



**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH,
PRAYAGRAJ**

CP (IB) No.265/ALD/2019

An application under Section 9 of the Insolvency & Bankruptcy Code, 2016 read with Rule 6 of Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016

IN THE MATTER OF:

NLDK Timbers Pvt. Ltd.

Through its Director

Sh. Sanjiv Pasricha

Having its Registered Office at

C-5/42 Safdarjung Development Area,

New Delhi – 110016

...Applicant/Operational Creditor

Versus

Lav Laxmi Land Developers Pvt. Ltd.

Through its Director

57-58, Patel Nagar Cantt.,

Nadesar Varanasi,

Varanasi, Uttar Pradesh

221002

...Respondent/Corporate Debtor

Order pronounced on : 01.09.2023



CORAM:

Sh. Praveen Gupta : Member (Judicial)
Sh. Ashish Verma : Member (Technical)

PRESENT-

Sh. Aman Bhalla, Adv. : For the Operational Creditor
Sh. Abhinav Mehrotra with Sh. Utkarsh Malviya, Advs.
: For the Corporate Debtor

ORDER

1. The instant application is filed on 04.06.2019 by **NLDK Timbers Pvt. Ltd.** (hereinafter referred as '**Applicant**')/ '**Operational Creditor**') under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as the "**I & B Code, 2016**") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred as "**the Rules**"). The prayer made therein is to initiate Corporate Insolvency Resolution Process (hereinafter referred as '**CIRP**') in respect of **Lav Laxmi Land Developers Pvt. Ltd.** (hereinafter referred as '**Respondent**'/ '**Corporate Debtor**') due to default in payment of total outstanding amount of Rs.84,81,607/- (Rupees Eighty Four Lakhs Eighty One Thousand Six Hundred and Seven only).



2. Briefly stated facts of the present case as averred by the Applicant/Operational Creditor in its application filed in Form-5 containing part I, II, III, IV & V are that:-

- i.** The Operational Creditor is involved in the trade of flooring, veneers, inlays, timber, plywood, moldings, furniture, metals, etc. At some point in 2014, the Corporate Debtor approached the Operational Creditor to buy various items for furnishing a hotel they were establishing in Varanasi. The Operational Creditor has been providing plywood, wood, and other materials as ordered by the Corporate Debtor between December 2014 and February 9, 2017. This period saw the issuance of the last invoice bearing no.55, amounting to Rs. 35,190, by the Operational Creditor.
- ii.** It is stated that the Operational Creditor would provide a Proforma Invoice regarding the goods ordered by the Corporate Debtor. Based on this Proforma Invoice, the Corporate Debtor would issue FORM-XXXVIII, which marked the initiation of goods supply. The Corporate Debtor would then receive and utilize the goods as part



of their operations.

- iii.** Furthermore, once the goods were delivered to Varanasi, the Corporate Debtor would regularly furnish C-Forms to the Operational Creditor. Notably, throughout this period, the Operational Creditor maintained an ongoing account as per standard business practice. The Corporate Debtor would periodically make partial payments to the Operational Creditor against this account.
- iv.** Subsequently, a few payments were made by the Corporate Debtor to the Operational Creditor, with the most recent payment of Rs. 25,00,000/- being made on January 30, 2018. After accounting for this transaction, an outstanding balance of Rs.84,81,607.57/- remained due from the Corporate Debtor to the Operational Creditor.
- v.** It is stated in the Application that the Operational Creditor obtained C-forms for the mentioned sums, but these amounts have not been paid by the Corporate Debtor.



- vi.** Following this, the Operational Creditor did not receive any further payments from the Corporate Debtor in regard to the pending amounts. An email dated April 2, 2018, was dispatched to the Corporate Debtor, urging it to settle the outstanding dues, but no response was received.
- vii.** Subsequently, on May 17, 2018, another email was sent by the Operational Creditor as a reminder regarding the pending payment amounts.
- viii.** In response to the aforementioned email, the Operational Creditor received a communication from the Corporate Debtor's office dated December 14, 2018. This correspondence included an attached ledger account, which clearly indicated and confirmed the existence of an outstanding sum of Rs. 84,81,607.57/- that the Corporate Debtor owed to the Operational Creditor.
- ix.** It is stated that operational creditor served demand notice under section 8 of the I&B Code, 2016 to the corporate debtor on 22.03.2019 for an outstanding sum



of Rs. 84,81,607.57/- as on 30.01.2018. However, no reply to this notice has been filed by the Corporate Debtor and also no payment of outstanding debt as mentioned in the notice under section 8.

x. Given these circumstances and facts as discussed above, the present application u/s 9 has been filed by the Operational Creditor. The invoices, email correspondences and attached ledger account serve as an acknowledgment of the debt owed by the Corporate Debtor to the Operational Creditor as mentioned in Part V of the application.

