

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**DIVISION BENCH, DELHI**  
**BENCH III**

**IB-1514/ND/2019** Under Section 7 of  
the Insolvency and Bankruptcy Code,  
2016 r/w Rule 4 of the Insolvency and  
Bankruptcy (Application to  
Adjudicating Authority) Rules, 2016

*In the matter of **Sunshine Infrabuild Corporation Limited***

**Mr. Rupesh Kumar Sahu & Ors.**

....Financial Creditors

Versus

**M/s. Sunshine Infrabuild Corporation Limited.**

....Corporate Debtor

Order delivered on 17<sup>th</sup> December, 2019

CORAM:

Dr. P.S.N PRASAD (JUDICIAL)  
K.K. VOHRA, MEMBER (TECHNICAL)

*For the Operational Creditor: Mr. Rishi Kumar Singhal, Advocate*  
*For the Corporate Debtor: Ex-Parte*

**ORDER**

Per: Dr. P.S.N PRASAD, JUDICIAL MEMBER

1. The Ld. Counsel for the Financial Creditors is present. There is no representation on behalf of the Corporate Debtor. As seen from order dated 02.09.2019, the Corporate Debtor was proceeded ex parte and the Financial Creditor has complied with the order dated 14.10.2019.

2. Under adjudication is an application bearing No., 1514/ND/2019 filed under section 7 of the Insolvency & Bankruptcy Code, 2016 (IBC, 2016). The Financial Creditors have jointly filed the present application seeking an order to initiate Corporate Insolvency Resolution Process ('CIRP') against the

Corporate Debtor viz., 'Sunshine Infrabuild Corporation Limited', declare moratorium and appoint Interim Resolution Professional ('IRP'). The Financial Creditors have claimed an amount of Rs. 51,02,400/- as outstanding against the Corporate Debtor.

3. Heard the Ld. Counsels for the Financial Creditors ('FCs'), the Corporate Debtor ('CD') and perused the pleadings alongwith the documents placed on the case file.

4. It is stated that the FCs had invested in the Unsecured Redeemable Debentures, Secured Redeemable Non-Convertible Debentures (Debenture Certificates) and Partly Paid Optionally Convertible Unsecured Debentures (Deposit Certificates) issued by the CD during the financial year 2010-11 onwards.

5. On enquiry, the Security Exchange Board Of India (SEBI), found that *prima facie*, CD violated the provisions of Security Exchange Board Of India Act, 1992 (SEBI Act), SEBI (Issue and Listing of Debt Securities) Regulations, 2008, The Companies Act, 1956, while issuing and Offering Debentures and collected Rs. 26,62,81,300/-. The SEBI considered in detail the matter and by its interim Order dated 01.04.2015 passed an ex-parte Order, with a direction to the CD, its Directors and HR Trustee Company Private Limited (Debenture Trustee). Further, the SEBI on 04.09.2015 directed the CD under Section 19, r/w 11(1), 11(4), 11(A), and 11(B) of the SEBI Act to refund the money collected through issuance of various types of Debentures including the money collected from the investors with an interest @15% Per Annum compounded half yearly from the date when the repayments became due in terms of Section 73 (2) of the Companies Act 1956 till the date of actual payment. The CD and its directors did not comply with the said order even after a lapse of 3 years therefore, SEBI, Mumbai, vide its order dated 28.08.2018 (Adjudication Order) imposed a penalty under Sections 15 HB, 15J, 15 I (SEBI Act) of Rs. 1,00,00,000/- on the CD and its Directors.

6. It is further submitted by the Ld. Counsel for the OC that the CD has failed to refund the amount as ordered by the SEBI and has not remitted the penalty amount in compliance of the Order dated 28.08.2018.

7. The OC has placed on record the copy of Debenture Certificates and the Deposit Certificates, which are placed at pages 46 to 165 of the typed set filed with the Application. Besides the above, the Orders dated 04.09.2015 and 28.08.2018 are placed on record.

8. Having considered the facts and circumstances and the material available on record, the Application filed by the FCs is complete in all respect. This authority is satisfied that an amount of Rs. 51,02,400/- is due and payable by the CD to the OC, which it failed to pay. The OC has fulfilled all the requirements of law for admission of the Application. Therefore, the Application is **admitted** and the commencement of the CIRP is ordered, which ordinarily shall be completed within 180 days, reckoning from the day this order is passed.

9. The moratorium is 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 IBC, 2016. It is ordered to prohibit all of the following, namely:-

- (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 Securitisation 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.

10. The supply of essential goods or services of the CD shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

11. Mr. Pawan Kumar Goyal is hereby appointed as IRP, as has been proposed by the OC. There is no disciplinary proceeding pending against the IRP as is evidenced from Form-2. The IRP is directed to take charge of the CD's management immediately. The IRP is also directed to cause public announcement as prescribed under Section 15 of IBC, 2016 within three days from the date the copy of this Order is received, and call for submissions of claim by the creditors in the manner as prescribed.

11. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The Directors of the CD, its Promoters or any person associated with the management of the CD are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19 for the purpose of discharging his functions under Section 20 of the IBC, 2016.

12. The OC and the Registry are directed to send the copy of this Order to IRP with immediate effect, so that he could take charge of the CD's assets etc.,



and make compliance with this Order as per the provisions of IBC, 2016. The e-mail and other details of the IRP are as follows: -

Mr. Pawan Kumar Goyal

Registration No.: IBBI/IPA-001/IP-P00875/2017-18/11473  
Address: 304, D R Chamber, 12/56, D. B. Gupta Road,  
Karol Bagh, New Delhi -110005  
E-mail Id: ca.pawangoyal@gmail.com

12. The Registry is also directed to communicate this Order to the OC, the CD, IRP and the concerned RoC.

13. There is no order as to cost. The Order is pronounced in the open court.

S=d-

**(K.K. VOHRA)**  
MEMBER (TECHNICAL)


S=d-

**(DR. P.S.N PRASAD)**  
MEMBER (JUDICIAL)

U.D.Mehta/V

Note:

Pronounced today in court in pursuance of power under Rule 151 of NCLT Rules 2016 as Hon'ble Member (Judicial) Dr. P.S.N. Prasad is not holding Court today

  
(MADHU NARULA)  
COURT OFFICER