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**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH
KOLKATA**

Coram : Shri Madan B. Gosavi,
 Hon'ble Member (J)
 &
 Shri Virendra Kumar Gupta,
 Hon'ble Member(T)

CP (IB) No. 1850/KB/2019

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:

M/s. Royalpet Vanijya Private Ltd., a private non-government company, limited by shares, registered under the provisions of the Companies Act, 1956 bearing CIN U51909WB2012PTC189048 and having its registered office at 2, Raja Woodmunt Street, Kolkata- 700 001;

... **Financial Creditor**

-Versus-

In the matter of:

M/s. Balgopal Distributors Private Ltd., a private non-government company, limited by shares, registered under the provisions of the Companies Act, 1956 bearing CIN U51109WB1995PTC068406 and having its registered office at 235/2A, A.J.C. Bose Road, Kolkata- 700 020, West Bengal;

... **Respondent/Corporate Debtor**

Counsel appeared:

Mr. Sanjib Dawn, Advocate

] For Financial Creditor

Shaleen Dubey, Advocate,

] For Corporate Debtor

Date of Pronouncement of Order: 17.02.2020

ORDER

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

This application under section 7 of the Insolvency & Bankruptcy Code, 2016 (in short, I&B Code) is filed by **M/s. Royalpet Vanijya Private Ltd.** to start Corporate Insolvency Resolution Process (in short, "CIRP") of the Corporate Debtor, against **M/s. Balgopal Distributors Private Ltd.- Corporate Debtor** on a ground that Corporate Debtor committed default in paying the financial debt of sum of Rs.1,90,71,143/-.

2. Financial Creditor stated that its being NBFC has granted and disbursed the corporate debtor a loan of Rs.1,84,00,000/- with interest @ 12% p.a. The loan was disbursed on 01.04.2018. It was repayable on demand. Since the loan was not paid as agreed, this proceeding is filed to start CIRP of the corporate debtor.

3. Financial Creditor produced on record bank statement and confirmation of account by the corporate debtor by letter dated 28.12.2018 (Annexure 'A'). Corporate Debtor admitted the outstanding amount but did not repay the same. Hence, this proceeding is filed.

4. Notice of this proceeding was served on the corporate debtor. Corporate Debtor appeared through one, Ram Sankar Bisal, one of the directors who filed affidavit-in-reply.

5. We have gone through the affidavit-in-reply of the corporate debtor. It is seen that corporate debtor admitted the debt and default. It has given reason for default is that deterioration of condition of economy for several years has

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hampered the corporate debtor seriously. Existence of the debt and its default are the only facts required to be considered while admitting the proceeding under section 7 of IBC. We find that this application is defect-free.

6. Financial Creditor suggested name of Mr. Kailash Kumar Rathi, proposed Interim Resolution Professional of 91, Burtolla Street, 2nd floor, Kolkata-700 007 having registration no. IBBI/IPA-001/IP-P00547/2017-18/10977 and Email Id. kailashk.rathi@gmail.com for appointment as the IRP. Proposed IRP has submitted written communication in Form-2 dated 20.08.2019, wherein it is declared that there is no disciplinary enquiry pending against her. In view of the facts and evidence on record, we hold that the application deserves to be admitted. Hence, we admit the same by passing the following order:

ORDER

- (i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process in respect of Corporate Debtor **M/s. Balgopal Distributors Private Ltd.** Moratorium order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.
- (ii) The 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 Sec.15. The public announcement referred to in clause (b) of sub-section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- (iii) Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:

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- a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 possession of the corporate debtor.
- iv) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
- v) 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.
- vi) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process.
- vii) Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the

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resolution plan under sub-section (1) of Sec.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.

viii) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the resolution professional upon receipt of the copy of this order.

ix) As per the suggestion of the Financial Creditor for appointment of IRP Mr. Kailash Kumar Rathi, proposed Interim Resolution Professional of 91, Burtolla Street, 2nd floor, Kolkata-700 007 having registration no. IBBI/IPA-001/IP-P00547/2017-18/10977 and Email Id. kailashk.rathi@gmail.com is appointed as the Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan. The IRP has filed his consent in form no.2 dated 20.08.2019 alongwith the declaration that no disciplinary proceeding is pending against him.

x) The Financial Creditor to pay to IRP a sum of Rs.50,000/- as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment.

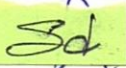
xi) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016

xii) Registry is hereby directed to communicate the order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional by Speed Post and also by email as per provisions of IBC.

Let the certified copy of the order be issued upon compliance with requisite formalities

List the matter on **27.03.2020** for filing progress report.


(Virendra Kumar Gupta)
Member (T)


(Madan B. Gosavi)
Member (J)

Signed on this, the 17th day of February, 2020.

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