



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

CP (IB) No. 91/ALD/2022

In the matter of:

Section 10 of the Insolvency and Bankruptcy Code, 2016 under rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

And

In the matter of:

M/S RENTAL STAY PRIVATE LIMITED

Having its registered office at:

Placio Office 3, 8th Floor, Plot No.A-14, Eco Towers,
Sector-125, Noida-201301, Uttar Pradesh

Also At:

E-3, Amity Innovation Incubator,
Amity University, Sector-125,
Noida-201301, Uttar Pradesh

...Corporate Applicant/Corporate Debtor

Coram:

Shri Praveen Gupta. : Member (Judicial)

Shri Ashish Verma : Member (Technical)

Appearances (through video conference):

For the Corporate Applicant/Petitioner : Sh. Adhish Srivastava, Advocate

For the Operational Creditor : Sh. Sudip Deb, Advocate

Order pronounced on 11.04.2023

ORDER

1. The present Petition has been filed by M/s Rental Stay Private Limited (CIN: U74120UP2016PTC077027), the Corporate Applicant, under section 10 of the Insolvency and Bankruptcy Code, 2016 (the Code) read with rule 7 of Insolvency And Bankruptcy (Application to Adjudicating



Authority Rules, 2016) for initiation of Corporate Insolvency Resolution Process (CIRP) against itself. The Application in Form 6, has been filed through its Authorized Representative, Mr. Amit Bhardwaj, duly authorized *vide* Board Resolution dated 11.03.2022. A copy of the Board Resolution dated 11th March, 2022 is annexed to the Application and marked as Annexure-4 on Pages 86-95.

2. The Corporate Applicant was incorporated on 8th March, 2016 and is in the business of inter alia online portal for operational and facility management of real estate, rental services, property listing, advertising, online marketing and consultancy, etc. It built a unique solution for the outstation students of universities and colleges, who find it extremely difficult to find a suitable accommodation for themselves due to universities/college hostels being in short supply and existing hostels and paying guest accommodation (PG) were highly unorganized. To solve this problem, an online model is developed working with the property owners on service contract and helping them to standardize their property in terms of facilities, look and feel, service standard training, and technology solutions with the view to cater to the huge demand of affordable and standardized student housing. The corporate applicant soon became market leader in providing good housing with standard amenities at affordable rate for students who were staying away from their houses. However, due to the unprecedented economic scenario during Covid period and thereafter, the net worth of the corporate Applicant got completely eroded and now, has no money to pay to its creditors and to continue its business.
3. The reasons for applying for initiation of the CIRP by the Corporate Applicant, are as follows: -
 - (i) Wrong selection of properties and unsatisfactory market response in some areas due to which the corporate applicant started facing



liquidity issues.

- (ii) Some funding that was slated to be received by the corporate applicant was not released by the investors.
 - (iii) The outbreak of Covid-19 pandemic due to which the entire country was imposed with a complete lock down that led to the Real Estate business suffering immensely because of shutting down of the universities and colleges indefinitely leading to outstation students going back to their home and leaving the housing facilities provided by corporate applicant, which was the primary source of revenue for the corporate applicant. This in turn, resulted in severe cash flow and liquidity crunch and to non-realization of receivables due and payable to the Corporate Applicant.
4. It is stated by the Corporate Applicant in its application that it is in default of total debt owed to:-
- (i) Financial Creditors is Rs.35,00,000/- (Rupees Thirty-five lakhs Only).
 - (ii) Operational creditors is Rs.96,45,869/- (Ninety Six Lakhs Forty five thousand Eight hundred and Sixty-nine Only).
5. The members/shareholders of the Corporate Applicant have given their consent by way of a special resolution passed in the Extraordinary General Meeting held on 11th March, 2022 to file the application under section 10 of the Code. A copy of the Resolution dated 11th March, 2022 is annexed to the Application and marked as Annexure-4 of the present petition.
6. In support of its Application, the Corporate Applicant has submitted, *inter alia*, the following documents: -
- (a) List of financial creditors and operational creditors along with amounts in default. There are 5 financial creditors and 32 operational creditors.



