

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

**CP(IB)No.892/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:**

Borojalingah Tea Company, A Partnership Firm having its office at 12, India Exchange Place, Kolkata-700001.

.....Financial Creditor

**In the Matter of:**

Imeco Limited, having its registered office at 26, R.N. Mukherjee Road, Kolkata-700001, West Bengal.

..... Corporate Debtor

**CORAM: 1. Shri M.B. Gosavi, Member (Judicial)  
2. Shri Virendra Kr. Gupta, Member (Technical)**

**Counsels appeared:**

For Financial Creditor

1. Mr. S.K. Tiwari, Advocate
2. Mr. U. Chakroborty, Advocate

*A*  
*Sd*  
*W*

*Sd*

For Corporate Debtor

1. Mr. Soumabho Ghose, Advocate
2. Mr. Jirthaukar Nandi, Advocate
3. Mr. Nikunj Berlia, Advocate

Date of pronouncement of order: 29<sup>th</sup> August, 2019.

**ORDER**

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

1. **Borojalingah Company** - the Financial Creditor has filed this application under Section 7 of Insolvency and Bankruptcy Code, 2016 against **M/s Imeco Ltd.** - the Corporate Debtor to start Corporate Insolvency Resolution Process (in short "CIRP") of the Corporate Debtor as the Corporate Debtor committed default in paying financial debt of Rs. 7,59,136/- (Rupees Seven Lakh Fifty Nine Thousand One Hundred and Thirty Six Only).
2. By letter of disbursement dated 02.04.2018, the Financial Creditor gave the Corporate Debtor loan of Rs. 10,00,000/- (Rupees Ten Lakh Only) at the interest rate of 12% per annum. Corporate Debtor agreed to repay loan within 180 days. The loan was not repaid as agreed. Hence, the Financial Creditor filed this application to start CIRP of the Corporate Debtor.
3. Notice of this proceeding was served to the Corporate Debtor. It appeared through one Mr. Ramesh Kr. Sharma, Manager (Legal). He filed affidavit-in-reply. He denied the liability to pay any amount to

the Financial Creditor and also denied that there is any default in making the payment of debt.

4. We heard Ld. Counsel appearing for the Financial Creditor and Ld. Counsel appearing for the Corporate Debtor. We perused the record.
5. The Financial Creditor produced evidence of the debt, due and payable by the Corporate Debtor. Annexure "E1" is the letter dated 02.04.2018 by which loan amount was disbursed in favour of the Corporate Debtor. Annexure "E2" is acknowledgment receipt dated 03.04.2018 executed by the Corporate Debtor in favour of the Financial Creditor. Annexure "E3" is the letter dated 11.10.2018 whereby, the Corporate Debtor was called upon to repay loan with the interest. Annexure "E4" is the Statement of Bank Account of the Financial Creditor which shows that loan amount was actually disbursed to the Corporate Debtor. Annexure "E5" is the letter dated 02.04.2019 whereby, the Financial Creditor called upon the Corporate Debtor to clear outstanding loan of Rs. 6,50,000/- (Rupees Six Lakh Fifty Thousand Only). The Corporate Debtor committed default in paying the debt.
6. The Financial Creditor proposed name of one Mr. Soumendra Podder having registration no. IBBI/IPA-001/IP-P00446/2017-18/10789 as Interim Resolution Professional (in short "IRP") against whom no disciplinary enquiry appears to be pending. This application is defect free. Hence, we admit the same and pass the following order.

### ORDER

- 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 Imeco Limited is hereby admitted.

Sd

Sd

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.

Sd

Sd

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. Soumendra Podder** having registration no. IBBI/IPA-001/IP-P00446/2017-18/10789, residing at 1/427, Gariahat Road (South) 4<sup>th</sup> Floor, Flat 4B, Kolkata-700068, Mobile No. 9831085179 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. 50,000/- (Rupees Fifty Thousand 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) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.


Sd


Sd

xiii) 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 **16.10.2019** 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.

  
**(Virendra Kr. Gupta)**  
**Member( T )**

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

Signed on this, the 29<sup>th</sup> day of August, 2019.

Deeksha(steno)