IN THE NATIONAL COMPANY LAW TRIBUNAL,

KOLKATA BENCH, KOLKATA

CP(IB) No. 204/KB/2019

IN THE MATTER OF

An application Under Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiation of Corporate Insolvency Resolution Process.

IN THE MATTER OF

Kotak Mahindra Bank Limited

Having registered office at 27, BKC, C 27,

G Block Bandra Kurla Complex,

Bandra(East), Mumbai-400051.

.... Applicant/ Financial Creditor

Versus

Multiple Hotels Private Limited.

Having its registered Office at 6, Milan Pally Deshapriya Nagar, Kolkata-700056, West Bengal within the aforesaid jurisdiction.

.... Respondent/ Corporate Debtor

Date of Hearing : 01.10.2019

Delivered on : 04.10. 2019

Coram:

Madan B Gosavi, **: Member (J)**

Virendra Kumar Gupta, **: Member(T)**

For the Financial Creditor : 1.Mr.Kuldip Mallik, Advocate,

2.Avishek Roy Choudhary, Advocate

For the Corporate Debtor : Mr. Jaydeep Mukherjee, Advocate

Sd Sd

ORDER

This petition has been filed by the Financial Creditor namely Kotak Mahindra Bank Limited to initiate Corporate Insolvency Resolution Process against Corporate Debtor namely Multiple Hotels Private Limited. The amount of default has been stated at Rs. 216,018,331/- and the date of default has been mentioned as 30.11.2018.

2. The facts, in brief, are that the Financial Creditor granted term loans vide agreement dated 05.11.2012. The tenure was 18 months and 60 months respectively. On default in payment of the loans, notice under section 13(2) of the SARFAESI Act, 2002 was issued on December, 2016.

3. The learned counsel appearing on behalf of the Corporate Debtor drew our attention to these facts and on enquiry from the Bench, it was submitted that the second term loan was finally payable in 2017 and this petition had been filed in 2019,hence, not barred by Limitation.

4. That matter was heard ex-parte. Based upon contentions made by the learned counsel for the Financial Creditor and on perusal of records, it is noted that banking facility has been given to various entities of the Corporate Debtor. The notice under section 13(2) of SARFAESI Act, 2002 has been issued on 29.12.2016 as per the recall of facilities letter, which has been placed at page 169 to 171 of the Paper Book. The date of amount payable under various loan agreement has been stated as 27.02.2018.

5. This is an undisputed fact that an agreement is duly executed and remains valid. There is a default in respect of debt due and payable which is not barred by limitation. Hence, prima-facie the petition is liable to be admitted. This petition is otherwise is complete in all respects and the name of the Insolvency Resolution Professional has been proposed, who has given his consent. It has been stated that no disciplinary proceeding are pending against IRP we approve him.

6. Having admitted this petition ,we order as under:-

ORDER

i. The application filed by the Financial Creditor under section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate

Sd/- Sd/-

Insolvency Resolution Process against the Corporate Debtor, Multiple Hotels Pvt. Limited is hereby admitted.

ii. We declare a moratorium and public announcement in accordance with Sections 13 and 15 of the IBC, 2016.

iii. Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

iv. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

Sd/-

Sd/-

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.

v. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during moratorium period.

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

vii. The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.

viii. 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.

ix. Necessary public announcement as per Section 15 of the IBC, 2016 may be made.

x. Shri Jitendra Lohia, having registration No.IBBI/ IPA-001/P00170/2017-18/10339 e mail id jitulohia@knjainco.com is appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan.

xi. The Financial Creditor to pay a sum of Rs. 3,00,000/- (Three Lacs) to IRP as advance fee as per Regulation 33(2) of IBBI (Insolvency

Sd Sd

Resolution Process for Corporate Persons) Regulation 2016 which shall be adjusted from final bill.

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

xiii. Registry is hereby directed under section 7(7) of the I.B.Code, 2016 to communicate the order to the Financial Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.

9. List the matter on 27.11.2019 for the filing of the progress report.

10. Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

Sd 4/10/2019

(Madan B Gosavi)
Member (J)

Sd 4/10/2019

Virendra Kumar Gupta)
Member (T)

Signed on 4th October 2019