IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH, COURT-I

CP (IB) NO. 272 of 2022

Under Section 10 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rules, 2016

<u>In the matter of</u>

M/s Whiskers Infracare Private Limited
CIN: U74120MH2013PTC249891
Having its Registered Office at -
Shop No.6, ground floor, building No.25
Plot-H-35, Mhada Complex, Oshiwara,
Andheri (West), Mumbai-400053.

... Corporate Applicant

Order Delivered On : 09.02.2024

Coram:

Hon'ble Member (Judicial) : Justice V.G. Bisht, (Retd.)

Hon'ble Member (Technical) : Sh. Prabhat Kumar

Appearances:

For the Corporate Applicant: Mr. Yash Jain, Advocate

<u>ORDER</u>

Per: Justice V.G. Bisht, (Retd.)

1. This Company Petition is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 **("Code")** read with Rule 7 of the Insolvency and

Bankruptcy (Application to Adjudication Authority) Rules, 2016 by the Corporate Applicant, seeking to initiate its own Corporate Insolvency Resolution Process ("**CIRP**"). The said application is being preferred by the Corporate Applicant owing to financial stress faced by it, consequent to which it is not in a position to repay the debts due to its creditors.

Brief Facts

2. The Corporate Applicant was incorporated on 07.11.2013 under the Companies Act, 1956. Its Corporate Identity Number ("**CIN**") is CIN: U74120MH2013PTC249891. Its registered office is at Office no.11, Plot No. 285, CTS No. 177/2 Tara Bag Co-op Housing Society, Koregaon Park, Pune-411001. Therefore, this Bench has jurisdiction to entertain and decide the Petition. The Nominal Share Capital of the Corporate debtor is Rs. 1,00,000/- and Paid-up capital is Rs. 1,00,000/-.

3. The company is engaged in business of supply of manpower placement, consultancy and recruiting, selecting, interviewing, training and employing all types of executives, middle management staff, junior level staff, workers, labourer's skilled/unskilled required to individuals, bodies corporates, societies undertakings, institutions, associations, government, local authorities.

4. The Corporate Applicant submits that the Company has suffered a tremendous loss of money due to Covid-19 lockdown. The Corporate Applicant was suffering consistent losses and difficulty in continuing its business operation due to nation-wide lockdown that was announced in March 2020 by the Government of India because of the ongoing Covid-19 Pandemic, the company lost a huge amount of revenue as the offices, commercial establishment, hotels and malls were shut. There are Operational Creditors to whom the Corporate Debtor owes total debt amounting to default is Rs. 2,28,18,419.53 (Rupees Two Crores Twenty-Eight Lakhs Eighteen Thousand Four Hundred and Nineteen and Fifty-Three Paisa Only).

5. The Corporate Applicant has produced audited financial Statement for the Financial year,2018-19 and 2019-20. These debts are duly reflected therein, thus constituting acknowledgement of debt and notes to accounts and auditor's report appended to financial statements clearly acknowledges the default in payment of debt.

6. The Corporate applicant has submitted the provisional Financial statements for the financial year up to date 2020-21 and 01.04.2021 to 31.01.2022.

7. This Bench have directed the Corporate Applicant vide order dated 14.03.2022 to submit the audited Financial Statements as on 31.03.2021 and provisional Financial statements as on 31.01.2022 duly signed by the Auditor.

Statutory Compliances

8. The Corporate Applicant has enclosed a copy of Special Resolution passed by the shareholders of the Company in their Meeting of the Members held on 07.02.2023 for initiating Corporate Insolvency Resolution Process u/s 10 of the Code.

9. The Board of Directors of the Corporate Applicant passed the Resolution in their meeting held on 25.01.2022 and authorised Mr. Col. Satnam Singh Maini, Managing Director of the Company to sign the Petition to be filed under Section 10 of IBC Code.

10. The Corporate Applicant has suggested the name of Mr. Raghunath Bhandari having Registration No. IBBI/IPA-002/IP-N01023/2020-2021/13276 for appointment as the Interim Resolution Professional ("**IRP**"). The proposed IRP has also submitted his Consent in Form 2 confirming eligibility and that there are no disciplinary proceedings pending against him.

11. This application is filed as per Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016 in Form-6. Required information is also furnished therein.

12. After hearing the submissions and upon perusing the supporting documents annexed with the Petition, this Bench is of the view that the application made by the Corporate Applicant is complete in all respects as required by law. It clearly shows that the Corporate Applicant is in default of a debt due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC, at the relevant time. Therefore, the default stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority **admits** this Petition and orders initiation of CIRP against the Corporate Applicant.

13. This Bench have directed the Corporate Applicant vide order dated 14.03.2022 to submit the audited Financial Statements as on 31.03.2021 and provisional Financial statements as on 31.01.2022 duly signed by the Auditor and same order has been complied as the additional affidavit containing audited Financial Statements and Provisional Financial Statement is filed and take on record.

14. The Corporate Applicant have published notice in English and Vernacular Newspaper which is The Free Press Journal (English) and Navakal (Marathi) about the section 10 Application filed before this bench and if there is any Intervenor then they can approach this Tribunal. The date of Publication is on 05.04.2022.

15. During the course of hearing, vide order dated 06.09.2023, the management of Corporate Applicant was asked to give undertaking from board of Directors by way of affidavit to the Tribunal with regard to funding of CIRP costs as well as for Co-operation by the management in provision of all

information/documents of the Corporate Applicant, if the Petition is admitted.

<u>Order</u>

16. The above CP(IB) No. 272 of 2022 is hereby **Admitted** and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Whiskers Infracare Private Limited.

17. Mr. Raghunath Bhandari having Registration No. IBBI/IPA-002/IP-N01023/2020-2021/13276, Email Id: raghunathsb@yahoo.com , is hereby appointed as the IRP of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.

18. There shall be a moratorium under Section 14 of the IBC, in regard to the following:
    i. 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;
    ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
    iii. 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 (SARFAESI) Act, 2002;
    iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

19. Notwithstanding the above, during the period of moratorium: -

i. The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;

ii. That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central Government in consultation with any sectoral regulator;

20. 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.

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

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

23. The Corporate Applicant shall deposit a sum of Rs. 1,50,000/- (Rupees One Lakh Fifty Thousand only) till the formation of Committee of Creditors plus out of pocket expenses with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

24. The Registry is directed to communicate this Order to the Corporate Applicant and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.

25. A copy of this Order be sent to the Registrar of Companies, Mumbai, Maharashtra, for updating the Master Data of the Corporate Debtor. 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.

26. Ordered accordingly.

Sd/-	Sd/-
SH. PRABHAT KUMAR	**JUSTICE V. G. BISHT**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**