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**In the National Company Law Tribunal
Kolkata Bench
Kolkata**

**CORAM: Shri Madan B. Gosavi,
Member (Judicial)
&**

**Shri Virendra Kumar Gupta,
Member(Technical)**

CP(IB)No.720/KB/2019

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 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016;

-And-

In the Matter of:

Sailesh Goenka, having its office at AG-4, Sarat Sarani Hanapara, Opp-Basak, Sari, Kestopur, Prafulla Kanan, North 24 Paraganas, West Bengal-700101.

.....Operational Creditor

In the Matter of:

M/s Doviash Retail Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at NO 2, Transport Depot Road, Kolkata-700088, West Bengal, India.

..... Corporate Debtor

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Counsels appeared:

For Operational Creditor

1. Mr. Tapas Kumar Das, Advocate

For Corporate Debtor

1. Mr. Ritee Baheti, CS

Date of pronouncement of order: 11th December, 2019.

ORDER

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

1. **Mr. Sailesh Goenka** the Operational Creditor filed this application under Section 9 of Insolvency and Bankruptcy Code, 2016 against **M/s Doviaz Retail Limited**(Corporate Debtor) to start Corporate Insolvency Resolution Process (in short "CIRP") of the Corporate Debtor as the Corporate Debtor committed default in paying operational debt of Rs. 2,00,000/- (Rupees Two Lakh Only) payable towards professional charges.
2. Operational Creditor submitted that he wrote numbers of letters demanding payment but Corporate Debtor did not release the amount in its favour. Hence, on 29.01.2019, he sent the Corporate Debtor notice of demand under Section 8 of IBC, 2016. In spite of receipt of notice, Corporate Debtor did not pay the amount nor pointed out any pre existing dispute. Hence, this proceeding.
3. Corporate Debtor is served with the notice of this application. It appeared through one of its Directors Mr. Hulash Chand Jain. He

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admitted the debt and contended that the Corporate Debtor is unable to pay the same due to poor financial condition.

4. The Operational Creditor produced the invoice to show the existence of debt against the Corporate Debtor. It is not in dispute that the Corporate Debtor did not pay the debt. Corporate Debtor received notice under Section 8 IBC. Corporate Debtor admitted the default on its part to pay the debt. The Operational Creditor has complied with provisions of Section 9(3)(b) and 9(3)(c) of IBC, 2016. He did not propose name of Interim Resolution Professional and left matter for discretion to this Adjudicating Authority. This application is defect free. Hence, we admit the same by following orders.

ORDER

- i) The application filed by the Operational Creditor under section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, **M/s Doviuz Retail Limited** is hereby admitted.
- ii) We declare a moratorium and public announcement in accordance with Sections 13 and 15 of the IBC, 2016.
- iii) 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 Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

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- 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 Securitization and Reconstruction of Operational 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.

v) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.

vi) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any Operational sector regulator.

vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.

viii) 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 Section 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.



ix) Necessary public announcement as per Section 15 of the IBC, 2016 may be made.

x) Kaushik Dutta, having registration no. IBBI/IPA-001/IP-01621/2019-20/2543, contact no. 6290090747 email id. rpkd2019@gmail.com, is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.

xi) The Operational Creditor to pay sum of Rs. 50,000/- (Rupees Fifty Thousand Only) to IRP as advance fees as per Regulation 33(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 which shall be adjusted from final bill.


xii) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

xiii) Registry is hereby directed under section 9(5) of the I.B. Code, 2016 to communicate the order to the Operational Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.

List the matter on **20.01.2020** for the filing of the progress report.

Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.


(Virendra Kumar Gupta)
Member(T)


(Madan.B. Gosavi)
Member(J)

Signed on this, the 11th day of December, 2019.