

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

CP (IB) NO.255 /KB/2021

An Application under Section 10 of the Insolvency and Bankruptcy Code, 2016 read with rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

In the matter of

Panchshree Dealmax Private Limited, a company incorporated under the Companies Act, 1956 has its registered office at 63, Radha Bazar Street, 3rd floor, R.No 43, Kolkata-700001, West Bengal.

...Corporate Applicant

Coram:

Shri Rajasekhar V.K:

Member (Judicial)

Shri Balraj Joshi:

Member (Technical)

Appearances:

For the Corporate Applicant: Ms. Manju Bhuteria, Advocate

Ms. Sutapa Mitra, Advocate

Order reserved on: 24.05.2022

Order pronounced on: 07.06.2022

ORDER

Rajasekhar V.K, Member (Judicial)

1. This is a company petition filed under section 10 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiation of Corporate Insolvency Resolution Process [CIRP] in respect

of Panchshree Dealmax Private Limited (*Corporate Debtor*), being the Corporate Applicant itself.

2. The Corporate Applicant was incorporated on 06th February 2012 under the Companies Act, 1956 with the Registrar of Companies, West Bengal, Kolkata. Its Corporate Identity Number (CIN) is U51909WB2012PTC173589. Its registered office is situated at 63, Radha Bazar Street, 3rd floor, Room No. 43, Kolkata-700001, West Bengal., within the State of West Bengal. Therefore, this Bench has jurisdiction to deal with the petition.
3. Currently, the business corporate applicant is saddled with dead and unsaleable stock due to the financial market downturn and presently running in losses of Rs.4,43,15,511.92/- as on 31.03.2021 and has defaulted on its financial commitments to its operational creditors in view of the negative net worth, continued cash losses, and inability to meet the financial obligations. Therefore, the Board of Directors at their meeting held on 29.06.2021 decided to refer the Corporate Debtor for the Corporate Insolvency Resolution Process under Sec 10 of the code.
4. As the Corporate Debtor could not file its statutory filings before the Income Tax Department for the Financial Year 2012-2013, the office of Income Tax Officer, Ward-5(2), Kolkata issued notice for recovery of demand from time to time. The last such notice was issued on 30.01.2016 *vide* communication reference no. CPC/1415/G8/14272886756 and in response thereto the company filed an appeal before CIT (Appeals) on 29.04.2015. However, the Corporate Debtor is not in a financial position so as to pay the demand raised by the Income Tax department and the said demand has been recorded in the books of accounts of the corporate Debtor as due and payable.
5. The other debt pertains to the dues of the Auditor and the same was incurred for the years ended 31.03.2020 and 31.03.2021.

6. The following documents were cited by the petitioner in the petition and Supplementary Affidavit which are as follows:

- a. A copy of the Board Resolution dated 29th June 2021 authorizing Mr. Pratush Drolia, director of the company to file the petition. (Page 41-42 of the petition).
- b. Board Resolution dated 29th June 2021 wherein resolution was passed to convene AGM on 13th August 2021 to consider and approve the filing of an application under Section 10 of IBC. (Page 41 of the petition)
- c. Extract of the Minutes of AGM held on 13th August 2021 wherein Special Resolution was passed for proposed resolution for filing an application under Section 10 of IBC. (Page 43, Annexure-C of the petition)
- d. Names of Operational Creditors are given at page 12 of the petition.
- e. Consent of Interim Resolution Professional (IRP) in Form-2 with AFA is placed on Page 52-55, Annexure-D of the petition
- f. Copies of MGT 14 filed before the Registrar of Companies, Kolkata, West Bengal is placed on Page 136-139 of the petition.
- g. Copy of Audited Financial Statement i.e., balance sheet for the Financial Year 2018-19 and 2019-20 and 2020-21 is placed on Page 56- 121 of the petition.
- h. A copy of details of outstanding demand against the Corporate Applicant from the website of Income Tax. (Page 134-135 of the petition).
- i. A copy of the Assessment Order under section 263/143(3) of the Income Tax Act 1961 dated 25th March 2015 is on pages 122-129 of the petition.

