IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, CHENNAI

IBA/863/2019

Under Section 7 r/w Rule 4 of the IBC, 2016

In the matter of M/s. Shriram Land Development Private Limited

M/s. Milestone Trusteeship Services Private Limited

---Financial Creditor

V/s

M/s. Shriram Land Development Private Limited

---Corporate Debtor

Order delivered on: 20.09.2019

Coram:

B. S.V. PRAKASH KUMAR, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

For the Financial Creditor : *Shri. Vikram Trivedi, Advocate*
Shri. Karthik Ram Mohan, Advocate
For M/s. S. Ramasubramaniam & Associates
For M/s. Manilal Kher Ambalal & Co.,
For the Corporate Debtor : *Shri. Rohan K. George, Advocate*
For M/s. Samvad Partners

<u>ORDER</u>

Per: S. VIJAYARAGHAVAN, MEMBER (TECHNICAL)

Order Pronounced on: 20.09.2019

It is an Insolvency & Bankruptcy Application filed u/s 7 of the I & B Code by the Applicant/Financial Creditor namely, M/s. Milestone Trusteeship Services Private Limited (*by the Applicant, in its capacity as Debenture Trustee*) for initiation of Corporate Insolvency

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Resolution Process (CIRP) on the ground that the Corporate Debtor namely, M/s. Shriram Land Development Private Limited (*in its capacity as Corporate Guarantor for the Debentures issued by M/s. SL Residential Layout Private Limited **"Issuer Company"***) defaulted in making repayment of ₹ **12,50,45,925** as on 10.07.2019.

2. The learned counsel appearing on behalf of the Applicant submitted that on 20.06.2017 Debenture Trust Deed was executed between SL Residential Layout Private Limited (**"Issuer Company"**), Obligors (*including Corporate Debtor*) and MOF Projects Private Limited (***"Nominee of the Debenture Holders"***). The Issuer Company had issued 2100 unlisted secured redeemable non-convertible debentures of face value ₹ 1,00,000 each, aggregating to ₹ 21,00,00,000 for the acquisition of the Narsapura Project Land. The Corporate Debtor vide Deed of Corporate Guarantee dated 20.06.2017 and 07.08.2018 executed in favour of the Applicant herein, irrevocably and unconditionally guaranteed due and punctual payment and performance by the Issuer Company and Obligors of all their obligations under Debenture documents. Upon occurrence of Event of Default in terms of Clause 5.4 of Debenture Trust Deed,

the Applicant issued a Notice seeking redemption/purchase by the Issuer Company and/or the Promoter of 1070 Debentures at the Redemption Price. By way of a Debenture Trust Deed Amendment Agreement dated 07.08.2018, the parties agreed that the Debentures outstanding would be redeemed at the Redemption Price by the Issuer Company on or prior to 21.12.2018 and upon redemption in accordance to the terms of the Amended Agreement, the security created under the Series-A Debenture Trust Deed shall be released within 10 days of redemption to the satisfaction of the Applicant.

3. It is further submitted that since the Issuer Company failed to redeem the non-convertible Debentures by 21.12.2018, the Applicant sent a letter on 15.01.2019 to the Issuer Company and marking a copy thereof to the Corporate Debtor, calling upon the Issuer Company to make payments forthwith. The Issuer Company by way of Response dated 05.04.2019 sought more time for payment and undertook to honour terms of the Debenture Trust Deed. The Applicant further issued Notices of Default of financial debt under Insolvency and Bankruptcy Code, 2016 dated 09.05.2019 to the Corporate Debtor calling upon the Corporate Debtor to pay

outstanding dues. The Corporate Debtor in their reply dated 15.05.2019 acknowledged default and sought time till 30.06.2019. The **total amount of default is ₹ 12,50,45,925** as on 10.07.2019. The **date of Default is 21.12.2018**. The Statement of Accounts reflecting the above outstanding debt is annexed at Page Nos.313-314 with the application.

4. On perusal of material placed before this Bench, it is seen that the Applicant relies upon the following documents to establish acknowledgement of debt and default:

Sl.No.	Documents relied upon
1.	*Balance Sheet of the Issuer Company as on 31.03.2018 along with independent Auditor's Report of the Issuer Company acknowledging issuance of 2100 debentures of ₹1,00,000 each (Page No.40)*
2.	*E-mail dated 13.12.2018 addressed to the Applicant seeking extinction of time for raising funds by the Corporate Debtor (Page No.318)*
3.	*Notice dated 15.01.2019 issued by the Applicant to Issuer Company and marked Obligors (including Corporate Debtor) calling upon the Issuer Company to repay the amount of ₹11.59 crores inclusive of interest within 7 days (Page No.319)*
4.	*Reply dated 21.01.2019 by the Issuer Company request for more time (Page No.45)*
5.	*Notice of Invocation dated 12.03.2019 issued by the Applicant to the Corporate Debtor referring to the Event of Default as recorded in the Notice dated 15.01.2019, inter alia, invoking the Corporate Guarantee and calling upon the Corporate Debtor to make payment of ₹12,04,00,000 as on 10.03.2019 together with further interest thereon till payment within 21 days (Page No.322)*
6.	*Notice dated 09.05.2019 issued by Advocate for the Applicant to the Corporate Debtor enclosing the Demand Certificate (Page No.334)*

7.	*Reply dated 15.05.2019 by the Corporate Debtor seeking more time for repayment due to present condition prevailing in the financial markets (Page No.46)*
8.	*E-mail dated 28.06.2019 by the Corporate Debtor acknowledging that they had initiated buy out of the Applicant's exposure in the Issuer Company (Page No.340)*

5. On looking at the facts available, we are of the view that this Applicant/Financial Creditor has proved existence of debt and default. Moreover, no dispute has been raised by the Corporate Debtor before the receipt of Section 8 Notice. In view thereof, we hereby admit this Application **(IBA/863/2019)** by appointing Mr. Krishnasamy Vasudevan, as Interim Resolution Professional (IRP) looking at the consent given by the said IRP 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 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;

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.

II. That Supply of essential goods or services to the corporate debtor, 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 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 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. Krishnasamy Vasudevan, having Reg. No [IBBI/IPA-001/IP-P00155/2017-18/10324], 17B/7B, Maruthi Nagar, Hasthinapuram, Chromepet, Chennai 600 064, E-Mail:** cavasu1967@gmail.com, **Mobile No: 9566144997** as Interim Resolution Professional to carry out the functions as mentioned under IBC. Fee payable to IRP/RP shall be in compliance with the IBBI Regulations/Circulars/Directions issued in this regard.

7. Accordingly, this Application is **admitted.**

8. The Registry is hereby directed to immediately communicate this order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by way of email.

-Sd-
(S. VIJAYARAGHAVAN)
Member (Technical)

-Sd-
(B. S.V. PRAKASH KUMAR)
Member (Judicial)

KNP/TJS