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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. 1136/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. Calcutta Trading Centre**, having its registered office  
At 125, Netaji Subhas Road, 6<sup>th</sup> floor, Room No.73,  
Kolkata- 700 001;

... **Applicant/Operational Creditor**

-Versus-

**In the matter of:**

**M/s. Otto Projects Private Ltd.**, having its registered  
office at Calcutta Mansion, Flat No.4, 4, Bishop Lefroy  
Road, Kolkata- 700 020;  
CIN: U45309WB2004PTC100222;

... **Respondent/Corporate Debtor**

**Counsel appeared:**

1. Mr. Abhishek Sikdar, Advocate ] For Operational Creditor
2. Mr. Sumit Biswas, Advocate

**Date of Pronouncement of Order: 24.10.2019**

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## ORDER

**Per Shri M. B. Gosavi, Member(J):**

**M/s. Calcutta Trading Centre** - the Operational Creditor filed this application under section 9 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) against **M/s. Otto Projects Private Limited** – 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.4,80,680/-

2. The Operational Creditor stated that by various invoices in between 2013 to 2017, they sold and supplied certain goods to the corporate debtor. The goods sold and supplied was worth Rs.12,40,725/-. Out of that, corporate debtor paid sum of Rs.9,61,500/-. They did not pay balance sum of Rs.2,79,225/- and interest accrued thereon. Hence, on 10.03.2018, demand notice under section 8 of I&B Code was served on the corporate debtor but the corporate debtor did not reply the notice nor made the payment. Hence, this proceeding is filed to start CIRP of this proceeding but they did not appear in the matter. Hence, hearing of this application proceeded ex parte against them.

3. We heard the Ld. Counsel, Mr. Abhishek Sikdar for the operational creditor. We perused the records. The Operational Creditor has produced all invoices under which goods were sold and supplied to the corporate debtor. The Operational Creditor stated that amount of Rs.2,79,225/- is due and payable by the corporate debtor alongwith the interest therein. This submission of the operational creditor is unchallenged and we accept the same.

4. Operational Creditor produced on record demand notice dated 10.03.2018 (exhibit "G"). Postal track report is also produced on record (page 38). It shows



that demand notice was duly received by the corporate debtor. The corporate debtor did not reply the notice pointing out any dispute nor paid the debt as claimed by the operational creditor. Hence, we hold that corporate debtor is required to be admitted in CIRP.

5. The operational creditor did not suggest name of any resolution professional for appointment as IRP. We appoint the IRP from the list provided by the IBBI. Operational Creditor also filed an affidavit stating that it did not receive reply to demand notice pointing out any dispute by the corporate debtor. They did not receive any amount claimed and thereby complied the provisions of 9(3)(b) and 9(3)(c) of I&B Code. Since this application is defect-free, we admit the corporate debtor in CIRP by the following order:

### ORDER

- (i) The application filed by the Operational Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process in respect of Corporate Debtor, **M/s. Otto Projects Private Limited**. 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.

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(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.

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.

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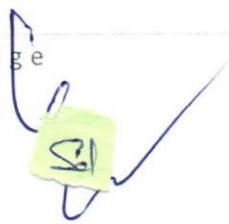
vii) Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Sec.31 or passes an order for liquidation of corporate debtor under Section 33, the moratorium shall cease to have effect 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 the Operational Creditor did not suggest any name for appointment as the IRP and they have left it open for the Tribunal to suggest, Shri Sankar Kumar Patnaik (Mob.9883075096) having registration no. IBBI/IPA-002/IP-N00232/2017-2018/10683 and email Id. [skpatnaikassociates@gmail.com](mailto:skpatnaikassociates@gmail.com) is appointed as the Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan. Proposed IRP has to submit written communication in Form-2, within two weeks from the date of his appointment as the IRP.

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 under section 9(5) of the I&B Code, 2016 to communicate the order to the Operational Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post and also by email.

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

List the matter on **13.12.2019** for filing progress report.

  
(Virendra Kumar Gupta)  
Member (T)

 24/10/2019  
(Madan B. Gosavi)  
Member (J)

*Signed on this, the 24<sup>th</sup> day of October, 2019.*