



SL. No.127

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH
COURT HALL NO: II**

(Video Conference)

**CORAM: DR.VENKATA RAMAKRISHNA BADARINATH NANDULA – HON'BLE MEMBER (J)
CORAM: SHRI SATYA RANJAN PRASAD, HON'BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 27.10.2022 AT 02:30 PM THROUGH VIDEO CONFERENCE**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition IB/102/2022
NAME OF THE COMPANY	Kling Enterprises India Limited
NAME OF THE PETITIONER(S)	
NAME OF THE RESPONDENT(S)	
UNDER SECTION	10 of IBC

ORDER

Order pronounced. Recorded vide separate sheets.

We hereby admitted this petition and appoint an IRP named in the petition to carry out the directions as mentioned in the order.

Sdf

MEMBER (T)

Satya Priya

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MEMBER (J)

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH AT HYDERABAD**

**CP (IB) No. 102/HDB/2022
Under Section 10 of IB Code, 2016**

In the matter of M/s M/s KLING ENTERPRISES INDIA LIMITED

M/s KLING ENTERPRISES INDIA LIMITED

H. No. 7-2-1769/4, Flat No. 401,
Akruthi Presidency, Street No. 4,
CZECH Colony, Sanath Nagar,
Hyderabad – 500018, Telangana.

Date of Order: 27.10.2022

CORAM:

**Dr. Venkata Ramakrishna Badarinath Nandula, Member Judicial
Mr. Satya Ranjan Prasad, Member Technical**

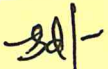
Appearance:

For the Corporate Applicant : Mr. K. Sathakarni, Advocate

[PER: BENCH]

ORDER

1. Under consideration is an Application filed under Section 10 of IB Code, 2016 by the Corporate Applicant M/s. Kling Enterprises India Limited, inter-alia seeking to admit the present Application and initiate Corporate Insolvency Resolution Process against the Corporate Debtor under the Insolvency and Bankruptcy Code, 2016 and to appoint Interim Resolution Professional Mr. Bathina Venka Reddy, Membership No. IBBI/IPA-N00645/2018-19/12032 to manage the Corporate Debtor.







2. Brief facts of the case as stated by the Applicant are as under:-

- a. The Corporate Debtor M/s. Kling Enterprises India Limited, bearing CIN U67120TG2007PLC053474 was incorporated on 05.04.2007 under the provisions of the Companies Act, 1956. The Corporate Debtor is engaged into the business of Trading including, underwriting investing, acquiring various securities and properties including equity, preference, stocks, debentures, debenture-stock and bonds in any of the corporates, companies, firms, undertakings, bodies etc. including portfolio investments in all kinds of securities and also as underwriters and brokers of stocks, shares and other securities etc.
- b. That the Corporate Debtor committed default in paying the creditors' due to unavoidable facts and circumstances surrounding the business and in view of liquidity crunch and bad marketing conditions.
- c. That the Corporate Debtor has sustained huge losses and now due to lack of funds and investors, Corporate Debtor is unable to perform any kind of activities. Therefore to the debt notices issued by the Operational Creditor, Corporate Debtor could not honour its payments. The debt notice issued by the Operational Creditor and acknowledgements are annexed.
- d. That the Corporate Debtor has issued notice dated 12.01.2022 to all its Directors with an agenda to invoke Corporate Insolvency Resolution Process under Insolvency and Bankruptcy Code, 2016 and then the Shareholders of the Corporate Debtor in the Extra Ordinary General Meeting held on 21.02.2022 passed a special resolution by giving consent for initiating Corporate Insolvency Resolution Process against the Corporate Debtor under Section 10 of Insolvency and Bankruptcy Code, 2016.
- e. That the Shareholders of the Corporate Debtor authorised its Director Shri M. Dasigi Venkata Surya Prakash Rao (DIN:03013165) to file the Application under Section 10 before this Adjudicating Authority and

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recommended the appointment of Mr. Bathina Venka Reddy, Insolvency Professional as Interim Resolution Professional.. The Special Resolution passed by the Shareholders has been uploaded with Registrar of Companies by filing Form MGT-14.

- f. That the Resolution Professional has also issued Form-2 conveying his consent to act as IRP. The list of Directors & Shareholders of Corporate Debtor, statement of Affairs of Corporate Debtor and copies of independent auditor's report on the Financial Statements of the Corporate Debtor Company for the past 2 years and provisional Balance Sheets for the Current Year as on 28th February 2022, as required under the Code to substantiate the Corporate Debtor's debt / Outstanding due amount is also Annexed.
- g. That the Assessing Officer has made dis-allowance of Rs.89,58,87,520/- and added back to the total income of the assessee under section 69 of the Income Tax Act without considering the fundamental fact that the said amount is not the income of the Applicant herein because the Financial Creditor who is none other than one of the shareholder of the Assessee has furnished her income of Rs.92,96,88,877/- under exempted income Column under the heading of exempted long term capital gains.
- h. Further, the Assessing Officer has also made a disallowance of Rs.31,43,05,150/- which has been transferred from Stampede Enterprises India Pvt Ltd despite the fact that the statement of Account reflecting the amounts have been transferred from the Stampede Enterprises India Pvt Ltd.
- i. In view of the above mentioned facts the order of the Assessing Officer passed directing to pay an amount of Rs.48,14,72,230/- has been challenged under Appeal.
- j. That the Applicant has not filed and/or initiated any other proceedings pertaining to the subject matter of the present Application before any

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Court of Law or Tribunal or any other Authority or any other Bench of this Hon'ble Adjudicating Authority.