- j. Notice of Demand vide communication no. I.T.O Wd-5(2)/Kol/AD/AAGCP427ON/2015-16/269 dated 2nd July 2015 issued by the office of the Income Tax Officer, Ward-5(2), Kolkata on page 130 of the petition.
 - k. Notice of Demand vide communication no. I.T.O Wd-5(2)/Arrear Demand/2015-16/985 dated 21st August 2015 issued by the office of the Income Tax Officer, Ward-5(2), Kolkata on page 131 of the petition.
7. According to the petition and Supplementary affidavit, the Company has two Operational creditors (Income Tax Department and Auditor). The Corporate Applicant has submitted information on operational creditors on page 12 and relevant annexure-K on pages 134-135 of the company Petition.
8. The Corporate Applicant has also appended notices of demand from its operational creditors to demonstrate the default and that the corporate applicant has not repaid the sum of Rs.4,22,95,825/- and Rs.17,700/- to the operational creditors. As a result, it is clear from these records that the Corporate Applicant is in default.
9. The Corporate Applicant has proposed **Mr. Pankaj Kumar Kedia** [IBBI Registration No. IBBI/IPA-001/IPP01037/2017-2018/11710] as the Interim Resolution Professional to carry out the functions enumerated in the Code. A copy of Form-2 and Form B being Authorisation for Assignment (AFA) as required in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016, is annexed to the petition on pages 52-55 marked with **Annexure-D**.
10. We have heard the arguments made on behalf of the Corporate Applicant and perused the petition and the supplementary affidavits and the supporting documents annexed to the petition and the supplementary affidavits.

11. We are of the view that the petition made by the Corporate Applicant is complete in all respect as required by law. It clearly shows that the Corporate Applicant is in default and there is no reason to deny admission of this petition. In view of this, the Adjudicating Authority admits the petition and orders initiation of CIRP against the Corporate Applicant. It is accordingly hereby ordered as follows:

- a) The Application bearing C.P.(IB) No. 255/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 **Panchshree Dealmark Private Limited** [CIN: U51909WB2012PTC173589].
- b) There shall be a moratorium under section 14 of the IBC.
- c) 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 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.
- d) 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.
- e) As per the proposal given by the Corporate Applicant, **Mr. Pankaj Kumar Kedia** [IBBI Registration No. IBBI/IPA-001/IPP01037/2017-2018/11710] having **email id.** pkkedia2@gmail.com is appointed as the IRP for ascertaining the particulars of Creditors and convening a Committee of Creditors for evolving a Resolution Plan.
- f) During the CIRP period, the management of the Corporate Applicant shall vest in the IRP or RP as the case may be, in terms of section 17 of the Code. 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.

- g) The IRP/RP shall submit to this Adjudicating Authority periodical reports on a quarterly basis with regard to the progress of the CIRP in respect of the Corporate Debtor.
- h) The Corporate Applicant to pay to IRP a sum of Rs.2,00,000/- (Rupees two lakh only) to meet initial costs, 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.
- i) 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.
- j) The Court Officer of this Court is hereby directed to communicate this Order to the Corporate Person 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.
- k) Additionally, the Corporate Person 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 Applicant. 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.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-I

Panchshree Dealmax Private Limited
C.P(IB)No.255/KB/2021

12. **CP (IB) No. 255/KB/2021** to come up on **27.07.2022** for filing the first progress report.
13. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**BALRAJ
JOSHI**

(Balraj Joshi)

Member (Technical)

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Date: 2022.06.07
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**Rajasekh
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(Rajasekhar V.K)

Member (Judicial)

Digitally signed by Rajasekhar V.K.
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cn=Rajasekhar V.K.
Date: 2022.06.07 16:59:11 +05'30'
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