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- (b) Copy of Books of Accounts (Ledger Account), loan agreement deed of guarantee, agreement for pledge of shares along with documents evidencing defaults by the Corporate Applicant against all five financial creditors.
- (c) Copy of Books of Accounts (Ledger Account) along with share subscription and shareholder agreement, Memorandum of Understanding and available invoices issued by the operational creditor, M/s Amity Technology Incubator and Copy of Books of Accounts (Ledger Account) alongwith invoices wherever applicable in case of other 37 operational creditors. In case of the operational creditor, M/s Chatterjee Cleaning Arts Services Private Limited, notice of arbitration given by this creditor is also enclosed. In case of some operational creditors, Settlement Agreements are also filed.
- (d) Copies of Directors report and Audited Financial statements of the Corporate Debtor for the Financial Year being 2016-17, 2017-18, 2018-19 , 2020-21 and Unaudited Provisional Financial Statement of M/s Rental stay Private Limited i.e. Corporate Applicant for the current year made up to 31 March 2022
- (e) Statement of affairs, list of Corporate applicant/ debtor's assets and liabilities
- (f) Copy of media reports and other reports published on the impact of Covid-19 on student housing segment in India
7. The Corporate debtor has proposed the name of Mr. Mohit Goyal (Regn No. IBBI/IPA-001/IP-P-02395/2021-2022/13636) to function as the Interim resolution Professional (IRP). Mr. Mohit Goyal has submitted his written communication in Form 2. The written communication is



annexed to the application and marked as Annexure -5 on pages 96-98.

8. We have perused the documents on record and considered all the facts of the case. Prima facie, we find that there is no malafide in filing this application by the corporate applicant as the Covid-19 pandemic has had disastrous effects on many industries due to the complete lockdown imposed in the country, one of the worst-hit areas being the real estate market. However, before taking a final decision on admission of this application u/s 10 for starting CIRP against the Corporate Debtor/ Corporate Applicant, we decided to offer opportunity to all creditors to submit their objections, if any, on moving of application under section 10 of the Code by Corporate Debtor itself. In this regard, we may refer to the notices issued vide order dated 27.09.2022 to all the stakeholders/ creditors as mentioned in the application for which details are available in previous orders passed by the Tribunal. It was also directed that the Corporate Applicant would also file affidavit that there are no other stakeholders except for those mentioned in the list attached to the application itself.

The compliance affidavit was filed by the Corporate Applicant as observed in the order dated 07.11.2022. In response to the notices issued, one M/S Chatterjee Cleaning Arts Services Pvt. Ltd. had appeared as one of the Operational Creditor before this Tribunal on 14.12.2022. Further, on ascertainment from the Registry, it was observed in the order dated 16.12.2022 that, notices issued to 18 creditors have been returned 'undelivered', and therefore, the Corporate Applicant was directed to issue publication in the newspapers 'Dainik Jagran' and 'Hindustan Times'. The publication was made as per the affidavit of compliance filed vide diary no.392 dated 11.01.2023 attaching therewith the copies of the publications made in the aforesaid newspapers published on

30.12.2022. In this manner, all possible steps had been taken by the Corporate Applicant to ensure effective service upon the creditors and all concerned. Further, except for the aforesaid Operational Creditor, no one has come present. Thus, we find that apart from the credit liabilities of the creditors as already mentioned in the application U/s 10 by the Corporate Applicant, and apart from one of the Operational Creditor as mentioned above, no other creditor is forthcoming raising any objections against the present application. Even, the Operational Creditor as mentioned above, had no objection against the admission of the application under section 10 as observed by this Tribunal vide its order dated 17.03.2023, except filing a reply affidavit dated 28.10.2022 stating that as per the award given by the Ld. Arbitrator with respect to the disputes raised by the operational creditor, the amount awarded is higher than what has been reflected as a debt in the petition. The amount of debt in the petition against this Operational Creditor has been shown at Rs.23,83,149/- while as per the award passed by the Learned Arbitrator on 7th June, 2022 in favour of the Operational Creditor directing the Corporate Debtor/ Corporate Applicant to pay a sum of Rs.33,52,560/- with further interest calculated @ 9.5 % per annum from the date of award till such payment is made. The Operational Creditor computed the total amount payable from the Corporate Debtor/ Corporate Applicant to it at Rs.34,66,868 including interest up to 15.10.2022.