3. The Respondent/Corporate Debtor has submitted its reply stating that the present Insolvency and Bankruptcy (I.B.) petition has been filed by NLDK Timbers Pvt. Ltd, falsely representing itself as an Operational Creditor of the Respondent in question. This petition is an abuse of the legal process and is not maintainable. The following contentions have been raised in the reply of the Respondent pleading for the dismissal of this petition:

i. It is admitted by the Respondent/Corporate Debtor that it



approached the Petitioner/Operational Creditor, M/s NLDK Timbers Pvt. Ltd., to purchase/supply specific items (furniture) and construction materials and bought these materials from the petitioner. However, he further contended that material supplied were of not as per the quality as agreed upon and the same was also admitted by the Petitioner company in written correspondence that the goods they provided were of lower quality and did not match the ordered description. This effectively confirms the presence of a dispute.

- ii.** With respect to the bills mentioned below, as annexed with the Section 9 application, the Respondent Company opposed the claim raised by the Applicant/Operational Creditor Company through these bills. The Respondent Company informed the Applicant/Operational Creditor Company that the goods had substandard quality and did not align with the expected quality and description as stated in the order.



Sr. No.	Date	Bill No.	Amount (Rs.)
1	10.08.2015	30	745595
2	20.08.2015	39	520200
3	04.09.2015	40	1025738
4	10.09.2015	41	443204
5	16.09.2015	44	441660
6	16.12.2015	55	251900
7	17.12.2015	81	461660
8	09.01.2016	127	936333
9	12.01.2016	99	433472
10	20.01.2016	104	198695
11	05.02.2016	64	282743
12	05.02.2016	1 1 6	398024
13	10.02.2016	1 2 1	745117
14	10.02.2016	6 5	178620
15	20.02.2016	6 7	277090
16	27.02.2016	6 9	465443
17	03.03.2016	1 3 4	712214
18	03.03.2016	7 0	308678
19	08.03.2016	7 3	401323
20	18.03.2016	7 5	377850
21	18.03.2016	1 4 3	359034



22	26.03.2016	7 7	272510
23	29.03.2016	7 9	384148
24	06.04.2016	2	112200
25	14.04.2016	6	277393
		T o t a l	1101034

iii. As per the Respondent Company, the ledger account statement attached by the Applicant/Operational Creditor Company with the application, is not comprehensive and therefore, does not accurately represent the actual situation. It is also pointed out that it does indicate that due to the provision of sub-par quality goods that did not match the ordered description, the Applicant/Operational Creditor Company acknowledged the quality issue by recording a write-off of Rs. 25,00,000/-. This amount has been noted as a "discount allowed due to variation in material specification between what was ordered and what was supplied."

iv. It is also claimed that the Respondent Company has made a substantial payment of Rs.2,88,81,631 to the Applicant/Operational Creditor Company for their business transactions. However, this payment was retained



or contested exclusively due to the substandard quality of goods and/or their divergence from the specified description in the order. Correspondences between the parties support this stance, and in the opinion of the Respondent Company, the Applicant/Operational Creditor Company itself acknowledges that the goods it supplied did not match the expected quality and description.

- v.** The Respondent Company also states that the Demand Notice was not served on it due to shift in its Registered Office from New Delhi to Varanasi.
 - vi.** The Respondent Company also raises doubts on the authority of the Authorized Representative to file the present petition since the Board resolution annexed to the petition is not on the Company letter head nor it bears any seal of the Company.
- 4.** The Appellant/Operational Creditor filed a rejoinder countering all the contentions raised in the reply filed by the Corporate Debtor and made following averments:
- i.** The Petitioner states that in his view, the reply *prima facie* is inadmissible since it is not accompanied with a board



resolution authorizing any person to file reply to the petition.

