IN THE NATIONAL COMPANY LAW TRIBUNAL

KOLKATA BENCH

KOLKATA

C.P. (IB) No. 150/KB/2019

IN THE MATTER OF:

An application 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:

Victoria Glass Works Private Limited, 15/1, Hemanta Kumar Chatterjee Lane, PS Bally, Howrah – 711107-

... Applicant/Financial Creditor

-Versus-

IN THE MATTER OF:

M/s. Wearit Global Limited, Crescent Tower, 5th Floor, 229, AJC Bose Road, Kolkata – 700 020

...Respondent/ Corporate Debtor

Coram: Shri Madan B Gosavi, Member (Judicial)
Shri Virendra Kumar Gupta, Member (Technical)

For the Financial Creditor :

1. Mr. Udit Agarwal, Advocate

For the Corporate Debtor :

2. Mr. P Sancheti, Advocate
3. Mr. A Das, Advocate

Sd/ Sd/

Date of pronouncement of the Order : 16/10/2019

ORDER

Per Shri Virendra Kumar Gupta, Member(Technical)

1. M/s. Victoria Glass Works Private Limited, Financial Creditor, has filed this Application under Section 7 of the Insolvency & Bankruptcy Code, 2016, read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process (in short CIRP) as against M/s. Wearit Global Limited, Corporate Debtor. The amount in default is Rs. 50,00,000/- (Rupees Fifty Lakh only) and the date of default has been stated as 01-08-2018.

2. The facts, in brief, are that the Financial Creditor granted Corporate loan in two trenches of Rs. 25,00,000/- (Rupees Twenty five Lakh only) each on 07-06-2016 and on 08-06-2016. The Corporate Debtor made payment of interest, however, did not make the repayment of loan.

3. The Ld. Counsel for the Financial Creditor, appeared and narrated basic facts. He drew our attention to Pages 37 and 38, containing copy of Bank Account, to show that the amount of Rs. 50,00,000/- has been disbursed to the Corporate Debtor. He further drew our attention to Pages 67 and 69 to show that the amount of loan had been confirmed by the Corporate Debtor as on 01-04-2017 and 09-01-2019, respectively. Based upon these facts, he contended that the Petition has been filed for initiation of CIRP, as per the provisions of Section 7 of the Insolvency & Bankruptcy Code, 2016, which was otherwise complete in all respects and therefore, prayed for admission thereof.

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4. The Ld. Counsel for the Corporate Debtor, however, opposed the contentions made on behalf of the Financial Creditor.

5. We have considered the submissions made by both the sides and material on record.

6. The amount of loan and its disbursement is not in dispute. The Corporate Debtor has also admitted the existence of outstanding debt, which is due and payable. The default is, in fact, and, in law, has been committed. These facts are sufficient to admit this Petition under Section 7 of the Insolvency & Bankruptcy Code, 2016. The Financial Creditor has also proposed the name of Interim Resolution Professional, whose consent has been enclosed. It has also been stated that she is not having many assignments and therefore, can discharge the functions as Interim Resolution professional, efficiently. No disciplinary proceedings, as claimed, are pending against her. Accordingly, we appoint her as the Interim Resolution Professional.

7. Accordingly, we admit this Petition and Order as under :

O R D E R S

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, M/s. Wearit Global Limited, is hereby admitted.

ii) 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.

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iii) 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 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 the 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, suspended, or interrupted during 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 have effect from the date of admission till the completion of the corporate insolvency resolution process.

Sd

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vii) 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.

viii) **Mrs. Uma Kothari, Practicing Chartered Accountant, 20A, Charu Chandra Place East, Kolkata – 700 033,** an Insolvency Professional registered with Insolvency and Bankruptcy Board of India, **Registration No. IBBI/IPA-001/IP-P01041/2017-18/11714, E-mail ID: ...., Mobile No. ....**, is hereby appointed as Interim Resolution Professional by this Tribunal for ascertaining the particulars of creditors and convening a meeting of 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.**

ix) 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.

x) The Financial Creditor is directed to deposit Rs. 2,00,000/- (Rupees Two Lacs Only) in the ESCROW Account in SBI to be operated through the Registrar, NCLT, Kolkata Bench, for the purpose of meeting the preliminary expenses for initiating the CIR Process by the IRP.

xi) Registry is hereby directed under section 7 (4) 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.

xii) List the matter on 28-11-2019 for filing of the progress report.

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

(Virendra Kumar Gupta)
Member (Technical)

(Madan B Gosavi)
Member (Judicial)

Signed on this, the 16th day of October, 2019

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