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

IBA/839/2020

*(filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 r/w
Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating
Authority) Rules, 2016)*

*In the matter of **M/s. Fourpol Electricals Private Limited***

Srestha Finvest Limited

No.35/1, Muthu Krishnan Street,
Kondithope,
Chennai – 600 079

...Financial Creditor

-Vs-

M/s. Fourpol Electricals Private Limited

Old No.9/2, New No.30,
Vathiyar Kandan Street,
Choolai,
Chennai – 600 112

...Corporate Debtor

Order Pronounced on 4th October 2021

CORAM :

R. SUCHARITHA, MEMBER (JUDICIAL)
ANIL KUMAR B, MEMBER (TECHNICAL)

*For Financial Creditor : Salai Varun Azhagan, Advocate
Jerin Asher Sojan, Advocate*

For Corporate Debtor : None appeared

ORDER

Per: ANIL KUMAR B, MEMBER (TECHNICAL)

Under adjudication, is an Application filed under Section 7 of
Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as

"IBC, 2016) by **Srestha Finvest Limited** (*hereinafter referred to as "Financial Creditor"*) seeking initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor, namely viz. **M/s. Fourpol Electricals Private Limited**

2. From Part-I of the Application it is seen that the Financial Creditor is a Limited Company incorporated under the provisions of the Companies Act, 1956. Part – II of the Application discloses the details in relation to the Corporate Debtor, from which, it is evident that the Corporate Debtor is a Private Limited company incorporated on 06.07.2011 and the Registered office address of the Corporate Debtor as per the Application is stated to be situated at Old No.9/2, New No.30, Vathiyar Kandan Street, Cholai, Chennai – 600 112. Part – III of the Application discloses the fact that the Applicant has proposed the name of one Mrs. Aneetha Subramaniam, as the Insolvency Resolution Professional (IRP).

3. Part – IV of the Application discloses the details of the 'Financial debt' and it is seen that the Financial Creditor has claimed a total outstanding amount of Rs.34,25,312/- which is due and payable by the Corporate Debtor. Part – V of the Application discloses the list of documents which has been filed by the



Financial Creditor in order to prove its 'financial debt' and the same are as follows;

- a. *Copy of the Loan Agreement dated 10.05.2016 between Financial Creditor and the Corporate Debtor*
- b. *Copy of the Demand Promissory Note on 10.05.2016.*
- c. *Correspondence between the Financial Creditor and the Corporate Debtor admitting the dues*
- d. *Copy of the confirmation of accounts by the Corporate Debtor admitting the outstanding due of the Loan advanced along with interest to the tune of Rs.27,87,812/- for the year ended 31.03.2018.*
- e. *Copy of the confirmation of accounts by the Corporate Debtor as on March 2019 admitting a due of Rs.31,62,812/- (including interest) towards the Financial Creditor.*
- f. *Copy of the Ledger Account of the Corporate Debtor kept with the Financial Creditor.*

4. The Learned Counsel for the Financial Creditor submitted that the Corporate Debtor in the year 2015 approached the Financial Creditor for financial support to provide working capital for the Corporate Debtor and accordingly both the parties have entered into a Loan Agreement on 10.05.2016 to the tune of Rs.25,00,000/- (Rupees Twenty Five Lakh only) for a period of 3 years and also the Corporate Debtor in order to secure the said loan had executed a Demand Promissory Note on 10.05.2016 to the tune of Rs.20,00,000/- and Rs.5,00,000/-. It was submitted by the Learned Counsel for the Financial Creditor that the Corporate

Debtor had been making interest payment to the Financial Creditor upto 30.06.2017 and as such the Corporate Debtor had paid a sum of Rs.3,62,812/- towards interest . Thereafter, it was submitted that the Corporate Debtor had defaulted in payment of the interest amount and on 19.10.2019 the Financial Creditor had received a payment of Rs.50,000/- from the Corporate Debtor.

5. The Learned Counsel for the Financial Creditor submitted that the Corporate Debtor had signed the confirmation of accounts admitting the outstanding due of the loan amount along with interest to the tune of Rs.27,87,812/- for the year ended 31.03.2018 and similarly has also given an acknowledgment in the month of March 2019 for a sum of Rs.31,62,812/-. Thus, it was submitted that the amount payable by the Corporate Debtor to the Financial Creditor as on 31.01.2020 aggregates to a sum of 34,25,312/- and since the Corporate Debtor has defaulted in repayment of such 'financial debt' to the Financial Creditor, the Applicant prays for initiation of Corporate Insolvency Resolution Process as against the Corporate Debtor.

6. In relation to the Corporate Debtor, it is seen from the records that since inception, there was no representation on behalf of the Corporate Debtor and this Tribunal vide its order 10.03.2021



ordered notice to the Respondent and in compliance with the said order, it is seen that the Financial Creditor has filed an Affidavit of service before this Tribunal on 29.03.2021, from which it is seen that the notice has been served to the Registered office address of the Corporate Debtor and the same has been delivered to the Corporate Debtor on 20.03.2021. In spite of notice being served, there was no representation on behalf of the Corporate Debtor. Hence, we are constrained to proceed with the matter in the absence of the Corporate Debtor.

7. From the submissions made by the Learned Counsel for the Financial Creditor, it is seen that the Financial Creditor has entered into a loan agreement with the Corporate Debtor on 10.05.2016 in and by which a sum of Rs.25,00,000/- was disbursed to the Corporate Debtor. Further, the Corporate Debtor has also executed a Promissory note in favour of the Financial Creditor for a sum of Rs.25,00,000/- and also the Financial Creditor has given a balance confirmation to the Corporate Debtor on 01.04.2018 and on 01.04.2019. Under the circumstances, this Tribunal is left with no other option than to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor.



8. Further in relation to the pecuniary jurisdiction which was enhanced from Rs.1 lakh to Rs. 1 crore on and from 24.03.2020, it is seen the present Application was filed before this Tribunal on 17.03.2020 and as such this Tribunal has got pecuniary jurisdiction to entertain the present Application.

9. The Financial Creditor has proposed the name of **MRS. ANEETHA SUBRAMANIAM**, with Reg. No. *IBBI/IPA-001/IP-P00376/2017-18/10633* (email id:- *aneethaca@gmail.com*) 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. 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 7 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 manage 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 7 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Financial Creditor as well as 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-
(ANIL KUMAR B)
MEMBER (TECHNICAL)

-sd-
(R. SUCHARITHA)
MEMBER (JUDICIAL)

Raymond