IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

CP (IB) No. 08/MB/2021

Under section 10 of IBC, 2016

In the matter of

Swastik Lloyds Engineering Private Limited
(CIN U63030MH2013PTC239347)

258, Rangwalla Building, Islamapura Street, Near Alankar Cinema, Mumbai 400004

.... Corporate Applicant

Order delivered on: 31.03.2023

Coram:

Mr. Prabhat Kumar
Hon'ble Member (Technical)

Mr. Kishore Vemulapalli
Hon'ble Member (Judicial)

Appearances (via videoconferencing):

For the Applicants: Mr. Aman Kacheria a/w Ms. Krushika Ueshi i/b Mr. Rahul Agarwal, Ld. Counsel for the Corporate Applicant.

ORDER

Per: Prabhat Kumar, Member (Technical)

1. This Company Petition is filed by **M/s Swastik Lloyds Engineering Private Limited** (hereinafter called Corporate Applicant), under Section 10 of Insolvency and Bankruptcy Code 2016 ("the Code") read with Rule 7 of Insolvency and Bankruptcy (Application to

Adjudicating Authority) Rules 2016, for initiation of Corporate Insolvency Resolution process against the Applicant.

2. The Corporate Applicant submits that its registered office is situated at 258, Rangwalla Building, Islamapura Street, Near Alankar Cinema, Mumbai 400004, having paid up share capital of Rs. 1,50,00,000.

   2.1. The Corporate Applicant submits that, since year 2013-2014, they have been facing issues in its business operations and is unable to generate the revenue and/or profits. Accordingly, the Corporate Debtor has not been in a position to pay off its debts to various Operational Creditors in a timely manner. Due to the advent of COVID-19, the Corporate Applicant is facing difficulty in raising funds and operating as a going concern.

   2.2. The Petitioner has submitted a copy of Special Resolution passed by the Members in their Extra-ordinary General Meeting held on 19.10.2020 for initiating Corporate Insolvency Resolution Process u/s 10 of Insolvency & Bankruptcy Code. The Board of Directors of the Corporate Applicant in their Resolution passed on 05.10.2020 authorised Mr. Mafatlal Roopaji Sanghvi, Director of the Company, to file necessary application under the Code.

   2.3. The Corporate Applicant has also stated that a sum of Rs. 6,14,84,431/- is due to 163 Operational Creditors and Rs.

1,56,49,473/- is due to 3 Financial Creditors which is in default. The list of these Creditors is annexed to the petition.

2.4. A demand notice dated 02.03.2020 demanding payment in respect of Unpaid Operational Debt amounting to Rs.23,69,270/- was received by the Corporate Applicant.

3. We have heard the arguments of the Corporate Debtor/Applicant.

3.1. The Default in payment and the inability of the Company to pay any of its debt has led to the application by the Corporate Debtor for initiating Corporate Insolvency Resolution Process in the matter of self and it has sought approval of its members for filing section 10 petition under the code vide Special Resolution passed in the Extra-ordinary General Meeting held on 19.10.2020. The Company has stated the details of Creditors in the list of Creditors whose debt is outstanding and unpaid as on date.

3.2. Further, the Corporate Applicant has also enclosed the audited financial statements for the years, 2018-2019 and 2019-2020, it is noticed that the net worth of the Company has eroded, and it is in negative. There is no dispute that the Corporate Debtor is in default and is unable to pay the Creditors the amounts due to them.

3.3. On perusal of the Application and the supporting documents annexed thereto, this Bench is of the view that the Corporate Applicant has committed default; the Application contains the particulars as required u/s 10 of the Code; and that the Corporate Debtor is not disqualified U/s 11 of the Code. Hence, this Bench is of the view that it is a fit case for admission u/s 10 of the Insolvency and Bankruptcy Code 2016.

ORDER

I. The petition bearing CP(IB) 8/MB-IV/2021 filed by **Swastik Lloyds Engineering Private Limited**, the Corporate debtor/Applicant, under section 10 of the IBC read with rule 7(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (CIRP) is **admitted.**

II. There shall be a moratorium under section 14 of the IBC, with consequential directions as mentioned below:

(i) That this Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Applicant including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the Corporate Applicant any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Applicant in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant.

(ii) That the supply of essential goods or services to the Corporate Applicant, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(iii) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(iv) That the order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Applicant under Section 33, as the case may be.

(v) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.

(vi) This Bench hereby appoints the proposed Resolution Professional after perusing the written communication in Form 2 by the RP, Mr. Vimal Kumar Agrawal, having address Office No.- 04, Ground Floor , C wing, Shanti Jyot

Building ,Balaji Nagar , Near Station , Bhyander West, Thane ,Mumbai City, Maharashtra ,401101 having IBBI Registration No IBBI/IPA-001/IP-P00741/2017-2018/11247, and Email id: vimal@vpagrawal.in, as Interim Resolution Professional to carry the functions as mentioned under the Code.

III. The Registry is hereby directed to communicate this order to the Applicant. The Learned Counsel for the Petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith and in any case, not later than two days from the date of this Order.

IV. A copy of this Order be sent to the Registrar of Companies Maharashtra, Mumbai, 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.

Sd/-

PRABHAT KUMAR
Member (Technical)

Sd/-

KISHORE VEMULAPALLI
Member (Judicial)

31.03.2023