- ii.** Secondly, the emails and other documents appended to the reply are inadmissible since no certificate under Section 65 is attached to the same.
- iii.** It is contended that the project for which the Operational Creditor's services were engaged constituted an ongoing endeavor. Over a span of three years, various items were supplied to the Corporate Debtor. On a specific occasion, due to the need to transport goods from Manesar, Haryana to Varanasi, some of the goods were damaged, rendering them unsatisfactory in terms of quality standards. The Corporate Debtor raised this issue, leading to a collaborative inspection with the Operational Creditor. As a result, the Operational Creditor acknowledged the fault in that particular batch of goods and subsequently, issued a credit note to provide a discount for those goods. This acknowledgment solely pertained to the mentioned batch, and there were no subsequent disputes. The regular supply of goods and materials persisted, accompanied by



corresponding payments from the Corporate Debtor. It is stressed by the Applicant/Operational Creditor that it is important to note that until the submission of this reply, no communication or disagreement was conveyed to the Corporate Debtor indicating any unresolved matters or conflicts regarding the quality of the goods. Furthermore, there exists no communication or agreement suggesting that the Operational Creditor has renounced the outstanding sums owed to them.

- iv.** Even after issuing the credit note, the Respondent owes Rs.84,81,607.57/- to the petitioner which is also evidenced by the Respondent's email dated 14.12.2018 wherein it has acknowledged and admitted the same.
- v.** With regard to the delivery of demand notice on Respondent, the petitioner states that the notice was duly delivered on the address of Respondent's Registered Office and its delivery report has been appended to the petition.
- vi.** As regards, the board resolution authorizing the representative to file petition, it is stated that it is a duly executed document fulfilling all requisites of a petition



under Section 9 of the Code.

5. The Respondent filed a Supplementary Affidavit on 10.07.2023 alleging that the Mr. Sanjiv Pasricha i.e., the person filing the petition was not authorized to move this petition as under:

- i.** Mr. Sanjiv Pasricha holds directorship in M/s Linear Furniture Pvt. Ltd. and M/s NLDK Timber Pvt. Ltd. (petitioner company). A perusal of the status of M/s Linear Furniture Pvt. Ltd. on the MCA website reveals that its name has been struck off by the RoC. A conjoint reading of Section 164(2)(a) and Section 167(1)(a) of Companies Act entails that if a person becomes disqualified to be a director in one company due to certain non-compliances, he shall not be eligible to hold the position of director in another company as well.
- ii.** It seems that based on the understanding of the provisions outlined above, the Registrar of Companies (ROC) for the National Capital Territory of Delhi (NCT) in Haryana has issued a notification under section 164(2)(a) of the Companies Act. This notification specifically declares that Mr. Sanjiv Pasricha, listed at Serial No. 7300 with DIN



652543, is disqualified from serving as a director from November 1, 2017, until October 31, 2022. Consequently, Mr. Pasricha was not eligible to hold the directorship position between November 1, 2017, and October 31, 2022. Therefore, he lacked the authority to represent himself as a director of any company during this period. Any such representation would be considered as misrepresentation and impersonation. The Company Petition presented to the Hon'ble Tribunal in 2019 bears the signature of Mr. Sanjiv Pasricha, a time during which the aforementioned ROC order was in effect. It's important to note that no board could have granted him authorization during this period.

- iii.** The Registrar of Companies (ROC) issued this order on December 7, 2018. Therefore, Mr. Sanjiv Pasricha has engaged in a significant misrepresentation by assuming the role of a director for the Petitioner Company. It's under this false representation that he has been granted the authorization to file the current Company Petition.
- iv.** The respondent also alleges that the petitioner Company has not filed its financial statements after 31.03.2015.



Since the Company has not filed its financial statements for more than three years, it is not entitled to any relief under law as per section 164 and 167 of Companies Act, 2013. The respondent calls upon the petitioner to produce its books of accounts to establish debt and also the Return of income for the relevant assessment years.

6. The petitioner has also filed a counter to the Supplementary Affidavit of the Corporate Debtor on 20.07.2023 with regard to the same and made the following averments:

i. The Corporate Debtor has neglected to provide an explanation in the Supplementary Affidavit regarding the omission of these points during the initial reply submission, despite the easy accessibility of this information they are relying upon, being publicly available. Based on these considerations, it is argued that the present Affidavit should not be accepted for consideration. Instead, the decision should be based on the existing pleadings on record before this tribunal.

ii. The current position of the deponent (Operational Creditor), as of the present date, is indicated as 'Active'



in the directors' status on the website of the Ministry of Corporate Affairs (MCA). This indicates that the status of the deponent has been consistently 'Active' since as far back as October 19, 2006. This implies that the deponent was duly empowered to engage in and manage these proceedings before the tribunal.

