

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, CHENNAI**

**IBA/1075/2019**

*Under Section 10 r/w rule 7 of the IBC, 2016*

**In the matter of**

**M/s. KRISHNAA ENERGY PRIVATE LIMITED**

**---Corporate Applicant**

**Order delivered on: 22.11.2019**

**Coram:**

**B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)**

**S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

Counsel for Corporate Applicant: *Shri. A. S Sathish Kumar, PCS*

Counsel for (Canara Bank) : *Shri. R. Umasuthan Advocate*  
*Shri. K. Bhaskar, Advocate*

**ORDER**

**Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)**

**Order Pronounced on: 22.11.2019**

Under Consideration is an Insolvency & Bankruptcy Application filed u/s 10 of The Insolvency & Bankruptcy Code, 2016 ("the Code") by M/s. Krishnaa Energy Private Limited (in short, "the Corporate Applicant") for initiation of Corporate Insolvency Resolution Process (in short "CIRP") under Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016

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(for brevity, 'IB Rules 2016), following a default in meeting its financial obligations to its Financial Creditors as shown in the Company Application.

2. On perusal of this Application, the total default amount claimed has been mentioned as ₹50,89,62,950. The breakup of the aforesaid default consolidated statement of dues as given by Corporate Applicant is as follows:

| <b>Category</b>       | <b>Default Amount (₹)</b> |
|-----------------------|---------------------------|
| Financial Creditor    | 40,63,98,479              |
| Operational Creditors | 2,52,02,072               |
| Dues to Employees     | 59,97,204                 |
| Statutory Dues        | 7,13,65,195               |
| <b>Total</b>          | <b>50,89,62,950</b>       |

3. In compliance of Annexure-III, this Corporate Applicant has filed written communication dated 16.10.2019 given by the Insolvency Professional as contemplated in Form-2 of the IBC, 2016, the Applicant has filed audited financial statements for the year ended 31.03.2017 and 31.03.2018 and provisional financial statements from 01.04.2019 to 15.10.2019 reflecting the default of payment to the Financial Creditors, Operational Creditors, assets

and liabilities of the Applicant, and other documents evidencing creation of charge over the assets of the Corporate Applicant. A special resolution was passed by the shareholders of the Corporate Applicant on 12.10.2019 approving the initiation of Corporate Insolvency Resolution Process under Section 10 of the Insolvency & Bankruptcy Code, 2016.

4. The learned counsel for Respondent (Canara Bank) submitted that the Respondent has filed O.A. No.575 of 2015 before Hon'ble DRT-II, Chennai against the Corporate Applicant herein (M/s. Krishnaa Energy Pvt. Ltd.) and obtained final order on 25.01.2019 stating that as per the Demand Notice dated 26.06.2019, the Applicant/Corporate Debtor is liable to pay a sum of Rs.24,73,19,386.40. Consequently, the Respondent has got first charge / mortgage in and over the entire factory land, building, plant and machinery belonging to the Corporate Applicant for the purpose of recovery of the decreed debt as aforementioned. It is further submitted that the above application has been filed with the ulterior motive to sabotage the measures for recovery initiated by

the respondent both under the provisions of the SARFAESI Act and RDB Act.

5. With regard to points raised by the Respondent (Canara Bank) in their counter affidavit vide para 12 (a) and (b), existence of debt and default committed by the Corporate Applicant has been detailed in the application. In response to para 12(c) and (d), a Special Resolution was passed by the shareholders of the Applicant/Corporate Debtor at their Extra-Ordinary General Meeting (EoGM) held on 12.10.2019 approving the initiation of Corporate Insolvency Resolution Process under Section 10 of the Insolvency & Bankruptcy Code, 2016. The Corporate Applicant declared in the present application that they have not been disqualified under Section 11 of the Code. With regard to queries in para 12 (g) and (h), the Respondent has not adduced any reason as to why this application is to be dismissed because of delays or latches on the part of Corporate Applicant.

6. In view of the fact that all the requirements as stipulated under Insolvency and Bankruptcy Code, 2016 and the regulations

framed there under have been fulfilled, there is no option for this Tribunal but to admit the application filed by Corporate Applicant for commencing Corporate Insolvency Resolution Process (CIRP).

7. The Corporate Applicant namely, M/s. Krishnaa Energy Private Limited has made a submission that in case, the Financial Creditors propose to replace the IRP recommended for appointment, they may do so in the First Meeting of the CoC to be convened by the IRP. The IRP may include this item as one of the Agenda in the First Meeting of the CoC.

8. On perusal of records and documents produced by the Applicant/Corporate Debtor, we are of the view that this Company application is a fit case for admission u/s 10 of the Code since the Interim Resolution Professional (IRP) has already expressed his consent to be appointed as Interim Resolution Professional (IRP), this Bench hereby appoints Mr. B. Ramana Kumar as IRP by admitting this Company Application with directions as follows:

- I. That Moratorium is hereby declared prohibiting all of the following actions, namely,

- a) 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;
- b) transferring, encumbering, alienating or disposing of by the Corporate Applicant 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 Applicant in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 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 Applicant.

II. That 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 of IBC 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 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 of IBC or passes an order for liquidation of corporate debtor under section 33 of IBC, 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 IBC.

VI. That this Bench hereby appoints **Mr. B. Ramana Kumar**, as **Interim Resolution Professional, having Registration Number: [IBBI/IPA-001/IP/P00657/2017-2018/11140], No: 51A, Dr. Ranga Road, Mylapore, Chennai-600004, E-Mail: [ramanakumar@ovopaxlegal.com](mailto:ramanakumar@ovopaxlegal.com), Mobile No: 9841113024** appointed is directed to carry out the functions as mentioned under IBC. Fee payable to IRP shall be in

compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

9. Accordingly, this IBA/1075/2019 is hereby **admitted**.

10. The Registry is hereby directed to immediately communicate this order to the Corporate Applicant and the Interim Resolution Professional by way of e-mail.

**-Sd-**

**(S. VIJAYARAGHAVAN)**  
**Member (Technical)**

**-Sd-**

**(B. S.V. PRAKASH KUMAR)**  
**Member (Judicial)**

KNP/TJS