9. We have heard the Learned Counsel for parties and examined the application in terms of provision of section 10. The Corporate Applicant has furnished the books of accounts for the relevant period under Section 10(3)(a); the Corporate Applicant has proposed the name of the IRP who has submitted its written consent (Section 10(3)(b)); the Corporate Applicant has also filed the Special



Resolution passed by shareholders in Extraordinary General meeting dated 11.03.2022 under Section 10(3)(c).

10. The application is free from defects and complete in all aspects as required under the law. The Application shows that the Corporate Debtor is in default of a debt that is due and payable, and the default is more than the threshold amount as stipulated under section 4(1) of the Code at the relevant time. The default stands established and there is no reason to deny the admission of the present Application. The Law Research Associate of this Tribunal, Ms. Aditi Kharbanda, has checked the credentials of Mr. Mohit Goyal, and there is nothing adverse against him. In view of the above, we appoint Mr. Mohit Goyal, Registration No. IBBI/IPA-001/IP-P-02395/2021-2022/13636, R/o 17, LGF, Defence Enclave, Vikas Marg, East, National Capital Territory of Delhi, 110092, Email: camohitgoyal@gmail.com, as the Interim Resolution Professional.
11. Therefore, in the light of the facts stated in the application and the evidence placed on record, this Adjudicating Authority admits this Application and orders initiation of CIRP against the Corporate Debtor under the following terms:
 - (a) The Application bearing C.P.(IB)No. 91/ALD/2022 filed by the Corporate Applicant under section 10 of the Insolvency & Bankruptcy Code, 2016, is hereby admitted for initiating the Corporate Insolvency Resolution Process in respect of M/s Rental Stay Private Limited (CIN: U74120UP2016PTC077027)
 - (b) There shall be a moratorium under section 14 of the IBC.
 - (c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor

under section 33 of the IBC, as the case may be.

- (d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (e) As per the proposal given by the Corporate Applicant, Mr. Mohit Goyal (Regn No. IBBI/IPA-001/IP-P-02395/2021-2022/13636) is appointed as the IRP for ascertaining the particulars of Creditors and convening a Committee of Creditors for evolving a Resolution Plan. Since the AFA of the proposed IRP is expiring on 14.06.2023, it should be ensured that the COC is constituted within 30 days of this order.
- (f) During the CIRP period, the management of the Corporate Person shall vest in the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Person shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow.
- (g) The IRP/RP shall submit to this Adjudicating Authority periodical progress reports on quarterly basis with regard to the progress of the CIRP in respect of the Corporate Debtor.
- (h) The Corporate Applicant to pay to IRP a sum of Rs.1,75,000/- (Rupees One Lakh Seventy Five Thousand only) to meet the initial costs, 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.
- (i) The Resolution Professional shall conduct CIRP in a time-bound



manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

(j) The Registry of this Court is hereby directed to communicate this Order to the Corporate Person and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.

(k) Additionally, the Corporate Person shall serve a copy of this Order on the IRP and on the Registrar of Companies, Kanpur by all available means for updating the Master Data of the Corporate Person. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

12. **CP (IB) No. 91/ALD/2022** to come up on 12.05.2023 for filing the first progress report.

13. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

-Sd-

Ashish Verma
Member (Technical)

-Sd-

Praveen Gupta
Member (Judicial)