

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

C.P. (I.B) No. 80/KB/2021

In the matter of:

An Application under section 10 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations 2016.

And

In the matter of:

Mallick Projects Private Limited
(CIN: U70109WB2009PTC139752)

Having its registered office at: -
Shrutineer Apartment, First Floor
23/2/1/1, Bhagaban Chatterjee Lane
Howrah-711101, West Bengal

...Corporate Applicant

Coram:

Shri Rajasekhar V.K. : Member (Judicial)
Shri Harish Chander Suri : Member (Technical)

Date of hearing: 05.08.2021
Order pronounced on: 25.11.2021

Appearances (through video conference)

For Corporate Applicant : Ms. Aparajita Rao, Advocate
Mr. Sanwal Tibrewal, Advocate

ORDER

Per: Rajasekhar V.K., Member (Judicial)

1. This Court convened through video conference today.
2. The present Application has been filed by Mallick Projects Private Limited, CIN: U70109WB2009PTC139752, the Corporate Applicant, under section 10 of the Insolvency and Bankruptcy Code, 2016 (the Code) for initiation of Corporate Insolvency Resolution Process (CIRP) against itself. The Application has been filed through its Director Mr.

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Ayan Mallick, DIN: 02143809, duly authorised *vide* Board Resolution dated 30.01.2021. A copy of the Board Resolution dated 30.01.2021 is annexed to the Application and marked as **Annexure-B** on **Pages 36-38**.

3. The Corporate Applicant was incorporated on 26.11.2009 and it was involved in the business of builders, promoters and developers of land, buildings, buildings sites, etc.
4. The reasons for applying for initiation of the CIRP by the Corporate Applicant are as follows: -
 - 4.1. The Corporate Applicant is now saddled with dead and unsaleable stock, further the investment of the Corporate Applicant in A. K. Power Industries Private Limited amounting to Rs.24.45Crore has been rendered as Nil as A. K. Power Industries Private Limited was in Corporate Resolution Insolvency Process and is now in liquidation.
 - 4.2. The Corporate Debtor is not able to repay the debt taken from the Financial Creditors and the demand raised by the Income Tax Department for the assessment years 2011-12 and 2012-13.
5. The members of the Corporate Applicant have given their consent by way of a resolution passed in the Extra Ordinary General Meeting held on 30.01.2021 to file the application under section 10 of the Code. A copy of the Resolution dated 30.01.2021 is annexed to the Application and marked as **Annexure-B** at **Pages 36 to 38**.
6. That Corporate Person has three Financial Creditors, Allied Retail India Pvt. Ltd., Gainwell Vyapaar Pvt. Ltd. and Madhurashi Shoppers Pvt. Ltd. and three Operational Creditors *viz.* Income Tax Department, Somnath Sengupta and Mallick Infracon Pvt. Ltd.. Copies of the

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demand notice for the period for the assessment years 2011-12 and 2012-13 is annexed to the Application and marked as **in Pages 62 to 65.**

7. In support of its Application, the Corporate Applicant has submitted, *inter alia*, the following documents: -
 - (a) Memorandum and Articles of Association of the Corporate Applicant.
 - (b) Financial statements of the Corporate Debtor for the Financial Year being 2019-2020 and provisional Financial Statement for the Financial Year December, 2020.
 - (c) List of operational creditors and statutory liability.
8. The Corporate Applicant has submitted the name of Mr. Neeraj Kumar Agarwal to function as the Interim Resolution Professional (IRP). Mr. Neeraj Kumar Agarwal has submitted his written communication in Form 2. The written communication is annexed to the application and marked as **Annexure-C on Pages 39-42.**
9. We have heard the learned Counsel appearing for the Corporate Applicant and have perused the documents on record.
10. There is no dispute from any quarter towards the fact that the debt is due and payable by the Corporate Applicant to various creditors and that the Corporate Applicant is unable to pay the same.
11. The Corporate Applicant has furnished the books of accounts for the relevant period under section 10(3)(a); the Corporate Applicant has proposed the name of the IRP who has submitted its written consent (section 10(3)(b)); the Corporate Applicant has also Special resolution

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passed by shareholders in Extra-Ordinary General meeting dated 30.01.2021 under section 10(3)(c).

12. The application is free from defects and complete in all aspects as required under the law. The Application shows that the Corporate Debtor is in default of a debt that is due and payable, and the default is more than the threshold amount as stipulated under section 4(1) of the Code at the relevant time. The default stands established and there is no reason to deny the admission of the present Application.
13. Therefore, in the light of the facts stated in the application and the evidence placed on record, this Adjudicating Authority admits this Application and orders initiation of CIRP against the Corporate Debtor under the following terms: -
 - (a) The Application bearing C.P.(IB)No.80/KB/2021 filed by the Corporate Applicant under section 10 of the Insolvency & Bankruptcy Code, 2016, is hereby, admitted for initiating the Corporate Insolvency Resolution Process in respect of Mallick Projects Private Limited, CIN: U70109WB2009PTC139752.
 - (b) 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.
 - (c) The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016.
 - (d) As per the proposal given by the Corporate Applicant, Mr. Neeraj Kejriwal, having registration no. IBBI/IPA/-001/IP-P00392/2017-18/10710, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the

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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. The fee payable to IRP or, as the case may be, the RP 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.

- (e) During the CIRP period, the management of the Corporate Person shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Person 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.
- (f) 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.
- (g) The Corporate Applicant to pay to IRP a sum of Rs. 3,00,000/- (Rupees Three Lakh only) 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.
- (h) The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

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14. The Registry is hereby directed to communicate the Order to the Corporate Applicant, and the Interim Resolution Professional by Speed Post and e-mail.
15. **CP (IB) No. 80/KB/2021** to come up on 28.01.2022 for filing the periodical report.
16. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Harish Chander Suri
Member (Technical)

Rajasekhar V.K.
Member (Judicial)

25.11.2021

GGRB_LRA