

IN THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH

C.P.(IB) -413/(MB)/2018

Under section 10 of IBC, 2016

In the matter of

Kunal Industries Private Limited,
26, Aishwarya Private Limited,
Paud Road, Kothrud,
Pune-411038

....Corporate Applicant

Order delivered on 17.12.2018

Coram:

Hon'ble Bhaskara Pantula Mohan, Member (J)

Hon'ble V. Nallasenapathy, Member (T)

For the Applicant: Ms. Ami Jain, Advocate

Per : Bhaskara Pantula Mohan, Member (Judicial)

ORDER

1. This Company Petition is filed by Kunal Industries Private Limited (hereinafter called Corporate Applicant), under Section 10 of 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.

2. The Corporate Applicant submits that its registered office is at 26, Aishwarya Pooja Park, Paud Road, Kothrud, Pune-411038 incorporated on 29.01.2007 vide CIN U74999PN2007PTC134248 on the file of Registrar of Companies Maharashtra, having paid up share capital of Rs. 1,20,00,000/-

3. The shareholders of the Corporate Applicant in the Extra Ordinary General Meeting held on 28.02.2018 passed a Special Resolution for filing an application under section 10 of the Code. In the same meeting the shareholders resolved to authorise Mr. Pandharinath Vilas Danke, Director of the Company, to file necessary application under the Code.

4. The Corporate Applicant has disclosed that a sum of Rs. 2,63,00,000/- is due to financial creditors out of which a sum of Rs. 67,47,446/- is in default. It is further submitted that a sum of 58,47,661/- is due to unsecured financial creditors and the same is in default. Further,

a sum of Rs.1,07,73,314/- is due to the Operational Creditors which is in default.

5. The Corporate Applicant has enclosed the sanction letters issued by Financial Creditors for the credit facilities availed by them.

The Corporate Applicant also enclosed the Demand Notices issued by the Financial Creditors demanding for repayment of credit facilities availed by it.

6. The Corporate Applicant enclosed an arbitral award dated 21.01.2016 passed by the Sole Arbitrator Ms. Rubina Yasmin whereby an award was passed against the Corporate Applicant for Rs.14,35,978/- together with interest @ 19% per annum from 22.07.2015 till the passing of the award with further interest @18% per annum from the date of the award till its realization.

7. This Bench 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.

8. The Corporate Applicant has enclosed the audited financial statements for the years 2016-17 and 2017-18, the provisional financial statement for the period from 1.4.2018 to 20.10.2018, list of assets and liabilities of the Corporate Applicant, list of financial creditors and operational creditors as on 20.10.2018, list of properties given as security for the loans availed, addresses of the members of the Company with details of their shareholding, details of debt owed by the Corporate Applicant or by persons connected with it and details of guarantors of the Corporate Applicant.

9. The Corporate Applicant proposed Mr. Harshad Shamkant Deshpande having registration No. as IBBI/IPA-001/IP-P000166/2017-18/10335 having address at Flat No.403, Kumar Millenium, Jaibhawani Nagar, Paud Road, Near Rohan Corner, Kothrud, Pune-411038, email-harshad_de@hotmail.com as Interim Resolution Professional to carry the functions as mentioned under the Code.

10. 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:

- (i) That this Bench hereby prohibits 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 of law, tribunal, arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the Corporate Applicant any of its assets or any legal right or beneficial interest therein; 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 Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Applicant.
- (ii) That the supply of essential goods or services to the Corporate Applicant, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- (iii) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- (iv) That the order of moratorium shall have effect from 17.12.2018 till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Applicant under Section 33, as the case may be.
- (v) That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under Section 13 of the Code.
- (vi) That this Bench hereby appoints Mr. Harshad Shamkant Deshpande having registration No. as IBBI/IPA-001/IP-P000166/2017-18/10335 having address at Flat No.403, Kumar Millenium, Jaibhawani Nagar, Paud Road, Near Rohan Corner, Kothrud, Pune-

411038, email- harshad_de@hotmail.com as an Interim Resolution Professional to carry the functions as mentioned under the Code.

11. Accordingly, this Petition is admitted.

12. The Registry is hereby directed to communicate this order to the Applicant and the Interim Resolution Professional immediately.

SD/-
V. NALLASENAPATHY
Member (Technical)

SD/-
BHASKARA PANTULA MOHAN
Member (Judicial)