- iii.** The Respondent has submitted an Affidavit in response under the incorrect belief that only Directors possess the competence to institute and carry forward legal actions on the Company's behalf in a court of law. It is argued that the Deponent (Operational Creditor), in this instance, was granted the authority to undertake legal proceedings on behalf of the Company through a Board Resolution dated March 15, 2019. This authorization remains in effect and valid, even though the Deponent was disqualified as a Director from November 1, 2017, until October 31, 2022. It is emphasized that the Board Authorization from March 15, 2019, empowers the Deponent (Operational Creditor) to initiate the current Petition on behalf of the entire Board.



iv. Given the circumstances outlined above, even if it is assumed that the Deponent (Operational Creditor) lacked proper authorization to submit the current Petition initially, this action has now been validated by the Company's board. Consequently, it is regarded as authorized from the moment the Petition was filed, rendering the Respondent's objection baseless. It is important to note that the contents of this Affidavit should not be interpreted as an admission to the allegations that the Deponent (Operational Creditor) was not authorized at the time of filing the petition. As previously mentioned, the Deponent was appropriately empowered through a Board Resolution dated March 15, 2019, and this authorization remains in force.

v. As contended by the Applicant/Operational Creditor, it is confirmed that in the Audited Balance Sheet and Account Statements of the Corporate Debtor for the fiscal year ending on March 31, 2018, displaying the name of the Operational Creditor listed under the category of Trade Payables, denoting the amount owed to the said Operational Creditor.



- vi.** Furthermore, it is noted that even subsequent to the reception of a Section 8 Demand Notice issued by the Operational Creditor to the Respondent, no objections or disagreements were raised regarding the unsettled payment amount. In fact, the Deponent (Operational Creditor) herein received images of cheques dated April 30, 2019, and May 20, 2019, which were prepared for delivery. However, the condition was that the Deponent must provide a No Objection Certificate (NOC) or a No Dues Statement before accepting the cheques, affirming that all outstanding payments had been resolved. Regrettably, the Deponent (Operational Creditor) declined to furnish the required statement, resulting in the refusal of the cheques.
- 7.** We have considered the submissions made by the Ld. Counsels for the parties and perused the records.
- 8.** On perusal of the record, we find that over the course of three years, a variety of items were delivered to the Respondent by the Applicant. On a specific occasion, there was damage to some of the goods while being transported from Manesar,



Haryana to Varanasi. This damage resulted in a drop in quality below acceptable standards. The Respondent raised this matter, which led to a joint inspection involving both the parties. As a result, the Petitioner acknowledged the issue with that particular batch of goods and subsequently provided a “credit note” to grant a discount for those specific items. This acknowledgement was limited to the mentioned batch and no further disputes arose. The consistent supply of goods and materials continued, along with corresponding payments made by the company. Even after issuance of the credit note worth Rs.25,00,000/-, the Respondent owes a sum of Rs.84,81,607/- to the petitioner, which can be evidenced from the Respondent’s email to Petitioner dated 14.12.2018.

9. With respect to the Respondent’s contention that Mr. Sanjiv Pasricha cannot act as director and subsequently authorized Representative of Applicant/Operational Creditor Company due to a co-joint reading of the amended Sections 164(2)(a) and 167(1)(a) of Companies Act; however, on the website of MCA shows that his status as director has been “active” since 19th October, 2006. The view that Mr. Pasricha cannot act as director in the petitioner company since the name of M/s



Linear Furniture Pvt. Ltd., i.e. the other company wherein he was director, has been struck from the Register of Companies is not legally correct, because of the reason that the amendments in the Sections 164(2)(a) and 167(1)(a) of Companies Act came into effect on 07.05.2018.

