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**In the National Company Law Tribunal  
Kolkata Bench  
Kolkata**

**CORAM: Shri Madan B. Gosavi,  
Member (Judicial)  
&  
Shri Virendra Kumar Gupta,  
Member(Technical)**

**CP(IB)No.986/KB/2018**

**In the matter of:**

An application for initiation of Corporate Insolvency Resolution Process under Section 7 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:**

**United Bank of India, 11, Hemanta Basu Sarani, Kolkata -700001.**

..... Financial Creditor

**In the Matter of:**

**M/s Amaresh Rice Mills Private Limited, a company having its registered office at village & P.O-Bhandardihi, District-Purba Bardhman, Pin-713426.**

..... Corporate Debtor

**Counsels appeared:**

**For Financial Creditor**

1. Mr. Debasish Chakrabari, Advocate
2. Mr. Trisha Saha, Advocate

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Date of pronouncement of order: 22<sup>nd</sup> November, 2019.

**ORDER**

Per Shri M.B. Gosavi, Member (J):

1. This application under Section 7 of Insolvency and Bankruptcy Code, 2016 is filed by the Financial Creditor – **United Bank of India** to start Corporate Insolvency Resolution Process (in short "CIRP") of the Corporate Debtor – **M/s. Amaresh Rice Mills Private Limited** on the ground that the Corporate Debtor committed default in paying financial debt of Rs. 23,26,07,255/- (Rupees Twenty Three Crore Twenty Six Lakh Seven Thousand Two Hundred and Fifty Five Only).
2. The following facts are not in dispute: -
  - 2.1. In the year 2005, Corporate Debtor was known as **Amaresh Rice Mills**. It was then partnership firm. At that point of time, the Financial Creditor granted and disbursed various term loan and cash credit facility to the Corporate Debtor. The terms of the loan and cash credit facilities were extended and enhanced from time to time. In the year 2015, identity of partnership firm changed to Private Limited and the Corporate Debtor came to be known as M/s Amaresh Rice Mills Pvt. Ltd. On 10.04.2015, the Bank granted and disbursed enhanced loan and cash credit facilities to the Corporate Debtor. However, on 31.03.2016, the loan account became NPA. Financial Creditor served the Corporate Debtor notice under Section 13(2) of SURFAESI Act, 2002 and recovery proceeding filed before DRT, Kolkata.
  - 2.2. Financial Creditor states that since the Corporate Debtor committed default in paying financial debt as above, this proceeding is filed to start CIRP of the Corporate Debtor.

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- 2.3. Corporate Debtor suggested name of one Mr. Shyamal Kumar Bhattacharjee having registration no. IBBI/IPA-003/IP-N00092/2017-18/10892 for appointment of IRP.
3. Corporate Debtor served with the notice of this application. It appeared though one Mr. Amresh Hazra, Director of the Corporate Debtor. He filed affidavit in reply.
4. We have gone through that reply. It appears to us that the Corporate Debtor did not raise any contentious issue. The Corporate Debtor only stated as to how his business model became a failure and how they could not repay the debt in time.
5. We heard Ld. Counsel for the Financial Creditor and Ld. Counsel for the Corporate Debtor. We find no merit in defense of the Corporate Debtor. Rather it appears from the perusal of the affidavit in reply that the Corporate Debtor did not dispute two relevant facts that the debt more than Rs. 23 crore is due and payable by them to the Financial Creditor and they committed default. These are the only two facts this Authority has to consider while considering an application under Section 7 of I & B Code, 2016.
6. We find that application is filed well within period of limitation. Financial Creditor suggested name of one Mr. Shyamal Kumar Bhattacharjee having registration no. IBBI/IPA-003/IP-N00092/2017-18/10892 for the appointment of IRP against whom no disciplinary proceeding appears to be pending. The application is defect free. Hence, we admit the same by following order.

### ORDER

- i) The application filed by the Operational Creditor under section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, **M/s Amaresh Rice Mills Pvt. Ltd.** 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);

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.

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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 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) Mr. Shyamal Kumar Bhattacharjee having registration no. IBBI/IPA-003/IP-N00092/2017-18/10892, E-mail ID: [shy\\_btattal1990@yahoo.co.in](mailto:shy_btattal1990@yahoo.co.in) 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 sum of Rs. 1,00,000/- (Rupees One Lakh Only) to IRP as advance fees as per Regulation 33(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation 2016 which shall be adjusted from final bill.
- xii) In case, further funds are required by IRP/RP and in the event of non-provision thereof, IRP/RP can approach this Tribunal so that CIRP would not be hampered for want of funds.
- xiii) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

xiv) 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.

List the matter on **09.01.2020** for the filing of the progress report.

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

*SD* 21/11/2019

**(Virendra Kumar Gupta)**  
**Member(Technical)**

*SD* 22/11/2019

**(Madan B. Gosavi)**  
**Member(Judicial)**

Signed on this, the 22<sup>nd</sup> day of November, 2019.

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