI. In the instant case, the Financial Creditor has claimed that there exists a total financial debt to the tune of Rs.55,47,414/- inclusive of principal amount of Rs.42,76,700/- and interest thereon as calculated upto 17.03.2020. The date of default is stated to be

-Sd-

02.10.2018. The Financial Creditor has submitted the copies of Ledger Account in respect of the impugned debt and also has drawn our attention to the Financial Statements of the Corporate Debtor for Financial Year ending 31.03.2018, wherein the name of the proprietary concern of the Financial Creditor, namely, Gayatri Minerals appears as a Creditor for a sum of Rs.46,86,700/- under the Head "Other Current Liabilities". It is submitted by the Financial Creditor herein that on being approached by the Corporate Debtor, he had invested a total amount of Rs.67,41,700/- in different tranches starting from 23.05.2017, out of which a sum of Rs.50,00,000/- was returned by the Corporate Debtor on 13.10.2017, stating that there was a technical problem in allotting the shares. However, the Corporate Debtor once again approached the Financial Creditor to invest in the Company and the Financial Creditor invested another sum of Rs.25,35,000/-. However, no shares were allotted by the Corporate Debtor to the Financial Creditor and having lost confidence in the Corporate Debtor, the Financial Creditor insisted for repayment of the entire sum outstanding vide email dated 02.10.2018. Since the Corporate Debtor failed to return the money so advanced after continuous follow up, the Financial Creditor sent a Legal Notice dated 07.03.2020, to no avail. Thus, neither shares were

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allotted, nor the money was repaid. Therefore, the Financial Creditor was constrained to file the instant application under Section 7 of the Code.

VII. Per contra, the main contention of the Corporate Debtor is that the Petitioner herein does not qualify to be a Financial Creditor under Section 5(8) of the Code as the amount disbursed by the Petitioner to the Corporate Debtor was not in the form of a financial facility or loan but in fact was share application money as a stakeholder in the company.

VIII. It is pertinent to note here that the Applicant herein does not deny that the money was advanced as a stakeholder but the Corporate Debtor's own conduct shows otherwise. The Balance Sheet of the Corporate Debtor as on 31.03.2018 does not show any amount as Share Application Money, rather the amount outstanding against the name of the proprietary concern of the Applicant, Gayatri Minerals is shown under 'Other Current Liabilities' as a debt, which is an acknowledgement of the fact that neither shares were allotted nor the money was repaid back to the Financial Creditor/ Investor. The legal remedy in such a situation is provided in Section 42 of the Companies Act, 2013. Therefore, the following issues are required to be decided in this case.

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i. Whether share application money can be treated as Financial Debt in the event of non-allotment of shares and where such an amount will qualify as a Financial Debt as defined under Section 5(8) of the Code?

ii. Whether statutory accrual of interest under Section 42(6) of the Companies Act, 2013 as claimed by the Applicant herein be treated as consideration for time value of money so as to qualify within the definition of Financial Debt as defined under Section 5(8) of the Code?

IX. It is pertinent to note here that similar questions were considered and decided by the Hon'ble NCLAT in the case of **Mr. Kushan Mitra vs. Mr. Amit Goel and another in Company Appeal (AT) (INSOLVENCY) No.128 of 2021** wherein the Hon'ble NCLAT after considering the relevant provisions of the Code as well as the relevant rules under the Companies Act have decided as under:

"18. To understand the nature of transaction involving a Share Application Money it is necessary to see how Section 42(6) of the Act and the Companies (Acceptance of Deposits) Rules, 2014 treat the Share Application Money. The relevant parts of the Act and the Deposit Rules have been reproduced in Paragraphs 12 to 15 above. It is clear from the reading of Section 42 of the Companies Act, 2013 and the Deposit Rules that if the Shares are not allotted within 60 days of receiving the Share Application Money, and if the refund does not take place within 15 days form the expiry of 60 days' time