- 10.** The Ld. Counsel representing the petitioner relied on a judgement of Sandeep Agarwal & Anr. vs Union Of India & Anr [2020 SCC OnLine Del 2002] decided by the Hon'ble Delhi High Court which further elaborates the aforesaid point:-

“7. The Court has heard the ld. counsel for the parties and perused the record. The judgment in Mukut Pathak (supra), insofar as the merits of the case is concerned, is squarely applicable in the present case. The said judgment clearly holds that the proviso to Section 167(1)(a) of the Act cannot be read to operate retrospectively. It was further held that the said proviso, being a punitive measure with respect to the rights and obligations of directors, cannot be applied retrospectively unless the statutory amendment expressly provides so. The operative portion in Mukut Pathak (supra) is set out herein below:

“98. In view of the above, the petitioners would not demit their office on account of disqualifications incurred under Section 164 (2) of the Act by virtue of Section 167(1)(a) of the Act prior to the statutory amendments introduced



with effect from 07.05.2018. However, if they suffer any of the disqualifications under Section 164(2) on or after 07.05.2018, the clear implication of the provisos to Section 164(2) and 167(1)(a) of the Act are that they would demit their office in all companies other than the defaulting company. xxxx

113. As discussed above, the Scheme of Section 164(2) and Section 167(1)(a) of the Act was materially amended by the Companies Amendment Act, 2018 by introduction of the provisos to Section 164(2) and Section 167(1)(a) of the Act with effect from 07.05.2018. All directors who incur disqualification under Section 164(2) of the Act after the said date, would also cease to be directors in other companies (other than the defaulting company) on incurring such disqualification. However, the operation of the provisos to Section 164(2) and Section 167(1)(a) of the Act cannot be read to operate retrospectively. The proviso to Section 167(1) of the Act imposes a punitive measure on directors of defaulting companies. Such being the nature of the amendment, the same cannot be applied retrospectively. It is well settled that the Statute that impairs an existing right, creates new disabilities or obligations - otherwise than in regard to matters of procedure - cannot be applied retrospectively unless the construction of the Statute expressly so provides or is required to be so construed by necessary implication. Therefore, the office of a director shall become vacant by virtue of Section 167(1)(a) of the Act on such director incurring the disqualifications specified under Section 164(1) of the Act. It shall also become vacant on the directors incurring the disqualification under Section 164(2) of the Act after 07.05.2018. However, the office of the director shall not become vacant in the company which is in default under sub-section 164(2) of the Act.

114. As discussed above, there is also much merit in the contention that the DIN and DSC of the petitioner could not be deactivated. Accordingly, the respondents are directed to reactivate the DIN and DSC of the



petitioners.”

11. Ld. Counsel for the Operational Creditor pointed out that the respondent in the aforesaid judgement had filed an intra-court appeal in Hon'ble Delhi High Court vide LPA no. 44/2021. The LPA was disposed of with liberty to file a review petition in the writ petition. The order passed in LPA is as under:-

IN THE HIGH COURT OF DELHI AT NEW DELHI

LPA 44/2021 & CM APPLs. 3356/2021 & 3358-59/2021

UNION OF INDIA AND ANR Appellants

Through: Mr. Vikram Jetly, CGSC with Ms. Shreya Jetly, Advocate

versus

SANDEEP AGARWAL AND ANR Respondents

Through:

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

O R D E R

18.08.2022

1. Learned Counsel for the Petitioner has drawn the attention of this Court to paragraph No.16 of the Order dated 02.09.2020, passed by the learned Single Judge of this Court in W.P.(C) No.5490/2020. She contends that the learned Single Judge has erroneously placed reliance on Mukut Pathak & Ors. v. Union



of India & Ors., **265 (2019) DLT 506**. She, therefore, prays that liberty be granted to the Appellants herein to file a review petition in the said Writ Petition.

2. Liberty, as prayed for, is granted. It is made clear that the time lost before this Court in pursuing the present LPA will not come in way of the Appellant in filing the proposed review petition.

3. With these observations, the instant LPA is disposed of. Pending applications also stand disposed of.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

AUGUST 18, 2022/Rahul

12. However, we find that there is no stay granted against the order of the Single Judge of the Delhi High Court and hence, the order of single judge discussed in para 10 still holds good.

13. In view of the amendment to section 167(1)(a) inserting the proviso, providing for a director disqualified u/s 164(2) is to vacate directorship in all the companies where he was director other than the companies in which he was disqualified u/s 164(2), has been made effective from 07.05.2018, however, Mr.



