IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI (COURT NO. IV)

Company Petition No. IB-2104/ND/2019

Under Section 10 of the Insolvency and Bankruptcy Code, 2016 and Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority), Rules, 2016.

IN THE MATTER OF:

ARTIMPIANTI INDIA PRIVATE LIMITED

Registered office at:
31 IIIrd Floor Ananvan
BLK-A/6 Paschim Vihar
New Delhi 110063

.... CORPORATE APPLICANT

ORDER DELIVERED ON: 19.02.2021

CORAM:
DR. DEEPTI MUKESH
HON'BLE MEMBER (JUDICIAL)
MS. SUMITA PURKAYASTHA
HON'BLE MEMBER (TECHNICAL)

For the Applicant : Mr. Karan Malhotra

ORDER

AS PER SUMITA PURKAYASTHA (MEMBER TECHNICAL)

1. 1. This is an application filed under section 10 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the AAA Rules') for initiation of Corporate

Insolvency process in respect of ARTIMPIANTI INDIA PRIVATE LIMITED being the Corporate Applicant itself.

2. The Applicant has averred that the Company was incorporated under the Companies Act, 1956 with the Registrar of Companies N.C.T. of New Delhi and Haryana on 05 12.2013 with CIN U29253DL2013FTC261600 and is engaged in the business of Manufacturing and trading turnkey end/or partial, of industrial equipment as among others, casting preparation equipment. Aluminium furnaces etc.

3. It has been stated in the Application that till the year 2017 the Corporate Applicant were running its business profitably. Thereafter, the Corporate Applicant witnessed substantial losses in its revenue. The cost and expenditure rose higher than the revenue, resulting the Company to incur negative profit ratio. It is an admitted fact that the Corporate Applicant started defaulting in making payments to its Operational Creditors ie. its traders, employees, statutory dues etc. The Corporate Applicant has mentioned that it does not have any financial Creditor. The Corporate Applicant had received a Legal/Demand Notice dated 21.06.2019 issued by Mr. Sergio Sgambato, ex- managing Director of the Company claiming its outstanding dues.

4. The Corporate Applicant has complied with the requirement of Section 10(3)(c) and has submitted the minutes of the Extraordinary General

Meeting dated 12.08.2019, wherein the members of the Corporate Applicant interalia had resolved by way of Special Resolution in the said meeting to the following effect: -

> ***RESOLVED THAT*** *pursuant to Section 10 of the Insolvency and Bankruptcy Code, 2016 read with Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, the consent of the shareholders is accorded to initiate Corporate Insolvency Resolution Process vis-à-vis the company by filing requisite application and documents with the Hon`ble Company Law Tribunal, New Delhi for appropriate orders.*
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> ***RESOLVED FURTHER THAT*** *the Board of Directors of the Company be and is hereby authorized to do all such acts, deeds, matters and things as may be necessary to give effect to the above resolution."*

In addition, the Applicant company has also enclosed the extracts of the meeting of Board of Directors dated 17.07.2019 in support of the authorization for pursuing the present application.

5. The Corporate Applicant has disclosed that a sum of Rs. 2,05,20,172.28/- is due to **Trade Creditors.** It is further submitted a sum of Rs. 52,88,680.96/- is due to **Government dues** and Rs. 56,41,893/- to the **Employees.**

6. The Adjudicating Authority has gone through the Petition and heard the arguments of the counsel and came to a conclusion that the Corporate Applicant is liable to make payment to various creditors and defaulted in making payments.

7. The Corporate Applicant has complied with the provision of Section 10(3)(a) and has enclosed the audited financial statements for the years 2017-18 and 2018-2019, the provisional financial statement as on 15.08.2019, list of assets and liabilities of the Corporate Applicant, list of operational creditors as on 15.08.2019, list of Government dues to be paid as 15.08.2019 and list of outstanding dues towards the employees as on 15.08.2019.

8. The Corporate Applicant proposed Mr. Arun Jain having registration No. as IBBI/IPA-00590/2017-2018/11029 email arjain1966@gmail.com as Interim Resolution Professional to carry the functions as mentioned under the Code.

9. On reading the Petition and the supporting documents annexed with the Petition, this Bench is of the view that the Corporate Applicant has committed default and the Petition contains the particulars as required u/s 10 of the Code. Hence, this Bench hereby admits this petition, declaring moratorium with consequential directions as mentioned below:

A moratorium in terms of Section 14 of the Code is imposed forthwith in following terms:

a) "the institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Respondent.

(2) The supply of essential goods or services to the Respondent as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(3) 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.

(4) The order of moratorium shall have effect from the date of such order till the completion of the corporate insolvency resolution process."

10. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code. That this Bench hereby appoints Mr. Arun Jain having registration No. as IBBI/IPA-00590/2017-2018/11029

email arjain1966@gmail.com is being confirmed by this Bench. He shall take such other and further steps as are required under the statute, more specifically in terms of Section 15, 17 and 18 of the Code and file his report within 30 days before this Bench.

11. The Applicant shall deposit a sum of Rs. 2 lakhs to enable the IRP to meet the immediate expenses. The same shall be accounted for by the IRP and shall be reimbursed to the Applicant to be recovered as costs of the CIRP.

12. A copy of the order shall be communicated to the Corporate Applicant by the Registry. The said order shall be communicated to the IRP above named and intimate of the said appointment by the Registry. Applicant is also directed to provide a copy of the complete paper book with copy of this order to the IRP. In addition, a copy of said order shall also be forwarded to IBBI for its records and to ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.

13. Application is allowed and disposed off in terms of above order.

SD/-

Sumita Purkayastha

Member (T)

SD/-

Dr. Deepti Mukesh

Member (J)