-Sd/-

limit, then this amount will be treated as a 'Deposit', advanced to the Company, which has to be returned by the Company at the rate of 12 percent per annum from the expiry of the 60th day. Thus the concerned person would get compensation for the time value of money given by him to the Company which changes the nature and character of the money so given. Although the amount was initially paid towards Shares, since the allotment was revoked, the equity did not materialise. Thereafter, by operation of law, Section 42(6) of the Companies Act, 2013, the amount has statutorily been given the character of loan with interest. Same is the case of amounts paid as optionally convertible debentures. They may initially be seen as Debt and later, upon conversion the same amount becomes equity. Hence, when under law, the amount has been treated as a loan, we hold that refund of Share Application Money, in the event of non-allotment of shares attracts interest as provided for under Section 42(6) of the Act and therefore qualifies the essential ingredients of Section 5(8) of the Code in terms of consideration paid for time value of money and therefore falls within definition of the ambit of 'Financial Debt' as defined under Section 5(8) of the Code. Therefore, we hold that the Debt is a 'Financial Debt' and hence we are of the considered view that the ratio of "Radha Exports India Private Limited" (supra) and "Sesa Goa Limited and Ors. (Supra) is not applicable to the facts of this case. Further, a three Judge Bench of this Tribunal in Uniexcel Developers Pvt. Ltd. Vs. Uniexcel Ltd., Company Appeal (AT) Ins. No. 962 of 2019 has concurred with the finding of the Adjudicating Authority and held that in case of non-refund of Share Application Money within 60 days of receipt of the money, the money will be treated as Deposit and would change its character to fall within the definition of 'Financial Debt.”

X. In view of the guidance available as above in the Judgement by Hon’ble NCLAT supra, it is our considered view that the share application money remaining unpaid by the Corporate Debtor to the Financial Creditor due to non-allotment of shares will be treated as a Financial Debt. More so, because such outstanding amount shall also attract interest under Section 42(6) of the Companies Act, 2013 and therefore shall fall within the ambit of definition of Financial Debt as provided under

-Sd/-

Section 5(8) of the Code. Therefore, both the questions (i) & (ii) as framed in Para VIII supra are answered in the affirmative and contention of the Corporate Debtor are overruled as untenable.

XI. After hearing both sides and perusing the records, we are of the view that in the instant case there is a Financial debt and there has been a default in repayment of the same and that this Adjudicating Authority is satisfied that the Financial Creditor has proved its case by placing evidence that default has occurred for which the Corporate Debtor was liable to pay. Hence, the contentions of the Corporate Debtor are overruled.

XII. Further, the Financial Creditor has fulfilled all the stipulations as required under the provisions of the IBC, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, having satisfied with the submissions made by the Petitioner/Financial Creditor, this Adjudicating Authority is inclined to admit the instant Application.

XIII. Accordingly, the instant application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process (CIRP) which shall ordinarily be completed within the timelines stipulated in the IBC, 2016 (as amended), reckoning from the day of this order is passed.

-Sd/-

XIV. The Financial Creditor proposed the name of Mr. T.Adinarayana as Interim Resolution Professional and he has given his consent in Form-2. As per the Insolvency and Bankruptcy Board of India (IBBI) website, Mr. T. Adinarayana's Authorisation for Assignment is valid upto 22.12.2022. Accordingly, this Tribunal appoints Mr. T. Adinarayana, having Registration No. IBBI/IPA-001/IP-P01244/2018-19/11995, e-mail: t.adinarayana@yahoo.com as Interim Resolution Professional. He is directed to file Authorization for Assignment within three days from the date of this Order.

XV. The IRP is directed to take charge of the Respondent/Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15 of the IB Code, 2016 within three days from the date the copy of this order is received, and call for submission of claim in the manner as prescribed.

XVI. We direct the Financial Creditor/Petitioner to pay sum of Rs.2,00,000/- towards the advance fee of IRP and expenses towards CIRP, which shall be ratified later on by CoC.

- Sd/-

XVII. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP. For the purposes referred to in section 14 of the IB Code, 2016. It is hereby ordered to prohibit all of the following namely:-

i. *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 or law, tribunal arbitration panel or other authority;*

ii. *Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal rights or beneficial interest therein;*

iii. *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 Operational Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);*

iv. *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. *Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit,*

-Sd/-

registration, quota, concessions, clearances or a similar grant or right during the moratorium period.

XVIII. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP considers supply of any goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any operational sector regulator or any other authority.

XIX. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the management of Corporate Debtor are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.

-Sd/-

XX. The Petitioner/Financial Creditor as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

XXI. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.

XXII. The Registry shall also communicate this Order to the ROC, Hyderabad for updating the status of the Corporate Debtor in the MCA website.

XXIII. Accordingly, this Petition **CP(IB) No.186/7/HDB/2020** is admitted.

-Sd/-

DR. BINOD KUMAR SINHA
MEMBER (TECHNICAL)

-Sd/-

BHASKARA PANTULA MOHAN
MEMBER (JUDICIAL)

Syamala