IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH – I, CHENNAI

CP/IB/87(CHE)/2021

(Filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the matter of ***KN Interior Designs and Engineering Private Limited***

KN Interior Designs and Engineering Private Limited
New No.41, Old No.17,
16th Avenue, Ashok Nagar,
Chennai- 600001

... Corporate Applicant

Order Pronounced on 3rd December 2021

CORAM:

R. SUCHARITHA, MEMBER (JUDICIAL)
SAMEER KAKAR, MEMBER (TECHNICAL)

For Corporate Applicant : M. Uma Shankar, Advocate

ORDER

Per: SAMEER KAKAR, MEMBER (TECHNICAL)

Under Consideration is an Insolvency & Bankruptcy Application filed u/s 10 of the Insolvency & Bankruptcy Code, 2016 ("**the Code**") by one **KN Interior Designs and Engineering Private Limited** (in short, **"the Corporate Applicant"**) for initiation of Corporate Insolvency Resolution Process (CIRP) under Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, **'I&B Rules 2016'**), following a default in meeting the financial obligations to its Financial

Creditors (Secured/Unsecured Creditors) and Operational Creditors and other Creditors as shown in the Company Petition filed in Form-VI.

2. From Part-I of the application, it is seen that the Corporate Applicant is a Private Limited company incorporated on 21.04.2009bearing CIN: U70102TN2009PTC071383 and the Registered Office of the Corporate Applicant as per the application is stated to be situated at New No.41, Old No.17, 16th Avenue, Ashok Nagar, Chennai-600083.

3. From Part-II of the application, it is seen that the Operational Creditor has proposed one Mr. Viswanathan Rajagopalan as the IRP and has also filed his written consent in Form-2.

4. From Part-III of the application, which discloses the details of the total amount of default of Rs.8,21,93,378 as on 25.03.2021.The list of documents to prove the existence of debt as follows:

a) Sanction Letter with Annexures from Bank of India dated 06.06.2020
b) Hypothecation and Loan Agreement with Annexures from Bank of India dated 06.06.2020
c) Loan Sanction Letter from Unsecured Financial Creditors
d) Details of outstanding to Operational Creditors

5. In compliance of Annexure-III, this Corporate Applicant has filed written communication dated 31.03.2021given by the Insolvency Professional as contemplated in Form-2 of the IBC, 2016. Also, the Applicant has filed audited financial statements for the year ended 2019-2020 and auditors' provisional financial statement for the period 01.04.2020 to 20.03.2021 reflecting the default of payment to the Financial Creditor.

6. The Applicant Company has also placed on record that the Company had passed a Board resolution on 20.03.2021 for initiating a Corporate Insolvency Resolution process under Section 10 of the Code. Apart from this, the Corporate Applicant filed a Shareholder Resolution which has been passed on 22.03.2021for the consent to initiate the CIRP Process of the Company

7. From the documents filed along with the type set of document, more particularly the balance sheet records that the Corporate Debtor has committed default in repayment of amount to certain Financial Institutions. Further, it is pertinent to note here that the default arising out of the present Application has occurred much prior to the advent of Covid – 19 and as such it shall not attract Section 10A of IBC, 2016 and

also the default amount exceeds the minimum threshold limit of Rs.1 Crore.

8. In view of the same, we are of the view that this Company application is required to be admitted u/s 10 of the Code.

9. The Corporate Applicant has proposed the name of **Mr. Viswanathan Rajagopalan having Registration No. IBBI/IPA-003/ICAI-N-00275/2020-2021/13069** as the Interim Resolution Professional (IRP) who has also filed his written consent in Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 which is placed at page 16 to 17 of the typed set filed along with the Application. The proposed IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

10. As a consequence of the Application being admitted in terms of Section 10 of the Code, moratorium as envisaged under provisions of

Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent in respect of its property including any action under the Securitization 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 respondent.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

11. However during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and mange the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to

(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;

(b) a surety in a contract of guarantee to a corporate debtor.

12. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

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.

13. Based on the above terms, the Petition stands **admitted** in terms of Section 10 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned

-Sd-
SAMEER KAKAR
MEMBER (TECHNICAL)

-Sd-
R. SUCHARITHA
MEMBER (JUDICIAL)

Sriram Ananth.V