

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

**Company Petition (IB) No.201/KB/2017**

In the matter of:

An application under section 7 and other applicable provisions of the Insolvency and Bankruptcy Code, 2016, read with Rule 4(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

And

In the matter of

Sunrise Stock Broking Private Limited, 317,3<sup>rd</sup> Floor, Pratibha Plus, Narlogam Char Rasta, NH-8, Narol Aslali High Way, Narol, Ahmedabad, Gujarat, Pin-382405, India.

.....Financial Creditor

Sangamayug Commercial Private Limited,  
2A, G.C Avenue, 7<sup>th</sup> Floor, Room No.-11, Commerce House, Kolkata, West Bengal,  
Pin-700013, India.

.....Corporate Debtor

Order Delivered on 14<sup>th</sup> November 2017

**Coram:**

**V. P. Singh, Member (J)**

**Jinan K.R., Member (J)**

For the Operational Creditor

: 1. Mr. Shaunak Ghosh, Advocate  
2. Mr. Basabraj Chakraborty, Advocate

**ORDER**

**Per Jinan K.R., Member (J)**

The applicant - financial creditor, Sunrise Stock Broking Pvt. Ltd., having corporate identification number (U67120GJ2004PTC044640) has filed this

application under section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter will be mentioned as Code, 2016) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter will be referred to as Rules, 2016) against the Corporate Debtor, Sangamayug Commercial Private Limited, having Corporate Identity (U52190WB2011PTC162499).

The brief facts of case:

2. The Sunrise Stock Broking Private Limited has in the course of its business of lending had extended financial assistance of Rs.75,00,000/- (Rupees Seventy-Five Lakhs Only) through RTGS, electronic mode of fund transfer to the corporate debtor, as on 7<sup>th</sup> November,2016, the bank statement of which is marked and annexed as '**Annexure-A**'.
3. The corporate debtor on having bound to repay the loan amount of the said amount borrowed from the financial creditor had refunded a part amount of Rs.46,00,000/- (Rupees Forty Six Lakhs only) as against the principal amount of Rs.75,00,000/- (Rupees Seventy Five Lakhs Only) to the Financial Creditor on-
  - i. On 18<sup>th</sup> November 2016 partly paid Rs.35,00,000/-
  - ii. On 3<sup>rd</sup> December 2016 partly paid Rs.11,00,000/-.
4. In support of the said loan or the amount repaid through RTGS, electronic mode of transfer of funds, a copy of the said bank transaction details was further acknowledged of an existing debt between the parties therein, is marked and annexed as '**Annexure-B**'.
5. However, at a later date as evident from the letters and emails dated 2<sup>nd</sup> January, 2017; 5<sup>th</sup> January, 2017; 6<sup>th</sup> January, 2017 and on 11<sup>th</sup> January, 2017 sent to the Corporate Debtor by the Financial Creditor had defaulted in repayment of the remaining due amount Rs.29,00,000/- (Twenty Nine Lakhs Only) . Despite the repeated request, reminders and demands by the Sunrise Stock Broking Private Limited, the said Financial Creditor, the Corporate Debtor failed to make



payment of the outstanding amount. Copies of the letters and emails marked and annexed as **'Annexure-C, D, E'**.

6. The Financial Creditor Sunrise Stock Broking Private Limited, on 19<sup>th</sup> January 2017 issued a demand notice on the Corporate Debtor, demanding the sum of Rs.29,00,000/- (Twenty-Nine Lakhs Only). A copy of the said legal notice dated 19<sup>th</sup> January, 2017 marked and annexed as **'Annexure-F'** along with a copy of a complaint dated 30<sup>th</sup> January, 2017 marked and annexed as **'Annexure-G'**.

7. In view of the outstanding loan amount of the Corporate Debtor, the petitioner filed this instant application under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy Rules, 2016 which is in Form No. 2 as prescribed under the Code. The Petitioner also proposed the name of the Insolvency Professional, the details are given below:

Name: Mr. Tapas Mallik

Address: 1/C, Jelia Para Lane, Bowbazar, Kolkata- 700 012.