Sanjiv Pasricha being disqualified on 01.11.2017 and considering the above decision of the Delhi High Court, we are satisfied that the authorization issued to Mr. Sanjiv Pasricha to file Application u/s 9 by the Applicant/Operational Creditor is legally valid and hence, objection raised by the Corporate Debtor in this regard is rejected.

- 14.** Taking into account the provisions of Section 9 of the I & B Code, 2016, we find that the application made under sub-section (1) of Section 9 along with documents and fees as mentioned in its sub-section (2) is complete. The payment of the unpaid operational debt of Rs.84,81,607/- has not been made which is well above the threshold limit of Rs.1 lakh. Further, no notice of dispute has been given by the Corporate Debtor to the Operational Creditor. The date of default as per petition has been found to be 30.01.2018 and petition u/s 9 is filed on 04.06.2019, hence, petition is found to have been filed well within the limitation period. Therefore, after finding that all the conditions for admission of application under Section 9(5)(i) of the I & B Code 2016 against the Corporate Debtor, has been fulfilled and the Ld. Counsel of the Corporate Debtor has failed to demonstrate before us anything about



there being any pre-existing dispute as regards the payment of the operational debt, we find this application fit for admitting under Section 9(5) of the I & B Code, 2016 for starting CIRP against the Corporate Debtor , Lav Laxmi Land Developers Pvt. Ltd.

15. The Operational Creditor has not proposed the name of Interim Resolution Professional (IRP) in the present application. Hence, this adjudicating Authority appoints Mr. Rakesh Jindal as the IRP in the present case. The verification of the said IRP has been carried out by Law Research Associate of this Tribunal, Aditi Kharbanda, and it is found that there is no proceeding pending against the proposed IRP. Hence, we hereby appoint Mr. Rakesh Jindal having Registration No.IBBI/IPA-001/IP-P00375/2017-2018/10632, R/o of II/E-64 Nehru Nagar, Ghaziabad, Uttar Pradesh, 201001, [Email: ca.rakeshjindal@gmail.com](mailto:ca.rakeshjindal@gmail.com) as the IRP.

16. Accordingly, this application is admitted u/s 9(5) of I & B Code, 2016 under the following terms and conditions.

- i)** The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 for



initiating the Corporate Insolvency Resolution Process against the Corporate Debtor i.e. **Lav Laxmi Land Developers Pvt. Ltd.** is hereby admitted.

- ii)** We hereby declare a moratorium u/s 14 and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
- iii)** This Adjudicating Authority hereby appoints Mr. Rakesh Jindal as IRP as discussed in para 15 above.
- iv)** The IRP shall cause a public announcement of the initiation of the 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 the Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- v)** 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; Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

- b)** 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);
- c)** The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- vi)** 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.
- vii)** The provisions of sub-section (1) of Section 14 of I & B Code, 2016 shall not apply to such transactions as may be notified by the Central Government in consultation



with any financial sector regulator.

- viii)** The IRP shall after collation of all the claims received against the Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report certifying the constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene the first meeting of the Committee within seven days of filing the report of Constitution of the Committee.
- ix)** The Committee of the Creditors shall appoint a Resolution Professional as per section 22 of I & B Code, 2016. A monthly progress report shall be filled by the Resolution Professional providing the details of work done in respect of completing the CIRP within the time line as prescribed under the provision of section 12 of the I & B Code, 2016.
- x)** The order of moratorium shall have effect from the date of admission till the completion of the Corporate Insolvency Resolution process.



- xi)** However, 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.
- xii)** 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 in accordance with I & B Code, 2016 read with the relevant rules & regulation framed thereunder.
- xiii)** The Operational Creditor/Applicant is directed to deposit Rs.1,00,000/- (One Lakh Only) with the IRP appointed hereinabove within two weeks from this order. IRP can claim the preliminary expenses and fees subject to approval by the CoC and after the constitution of the CoC.

17. Registry is hereby directed to communicate the order to the



Operational Creditor, the Corporate Debtor, the IRP and the jurisdictional Registrar of Companies by Speed Post as well as through email. Operational Creditor shall also serve a copy of this order to the IRP.

- 18.** List the matter on 6th October, 2023 for filing of the progress report.
- 19.** Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.
- 20.** Ordered accordingly.

-Sd-

(Ashish Verma)
Member (Technical)

-Sd-

(Praveen Gupta)
Member (Judicial)

Dated : 01.09.2023

Aditi Kharbanda
(LRA)