IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA

C.P. (I.B) No. 34/KB/2022

In the matter of:

An Application under section 10 of the Insolvency and Bankruptcy Code, 2016 read with rule 7 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons), Regulations 2016.

And

In the matter of:

Rudraksh Dealcom Private Limited
(CIN : U51109WB2008PTC122189)
Having its registered office at: -
1D, Canal Road, 2nd Floor, Kolkata
700053, West Bengal, India

...Corporate Applicant

Coram:

Shri Rohit Kapoor	:	Member (Judicial)
Shri Harish Chander Suri	:	Member (Technical)

Date of hearing: 17/05/2022

Order pronounced on: 11/07/2022

Appearances (through video conference)

For Corporate Applicant	:	Mr. Soorjya Ganguli, Adv.
		Ms. Kiran Sharma, Adv.

ORDER

Per: Harish Chander Suri, Member (Technical)

1. This Court convened through video conference today.

2. The present Petition has been filed by Rudraksh Dealcom Private Limited, CIN: U51109WB2008PTC122189, the Corporate Applicant, under section 10 of the Insolvency and Bankruptcy Code, 2016 (in short "**the Code**") for initiation of Corporate Insolvency Resolution Process (CIRP) against itself. The Application has been filed through its Director Mr. Sanjay Kapri, DIN: 09304159, duly authorised *vide* Board Resolution[1] dated 16/09/2021.

3. The Corporate Applicant was incorporated on 29/01/2008 under the Companies Act, 1956. The main objects of the Corporate Applicant are to carry on the business of trading, buying, selling, marketing, etc., and more fully described in the Memorandum of Association[2] annexed to the petition.

4. The reasons for applying for initiation of the CIRP by the Corporate Applicant are as follows: -

   4.1 In F.Y. 2014-15, the net worth of the Corporate Applicant had eroded. The financial statements of the Corporate Applicant were not prepared on a going concern basis. The assets have been stated at the lower of their historic cost and estimated net relisable values, and the liabilities have been stated at the values at which they are expected to be discharged.

   4.2. Despite the relentless efforts, with continued support from all stakeholders, especially the Promoters, the Corporate Applicant could not perform and achieve its planned turnover, due to changes in external and internal environment, and continued sub-optimal performance in view of COVID-19 pandemic and its after effects.

[1] Annexure "B" at page 37 of the petition
[2] Annexure "A" at pages 17 to 36 of the petition

4.3. The total debt owed to the

i. Financial Creditors is Rs.5,00,000/- (Rupees Five Lakh only);

ii. Operational Creditors is Rs.2,64,51,390/- (Rupees Two Crore Sixty-Four Lakh Forty-Three Thousand Three Hundred Ninety only) as on 20.10.2021.

5. The members of the Corporate Applicant have given their consent by way of a resolution[3] passed in the Extra Ordinary General Meeting held on 17.09.2021 to file the present application under section 10 of the Code.

6. The Corporate Person has one Financial Creditor[4], *viz.,* Bela Properties Pvt. Ltd. and two Operational Creditors[5], *viz.,* (1) Prerana Surana Jaiswal and Associates and (2) Income Tax Dept.

7. In support of its Application, the Corporate Applicant has submitted, *inter alia*, the following documents: -

(a) Memorandum and Articles of Association of the Corporate Applicant.

(b) Financial statements (Trial Balance) of the Corporate Applicant for the two Financial Years being 2020-2021[6] (1-Apr-2020 to 31-Mar-2021) and 2021-2022[7] (1-Apr-2021 to 20-Oct-2021) and Statement of Affairs[8] as on 20.10.2021.

(c) Copies of audited Financial Statements[9] for the last two financial years of the Corporate Debtor along with a copy of the provisional financial statements for the current financial

[3] Annexure "C" at pages 39 to 44 of the petition
[4] Annexure "E" at page 49 of the petition
[5] Annexure "F" at page 50 of the petition
[6] Annexure "J" at page 87 of the petition
[7] Annexure "J" at page 88 of the petition
[8] Annexure "L" at pages 90 to 94 of the petition
[9] Annexure "M" at pages 95 to 127 of the petition

year made upto a date not earlier than fourteen days from the date of the application, i.e., period starting from April 1, 2021 till October 20, 2021.

(d) Detail List of Financial Creditor and Operational Creditors with statutory liability.

(e) Details of proceedings instituted against the Corporate Debtor with regard to non-payment of dues towards Income Tax Authorities, along with the notices received by the Corporate Debtor.

