IN THE NATIONAL COMPANY LAW TRIBUNAL,
SINGLE BENCH, CHENNAI

CP/1418/IB/2018 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

Mrs. P.Maheswari

... Financial Creditor

-vs-

M/s. Gokula Kannan Benefit Fund Limited

... Corporate Debtor

Order delivered on 25th of January, 2019

CORAM :

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

For Financial Creditor *: Mr. S.Ravi, Counsel*
For Corporate Debtor *: Mr. A.Kripakaran, Counsel*

ORDER

CH. MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)

1. Under adjudication is CP/1418/IB/2018 that has been filed by Mrs. P.Maheswari (hereinafter referred to as '**Financial Creditor**') 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 against M/s. Gokula Kannan Benefit Fund Limited (hereinafter referred to as '**Corporate Debtor**'). The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (IRP).

2. Heard the Counsel for the Financial Creditor, Counsel for the Corporate Debtor and perused the pleading including the documents placed on file.

3. The Financial Creditor has claimed an amount of Rs.1,12,000/- as outstanding against the Corporate Debtor as on 17.06.2018, which the Corporate Debtor has failed to pay.

4. The brief facts of the case are that the Corporate Debtor viz., M/s. Gokula Kannan Benefit Fund Limited is a limited company whose registered office is situated at

No.207, A.K. Complex, 6th Street, Gandhipuram, Coimbatore-641 012. The object of the Corporate Debtor is to carry on the business of financing and advancing short and long term loans and credits to individuals, companies or association of individuals either on securities or on guarantee or clean without securities and to finance leasing operation of all kinds, etc..

5. The Financial Creditor has deposited a total sum of Rs.1,00,000/- with the Corporate Debtor on various dates from 17.06.2017 to 02.02.2018. The deposit~~s~~ carries interest at the rate of 12% per annum and the interest is payable every month. The Corporate Debtor neither paid interest nor returned the deposit~~s~~ on its maturity.

6. The Financial Creditor has placed on record the copies of the Deposit Receipts issued by the Corporate Debtor to the Financial Creditor totaling to an amount of Rs.1,00,000/- at pages 50 to 55 of the typed set filed with the Application wherein the date of deposit of amount, the

date of maturity, maturity value, rate of interest and duration of interest payable are mentioned.

7. The Financial Creditor has issued notice to the Corporate Debtor in the month of October, 2018 which is placed at page 59 of the typed set filed with the Application wherein it is stated that despite regular follow-ups and repeated reminders, till date, the Corporate Debtor did not take any step to release her deposit amounts along with interest which compelled her to initiate legal action.

8. The Financial Creditor has placed on record the certificate along with statement of account issued by Bank of Baroda which also confirms that the outstanding amount due to the Financial Creditor has not been paid by the Corporate Debtor.

9. The Counsel for the Corporate Debtor has filed Reply Statement wherein it has been stated that the Corporate Debtor also had a Chit Fund Company, the funds from the

Corporate Debtor was used for the Chit Fund Company and the persons who have subscribed for the chits did not repay the money in a timely manner, so the Corporate Debtor is not in a position to repay its creditors including the Financial Creditor, and in the circumstances, the Corporate Debtor has no other alternative remedy than to abide by the orders of this Authority. The Corporate Debtor has admitted the amount claimed by the Financial Creditor.

10. The documentary evidence which is placed on the case file including the Account Ledger Inquiry is sufficient in order to ascertain the existence of a default on the part of the Corporate Debtor. Therefore, in the light of the facts and circumstances recorded, and the legal position stated, the Financial Creditor has fulfilled all the requirements of law including the name of IRP for admission of the Application filed under Section 7 of the I&B Code, 2016. Hence, the Application stands admitted. The commencement of the Corporate Insolvency Resolution

Process is ordered which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

11. Mrs. Revathi Raghunathan is hereby appointed as IRP as has been proposed by the Financial Creditor. There is no disciplinary proceeding pending against the IRP as reflects from Form-2. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. She is also directed to cause public announcement as prescribed under Section 15 of the I&B Code, 2016, within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.

12. The moratorium is hereby declared which shall have effect from the date of this Order till the completion of corporate insolvency resolution process, for the purposes referred to in Section 14 of the I&B Code, 2016. It is hereby ordered to prohibit all of the following, namely:

(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 (54 of 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.

13. The supply of essential goods or services of the Corporate Debtor/Guarantor shall not be terminated or suspended or interrupted during moratorium period. The

provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

14. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the I&B Code. The Directors of the Corporate Debtor, its promoters or any person associated with the Management of the Corporate Debtor are/is directed to extend all assistance and cooperation to the IRP as stipulated under Section 19, so that she could discharge her functions under Section 20 of the I&B Code, 2016.

15. The Financial Creditor and the Registry are also directed to send the copy of this Order with immediate effect to IRP, so that she could take charge of the Corporate Debtor's assets etc., and make compliance with this Order as per the provisions of I&B Code, 2016. The address details of the IRP are as follows: -

Mrs. Revathi Raghunathan,
Reg.No. IBBI/IPA/001-IP-P00832/2017-18/11417,
No. 25, Baroda Street, West Mambalam,
Chennai – 600 033
Email ID: revathi@arcoca.com

16. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor with immediate effect.

17. The Order is pronounced in open Court.

[CH.MOHD SHARIEF TARIQ]
MEMBER (JUDICIAL)

P.ATHISTAMANI