

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

CP(IB)No.26/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:

State Bank of India, a banking company constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act, 1970 and having its Corporate Centre at State Bank of India Bhawan, Madam Cama Road, Mumbai-400021 and its branch commonly called Stress Assets Management Branch – (SAMB) at 1, Middleton Road Street, Jeevan Deep Building, 1st Floor, Kolkata-700071.

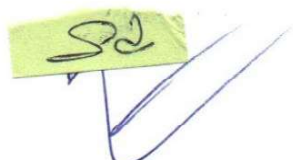
.....Financial Creditor

In the Matter of:

M/s Finecrete Eco Blocks Private Limited, a company incorporated under the provisions of the Companies Act, 1956 and having its registered office at Premises No. 24, Park Street, Anuj Chambers, 3rd Floor, Room No. 3B, Kolkata, West Bengal-700016 with CIN:U26960WB2013PTC196584.

..... Corporate Debtor

**CORAM: Shri Madan B. Gosavi, Member (Judicial)
Shri Virendra Kumar Gupta, Member(Technical)**





Counsels appeared:

For Financial Creditor

1. Mr. Rishav Banerjee, Advocate
2. Mr. A.K. Awasthi, Advocate

For Corporate Debtor

1. Mr. Om Narayan Rai, Advocate
2. Mr. S. Ray Chaudhury, Advocate

Date of pronouncement of order: 3rd October, 2019.

ORDER

Per Shri Virendra Kumar Gupta, Member (T):

1. This application has been filed under Section 7 by the financial creditor, namely, **State Bank of India** to start Corporate Insolvency Resolution Process (in short "CIRP") of the Corporate Debtor, namely, **M/s Finecrete Eco Blocks Private Limited**. The amount of default has been stated at Rs. 44,22,28,132.22 and the date of default has been stated as 13.03.2017.
2. The facts, in brief, are that the State Bank of Bikaner, being an Associate Bank of State Bank of India had sanctioned limits and disbursed loan to the Corporate Debtor. The said Bank got merged with State Bank of India w.e.f. 01.04.2017. Hence, this Petition has been filed by State Bank of India.
3. The Ld. Counsel on behalf of the Financial Creditor narrated these facts and drew our attention to page no. 644 of the paper book to show the document of classification of account of the Corporate Debtor as Non-

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Performing Asset (NPA). He further drew our attention to notice Under Section 13(2) by issued to the Corporate Debtor on 06.08.2018. He further drew our attention to Balance Confirmation Certificate issued by the Corporate Debtor as on 31.03.2016. In view of the above facts, it was contended that there was debt which was due and payable and a default had occurred and, therefore, this petition was liable to be admitted.

4. The Ld. Counsel appearing on behalf of the Corporate Debtor on the other hand opposed the Petition.
5. We have considered the submissions made by both and perused the material on record. As far as amount of disbursement and outstanding is concerned, the same is not in dispute. It is also not in dispute that the Corporate Debtor has failed to pay the amount to the Financial Creditor. The debt is not barred by limitation as the Petition has been filed within 3 years from the date of amount becoming due and payable. The application filed under Section 7 is complete in all other respects.
6. The Financial Creditor has suggested name of one Mr. Sanjay Kumar Agarwal, having registration no. IBBI/IPA-001/IP-P00062/2017-2018/10140 for appointment as the Interim Resolution Professional. The proposed IRP has also given his consent and there is nothing on record to show that any disciplinary proceeding is pending against him. In view of the above facts and legal position, we admit this Petition for initiating CIRP of the Corporate Debtor and order as under.

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 Fincrete Eco Blocks Private Limited** is hereby admitted.



ii) I 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.



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. Sanjay Kumar Agarwal, IP Registration No. IBBI/IPA-001/IP-P00062/2017-2018/10140, residing at Draupadi Mansion, 11 Brabourne Road, Kolkata-700001, 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.

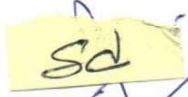
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xiii) Registry is hereby directed under section 7(7) of the I.B. Code, 2016 to communicate the order to the Financial Creditor, the Corporate Debtor and to the I.R.P. by Speed Post as well as through e-mail.

List the matter on **15.11.2019** 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.


(Madan B. Gosavi)
Member(Judicial)


(Virendra Kumar Gupta)
Member(Technical)

Signed on this, the 3rd day of October, 2019.

Deeksha(steno)