Registration No: IBBI/IPA-003/IP-00020/2016-17/1279.

8. Form 2 under Rule 9 sub-rule (1) of the Insolvency and Bankruptcy has been duly signed and declaration of the proposed insolvency professional is also annexed as **'Annexure-J'**.

9. The petitioner has annexed in support of the claim, the following documents:

(i) Copy of the legal notice dated 19<sup>th</sup> January, 2017 demanding the repayment of the residual amount marked and annexed as **'Annexure-F'**

(ii) Supplementary affidavits along with dates –

(a) 28/08/2017 & 21/9/2017- affidavit of service of the notice under section 7 along with the proof of service marked and annexed as **'Annexure-A'**

- (b) 02/11/2017 showing the certified copies of bank statements evidencing the repayment of sum amount and the amount due marked and annexed as '**Annexure-N**'.
- (iii) The petitioner has filed Copy of the Board Resolution dated 02/02/2017 authorizing one Director Mr. Pratik Kumar More, to grant authority to appear and represent the company relating to all matters for the conduct of the day-to-day management and business of the company marked and annexed as '**Annexure-H**'.

However, on 03.02.2017 another Board Resolution dated 03.02.2017 whereby one another authority has been further extended to Mr. Shiv Shankar Banerjee, Advocate; Ms. Ankita Mitra, Advocate; Mr. Akash Dey; Advocate, Company Secretary to appear sign, affirm, represent, submit and file necessary notices, complaints, petitions, affidavits in connection to the instant application filed under Section 7 to initiate corporate insolvency. The copy of the said resolution marked and annexed as '**Annexure-I**'. More over this petition is also signed by the Director Shri. Pratik Kumar More.

On 07.02.2017 Board Resolution for the appointment of said insolvency professional, Mr. Tapas Mallik, been declared. A copy of the said board resolution is marked and annexed as '**Annexure- K**'

10. The respondent corporate debtor not turned up for defending the case despite service of notice by E mail.
11. Heard the Ld. Counsel for the petitioner.
12. On the perusal of the above said documents it evident that there is a default of the said amount Rs.29,00,000/- as the outstanding amount due evident from the bank statement marked and annexed in the Supplementary Affidavit.
13. That, there are no disciplinary proceedings pending against the insolvency professional, Mr. Tapas Mallik which satisfies sub-section 5 (A) of section 7 of the




IBC. This petition is therefore found complete by fulfilling all the requirement as provided under section 7 of the Code. Hence, the petition is liable to be admitted.

14. Taking into consideration of all the above we are inclined to admit this petition under section 7 of I&B, Code. Being found this petition is liable to be admitted we hereby appoint the insolvency professional Mr. Tapas Mallik as interim resolution professional. Accordingly, we hereby admit this petition for initiating corporate insolvency resolution process and declaring moratorium for the purposes referred to in section 14 of the I & B Code with following directions:

- i. That subject to provisions of sub sections (1) of section 14 of the Code, hereby prohibits the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, Tribunal arbitration panel or other authority; transferring, encumbering, alienating or disposing of by the corporate debtor 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 debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- ii. That the supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- iii. That 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.

- iv. That the order of moratorium shall have effect from the date of admission of this petition till the completion of the corporate insolvency resolution process as prescribed under section 12 of the Code.
- v. That we hereby direct to cause public announcement of the corporate insolvency resolution process immediately as specified under section 15 of the Code.
- vi. That, moratorium is declared for the purposes referred to under 14 of the IBC Code.
15. Having admitted the petition, we hereby pronounce the commencement of the corporate insolvency resolution process effective from the date of this order.
16. This order be communicated to the Operational Creditor as well as Corporate Debtor.
17. List the matter on 30-11-17

  
**Vijai Pratap Singh,**  
**Member (J)**

  
**Jinan K.R.**  
**Member (J)**

Signed on 14<sup>th</sup> November 2017