



IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.303
C.P.(IB)/43(MP)2021

Proceedings under Section 10 IBC

IN THE MATTER OF:

Sri Sdev Natural Resources India Pvt Ltd

.....Applicant

Order delivered on 05/08/2022

Coram:

Madan B. Gosavi, Hon'ble Member(J)
Kaushalendra Kumar Singh Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER

The case is fixed for pronouncement of order.

The order is pronounced in open Court vide separate sheet.

-Sd-

**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

Braj Mohan

-Sd-

**MADAN B. GOSAVI
MEMBER (JUDICIAL)**



**BEFORE THE ADJUDICATING AUTHORITY
THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH**

(MP) CP(IB) 43 of 2021

[Application for initiation of Corporate Insolvency Resolution Process under Section 10 of the Insolvency & Bankruptcy Code, 2016]

In the Matter of:

M/s Sri Sdev Natural Resources India Private Limited

EW-100, Scheme No. 94,
Behind Medi Nova Centre,
Bengali Square, Indore-452016

Applicant

Order Reserved On: 02.06.2022

Order Pronounced On: 05.08.2022

**Coram: Hon'ble Madan B Gosavi, Member (J)
Hon'ble Kaushalendra Kumar Singh, Member (T)**

Present:

For the Applicant: Ld. Adv. Ms. Deepika Rathi

For the Respondent: Ld. Adv. Mr. Monaal Davawala

ORDER

1. The present application has been filed by the Applicant/ Corporate Debtor through its director Mr. Shubham Lohar, under Section 10 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "IB Code") read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority)



Rules, 2016 for initiation of Corporate Insolvency Process in respect to the applicant i.e., M/s. Sri Sdev Natural Resources India Private Limited.

2. The applicant is a private limited company incorporated on 01.01.2018, under the Companies Act, 1956 with the Registrar of Companies, Gwalior, having its registered office situated at EW-100, Scheme No. 94, Behind Medi Nova Centre, Bengali Square, Indore- 452016, CIN NO. U10209MP2018PTC044788, hence this Authority has jurisdiction to adjudicate the present application. The Applicant submitted that the authorised and paid-up share capital of the company is Rs.10,00,000/- and Rs.1,00,000/- respectively.

3. The submissions made by the applicant are as under:

(i) That there were two directors in the company Mr. Surendra Lohar and Mr. Shubham Lohar and that Mr. Surendra Lohar was the decision maker and solely carried out the business activities of the applicant company. Mr. Surendra Lohar borrowed advance from the creditors, to supply coal and return, however, due to pandemic covid-19 the business suffered huge losses and to recover those losses the said director took business loan from various banks. That Mr. Surendra Lohar died due to covid-19, thereafter, Mrs. Vidhya Lohar was appointed as a director, however, Mr. Shubham Lohar and Mrs. Vidhya Lohar has no idea of the business and the applicant company is unable to pay the loan



EMI and is also unable to supply the coal to the creditors from whom advance was received.

(ii) The Special Resolution passed in the Extraordinary General Meeting, dated 10th August, 2021 and the Board Resolution dated 22nd July, 2021, resolved and authorized director Mr. Shubham Lohar (DIN:08036593), to file an application under Insolvency & Bankruptcy Code, 2016 to initiate CIRP against the applicant before this Adjudicating Authority.

(iii) There are financial and operational debt amounting to Rs.1,35,83,510/- and Rs. 2,62,73,649/- respectively and advance received from customer amounting to Rs. 2,76,08,295/-. The amount and date of default is annexed to the application and is placed on record.

(iv) The company had no business operations after the year 2020 due to pandemic. The Applicant had taken various business loan from HDFC Bank, Bandhan Bank, Fullerton, etc. to recover their losses and now is unable to pay the instalment of such loan and interest, therefore the directors of the company filed the present application under Section 10 of the IB Code, 2016. The audited financial statements for the financial years 2018-19 and 2019-20, 2020-2021 are annexed to the application and placed on record.

(v) The company is unable to pay off its debts and has prayed for initiation of CIRP in respect of itself.



4. In the present application, the Applicant has proposed the name of Mr. Nishant Agrawal S/o Mr. Premchand Agrawal as an Interim Resolution Professional (IRP) having Reg. No. IBBI/IPA-001/IP-P02100/2020-21/13283. A copy of the written communication received from the proposed Interim Resolution Professional in Form-2, showing his willingness to agree on this assignment to act as IRP is annexed to the present application.

5. One of the Operational Creditor- Transcoal Impex Private Limited objected to the present application stating that;

(i) The Operational Creditor disputed debt is Rs.72,60,492/- and that as on 31st march 2020 the applicant was a profit-making company and on 31st march 2021 suddenly gets into huge losses. The alleged default appears to be a creation of fraud and siphoning off funds to its sister concern having same set of directors registered with ROC, Chennai being Sri Sdev Coal Private Limited which is fully operational.

6. We have heard the learned counsel for the applicant and for the operational creditor opposing the present application and perused the material on record. It appears that the applicant has defaulted in paying the debts borrowed from the financial and operational creditors. The principal object of the Insolvency and Bankruptcy Code is revival of the corporate debtor and to make it a going concern every attempt should be made to revive it with liquidation being the last resort.



7. The amount of default meets the threshold limit prescribed under the IB Code and is well within the limitation period to initiate the CIRP proceedings. As far as objection of the operational creditor regarding the amount of debt is concerned it will be quantified by the IRP. The application is defect free and hence we admit the present application and order as under:

(i) The M/s. Sri Sdev Natural Resources India Private Limited is admitted in Corporate Insolvency Resolution Process under Section 10 of the Insolvency and Bankruptcy Code, 2016.

(ii) The moratorium is declared for prohibiting all of the following in terms of Section 14(1) of the Code:

- (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;*



(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.

(iii) The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

(iv) We hereby appoint Mr. Nishant Agrawal, having Reg. No. IBBI/IPA-001/IP-P02100/2020-21/13283, address: 405, Amar Residency, Survey No. 1264/1/2, Near Mayur Hospital, Eastern Ring Road, Indore-452016 nishantagrwalca@gmail.com to act as Interim Resolution Professional, who shall take necessary steps as envisaged under Sections 15, 17 and 18 of IBC, 2016. The IRP is further directed to convene the first meeting of COC within 30 days from the date of his appointment and to submit his report within the said period. The Board of the Corporate Debtor shall stand suspended in terms of section 17 of IBC, 2016.

(v) Registry is directed to communicate a copy of this order to the Applicant at its registered address as well as to the Interim Resolution Professional and the Registrar of Companies, Gwalior, after the completion of necessary formalities.



(vi) No order as to costs.

8. Accordingly, the present (MP) CP(IB) 43 of 2021 is admitted.

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**KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)**

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**MADAN B GOSAVI
MEMBER (JUDICIAL)**

Surbhi /LRA