3. That as per the directions of the Adjudicating Authority, at the hearing dated 01.07.2022, the petitioner has carried out notice to all the creditors informing that the Corporate Applicant has filed an application under section 10 of the Insolvency and Bankruptcy Code, 2016 before the Adjudicating Authority to initiate Corporate Insolvency Resolution process in respect of the Corporate Applicant. No objections till date has been received. A memo dated 03.08.2022 filed on 03.08.2022 along with the proof of service have been duly filed with the Adjudicating Authority.
4. Heard. Perused the record.
5. On perusal of record, it is seen from the balance sheet of Corporate Applicant for FY 2020-21 that it has long term borrowings to the tune of Rs.3,09,61,644/- and current liabilities to the tune of Rs.2,26,58,766/- from various Financial Institutions and related parties. Further on perusal of the pages from 40 to 54 of Application, it is evident that the Applicant has defaulted in payment to various Creditors, thus, this Adjudicating Authority is satisfied that the Corporate Applicant has proved its case by placing evidence that default has occurred for which the Corporate Applicant was liable to pay. It is also pertinent to note that, pursuant to the notice, this Adjudicating Authority did not receive any objection from any of the stakeholders of the Corporate Applicant.
6. That the resolution for initiation of Insolvency is approved by Board of Directors of the Corporate Applicant and that there are no disciplinary proceedings pending against the proposed IRP, as is evident from the IBBI website. That he is holding valid AFA till 07.11.2022. Further the Corporate Applicant has fulfilled all the stipulations as required under the provisions of the IB Code, 2016 for the purpose of initiating Corporate Insolvency Resolution Process. In these circumstances, having satisfied

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with the submissions made by the Petitioner, this Adjudicating Authority is inclined to admit the instant Application.

7. Accordingly, the instant application is hereby admitted and this Adjudicating Authority orders the commencement of the Corporate Insolvency Resolution Process (CIRP) which shall ordinarily be completed within the timelines stipulated in the IB Code, 2016 (as amended), reckoning from the day of this order is passed.
8. The Corporate Applicant has proposed the name of Mr. Venka Reddy Bathina as Interim Resolution Professional and he has filed his written consent. Accordingly, this Adjudicating Authority appoints Mr. Venka Reddy Bathina, as Interim Resolution Professional, having Registration No. IBBI/IPA-002/IP-N00645/2018-2019/12032, e-mail id: bvracs123@gmail.com as Interim Resolution Professional. IRP is directed to file Authorization for Assignment in registry within three days from the date of this order.
9. The IRP is directed to take charge of the Corporate Applicant's management immediately. He is also directed to cause public announcement as prescribed under section 15 of the IB Code, 2016 within three days from the date the copy of this order is received, and call for submissions of claim in the manner as prescribed.
10. The moratorium is hereby declared which shall have effect from the date of this order till the completion of CIRP. For the purposes referred to in section 14 of the IB Code, 2016. It is hereby ordered to prohibit all of the following namely:-
 - i. The institution of suits or continuation of pending suits or proceedings against the Corporate Applicant including execution of any judgment, decree or order in any court or law, tribunal arbitration panel or other authority;

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- ii. Transferring, encumbering, alienating or disposing of by the Corporate Applicant any of its assets or any legal rights or beneficial interest therein;
 - iii. Any action to foreclose, recover or enforce any security interest created by the Corporate Applicant 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);
 - iv. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant.
 - v. Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.
11. The supply of essential goods or services of the Corporate Applicant shall not be terminated or suspended or interrupted during moratorium period. Further, if the IRP/RP considers supply of any goods or services critical to protect and preserve the value of the Corporate Applicant and manage the operations of such Corporate Applicant as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Applicant has not paid dues arising from such supply during the moratorium period. Furthermore, the provisions of Sub-section (1) of Section 14 shall not apply to such transactions, agreements or other arrangement as may be notified

Sd/-

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by the Central Government in consultation with any financial sector regulator or any other authority.

12. The IRP shall comply with the provisions of Sections 13(2), 15, 17 & 18 of the Code. The Directors, Promoters or any other person associated with the management of Corporate Applicant are directed to extend all assistance and co-operation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.
13. The Applicant as well as the Registry is directed to send the copy of this Order to IRP so that he could take charge of the Corporate Applicant and make compliance with this Order as per the provisions of I&B Code, 2016.
14. Accordingly, this Petition is admitted.

Sdt

Satya Ranjan Prasad
Member Technical

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Dr. Venkata Ramakrishna Badarinath Nandula
Member Judicial