



IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH (Court-I)
KOLKATA

C.P (IB) No.71/KB/2024

An application under Section 7(1) of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

And

In the matter of:

Mikros Kosmos Pvt.Ltd. (CIN:U29100WB2018PTC22895)

... Financial Creditor

Versus

In the matter of:

Shree Shyam Bearings Pvt.Ltd. (CIN: U74999WB2005PTC102716)

... Corporate Debtor

Order Pronounced on :17/10//2024

Coram:

Mrs. Bidisha Banerjee, Member (Judicial)

Mr. Balraj Joshi, Member (Technical)

Counsels appeared through Video Conference

For Financial Creditor : Mr. Yash Dalmia, Adv.
Ms. Madhuri Pandey, PCS

For Corporate debtor : Ms.Archana Baghel,Adv.



ORDER

Per: Bidisha Banerjee, Member (Judicial)

1. The Court is convened by video conference today.
2. This petition under 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 has been filed by **Mikros Kosmos Pvt.Ltd.**, through its Director namely Gourango Putatunda, who claims to be a Financial Creditor (hereinafter referred to as the Financial Creditor), seeking initiation of corporate insolvency resolution process in respect of **Shree Shyam Bearings Pvt.Ltd.** (hereinafter referred to as the Corporate Debtor).
3. That amount in default is mentioned as 1,06,07,724/- (Rupees One Crore Six Lakh Seven Thousand Twenty Four only) and the date of default is claimed to be 16/12/2023.
4. It is claimed that the amount in default includes Rs.1,00,00,000/- as debt plus Rs.6,07,724/- as interest @ 18% upto 13th January, 2024.
5. The Financial Creditor in support of its contention that there is a debt and default, has relied upon the following statements :-
 - i. Bank Statement of the Financial Creditor evincing loan granted to the Corporate Debtor, annexed as Annexure-1 Ext.C page 19 to 23.
 - ii. Copy of the loan agreement dated 10/08/2023 between the Financial Creditor and the Corporate Debtor (Annexure-1) Ext.D pages 24 to 27.
 - iii. Copy of various letters from the Corporate Debtor requesting for disbursement of the amount as per loan agreement dated 10/08/2023 marked as Annexure-E page 28 to 31.
 - iv. Copy of the demand letter along with reminder letter dated 16/12/2023 and 26/12/2023 issued by Financial Creditor to the Corporate Debtor



requesting of repayment of the loan amount as disbursed along with interest. (Ext.F), pages 32 to 35.

6. The Financial Creditor has proposed the name of Mr. Swarup Ghosh to act as IRP.

7. Per contra, the respondent would dispute the statements made in the petition.

8. However, in fact records exemplify and demonstrate that the Corporate Debtor has admitted its default as in page 6 of the reply affidavit.

9. We have perused the following documents :-

- i. Letters from the Corporate Debtor requesting disbursal at pages 28 to 31;
- ii. Proof of disbursement;
- iii. Supporting Bank Statement at pages 18 to 19;

10. On perusal of the documents, we are satisfied that there is debt and default and the Corporate Debtor has defaulted in repaying the amount that was due to be repaid and which it has promised to repay in terms of the loan agreement.

11. We are also satisfied that the date of default is 16/12/2023 and the petition is filed within the statutory period of limitation and that there is admission of default on the part of the Corporate Debtor.

12. However, no record of default has been submitted by the Financial Creditor. Nevertheless the records are speaking for themselves.

13. On being satisfied as stated above, we deem it appropriate to admit the application and pass the following orders:-

ORDERS

- i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor is hereby **admitted**.



- ii) We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
- iii) Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The I.R.P. 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);
 - 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 rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.



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- 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 the 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) **Mr. Swarup Ghosh** registered with Insolvency and Bankruptcy Board of India, having Registration No. **IBBI/IPA-003/IP-N00438-C01/2017-2018/11661** Email **swarupghosh1@ yahoo. co. in** is hereby appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan subject to production of written consent within one week from the date of receipt of this order.
- x) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.
- xi) The Financial Creditor/Applicant is directed to deposit **Rs. 3,00,000/- (Rupees Three Lakhs Only)** with the IRP appointed hereinabove within **three** days from this order. IRP can claim the preliminary expenses and fees subject to the approval by the CoC and after constitution of CoC.



xii) Registry is hereby directed to communicate the order to the Financial Creditor, the Corporate Debtor, the I.R.P. and the jurisdictional Registrar of Companies by Speed Post as well as through email.

xiii) List the matter on **18/11/2024** for the filing of the **progress report**.

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

(Balraj Joshi)
Member (Technical)

(Bidisha Banerjee)
Member (Judicial)

Order signed on this, the 17th day of October, 2024

PJ