(2020) 02 NCLT CK 0176

In the National Company Law Appellate Tribunal, Pricipal Bench, New Delhi

Case No : Company Petition No. IB-1526/ND Of 2019

M/s. Amritvani Exim Private Limited — APPELLANT

Vs

M/s. Ajanta Offset And Packaging Limited — RESPONDENT

Date of Decision : 04-02-2020

Acts Referred:

Insolvency And Bankruptcy Board Of India (Insolvency Resolution Process For Corporate Person) Regulations, 2016 — Regulation 6, 6(1)
Insolvency And Bankruptcy (Application To Adjudicating Authority) Rules, 2016 — Rule 4, 4(2), 9(1)
Insolvency And Bankruptcy Code, 2016 — Section 7, 7(3)(b), 7(5)(a), 9(5), 13(2), 14(1), 14(2), 14(3), 60(1)

Citation : (2020) 02 NCLT CK 0176

Hon'ble Judges : Dr. Deepti Mukesh, J;Hemant Kumar Sarangi, Member (Technical)

Bench : Division Bench

Advocate : Shashwat Anand, Arjun Asthana, Shreenita Gosh

Judgement

,PARTICULARS OF FINANCIAL DEBT,

1 . TOTAL AMOUNT OF DEBT GRANTE

AND DATE (S) OF DISBURSEMENT",,"TDotal Amount of Debt is Rs. 1,00,00,000/- (Rupee

One Crore)

Date of Disbursement 12.09.2017

2. AMOUNT CLAIMED TO BE IN DEFAU

AND THE DATE ON WHICH THE DEFAU

OCCURRED",,"LATmount Claimed Rs. 53,81,180/- (Rupees Fifty Thre

LLTakhs Eighty One Thousand OneH undred Eighty)

As Principal Default Plus Rs. 3,81,180/- (Rupee

Three Lakhs Eighty One Thousand One Hundre

Eighty), as interest due and tax deducted but not

credited to the financial creditors by the Corporate

Debtor.

Default Occurred on 16.03.2018

There is no bar for Financial Creditor from proceeding under the provisions of Code. There is no document placed on record by Corporate Debtor to,,

show that payment of debt, as claimed by the applicant, is made or is not due and payable.",,

11. Under sub-section (5)(a) of section 7 of the code, the application filed by the applicant financial creditor has to be admitted on satisfaction that:",,

(i) Default has occurred;,,

(ii) Application is complete, and",,

(iii) No disciplinary proceeding against the proposed IRP is pending.,,

12. It is evident from the record that the application has been filed on the proforma prescribed under Rule 4 (2) of the Insolvency and Bankruptcy,,

(Application to Adjudicating Authority) Rules, 2016 read with Section 7 of the Code. We are satisfied that a default has occurred and debt has",,

remained unpaid. Thus, the application warrants admission as it is complete in all respects and is admitted initiating CIRP as prescribed under the",,

Code.,,

13. The â??Financial Creditorâ??- applicant has proposed the name of Insolvency Resolution Professional, Mr. Satya Narayana Guddeti, address at",,

Plot No. 23, 1st Floor, Durganagar Colony, Punjagutta, West Marredpally, Telangana- 500082, and having registration No. IBBI/IPA-001/IP-",,

P00632/2017-18/11086, and email id gsnhyd@rediffmail.com and mobile No. 9246341705. A written communication sent by him in terms of Rule 9(1)",,

of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 has also been placed on record. There is a declaration made by",,

him that no disciplinary proceedings are pending against him in Insolvency and Bankruptcy Board of India or ICAI. In addition, further necessary",,

disclosures have been made by Mr. Satya Narayana Guddeti as per the requirement of the IBBI Regulations. Accordingly, he satisfies the",, requirement of Section 7 (3) (b) of the Code.,,

14. In pursuance of Section 13 (2) of the Code, we direct the Interim Resolution Professional to make public announcement immediately with regard",,

to admission of this application under Section 7 of the Code. The expression â?? immediatelyâ?? means within three days as clarified by Explanation,,

to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.",,

15. As a consequence of the application being admitted in terms of Section 9(5) of IBC, 2016 moratorium as envisaged under the provisions of Section",,

14(1) shall follow in relation to the Respondent prohibiting the respondent as per proviso (a) to (d) of section 14(1) of the Code. However, during the",,

pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come in force.",,

16. We direct the Financial Creditor to deposit a sum of Rs. 2 lacs with the Interim Resolution Professional to meet out the expenses to perform the,,

functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate,,

Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Financial Creditor. The amount",,

however be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the,,

Financial Creditor.,,

17. The registry is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional",,

and the Registrar of Companies, NCR, New Delhi at the earliest but not later than seven days from today. The Registrar of Companies shall update",,

his website by updating the status of â??Corporate Debtorâ?? and specific mention regarding admission of this petition must be notified.,,