(f) A copy of the bank statement[10] of the Corporate Applicant for a period starting from April 1, 2019 till November 20, 2021.

(g) A copy of the Certificate No. 238566980030221[11] generated by filing an application under sub-section (1) of section 5 of the Direct Tax Vivad Se Vishwas Act, 2020 (3 of 2020) the Direct Tax Vivad Se Vishwas Rules, 2020 before the Income Tax Authorities.

8. The Corporate Applicant has proposed the name of **Mr. Neeraj Jain** (Regn. No. IBBI/IPA-001/IP-P01067/2017-2018/11758) C/o. M C. Bhandari & Co., Chartered Accountants 4, Synagogue Street, Suite 205, 2nd floor, Facing Brabourne Road, Kolkata 700001 having to function as the Interim Resolution Professional (IRP). **Mr. Neeraj Jain** has submitted his written communication[12] in Form 2.

9. *Vide* order dated 29/03/2022 direction was given for advertisement and in compliance thereof the Corporate Applicant has duly filed an affidavit of compliance dated 29/06/2022.

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[10] Annexure "K" at 89 of the petition
[11] Annexure "G" at pages 51 to 52 of the petition
[12] Annexure "D" at page 45 of the petition

10. We have heard the learned Counsel appearing for the Corporate Applicant and have perused the documents on record.

11. There is no dispute from any quarter that the debt is due and payable by the Corporate Applicant to various creditors and that the Corporate Applicant is unable to pay the same.

12. The Corporate Applicant has furnished the books of accounts for the relevant period under section 10(3)(a); the Corporate Applicant has proposed the name of the IRP who has submitted its written consent (section 10(3)(b)); the Corporate Applicant has also filed the Special Resolution passed by shareholders in Extra Ordinary General Meeting dated 17.09.2021 under section 10(3)(c).

13. The Petition is free from defects and complete in all aspects as required under the law. The Petition shows that the Corporate Applicant is in default of a debt that is due and payable, and the default is more than the threshold amount as stipulated under section 4(1) of the Code at the relevant time. The default stands established and there is no reason to deny the admission of the present Petition.

14. Therefore, in the light of the facts stated in the application and the evidence placed on record, this Adjudicating Authority admits this Application and orders initiation of CIRP against the Corporate Debtor under the following terms: -

    (a) The Application bearing C.P.(IB) No. 34/KB/2022 filed by the Corporate Applicant under section 10 of the Insolvency & Bankruptcy Code, 2016, is hereby admitted for initiating the Corporate Insolvency Resolution Process in respect of Rudraksh Dealcom Private Limited [CIN: U51109WB2008PTC122189].

    (b) There shall be a moratorium under section 14 of the IBC.

(c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

(d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

(e) As per the proposal given by the Corporate Applicant, **Mr. Neeraj Jain** (Regn. No. IBBI/IPA-001/IP-P01067/2017-2018/11758) C/o. M C. Bhandari & Co., Chartered Accountants 4, Synagogue Street, Suite 205, 2nd floor, Facing Brabourne Road, Kolkata 700001, is appointed as the IRP, subject, however, to his possessing a valid Authorisation for Assignment (AFA) issued by the Insolvency Professional Agency (IPA of which he is a professional member, in terms of regulation 7A of IBBI (Insolvency Professionals) Regulations, 2019 for ascertaining the particulars of Creditors and convening a Committee of Creditors for evolving a Resolution Plan.

(f) During the CIRP period, the management of the Corporate Applicant shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the Code. The officers and managers of the Corporate Person shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow.

(g) The IRP/RP shall submit to this Adjudicating Authority periodical reports on quarterly basis with regard to the progress of the CIRP in respect of the Corporate Debtor.

(h) The Corporate Applicant to pay to IRP a sum of Rs.1,00,000/- (Rupees One Lakh only) to meet the initial costs, 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.

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

(j) The Court Officer of this Court is hereby directed to communicate this Order to the Corporate Person and the IRP by Speed Post, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order.

(k) Additionally, the Corporate Person shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bebgal, by all available means for updating the Master Data of the Corporate Applicant. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

15. **CP(IB)/34(KB)2022** to come up on 25/08/2022 for filing the first progress report.

16. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Harish Chander Suri
Member (Technical)

Rohit Kapoor
Member (Judicial)

Signed on this, 11th day of July, 2022.

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