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**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF CHENNAI BENCH, CHENNAI
NATIONAL COMPANY LAW TRIBUNAL, HELD ON 21/08/2017 AT 10.30 AM**

**PRESENT: SHRI Ch. MOHD SHARIEF TARIQ, MEMBER-JUDICIAL
SHRI S. VIJAYARAGHAVAN, MEMBER-TECHNICAL**

**APPLICATION NUMBER :
PETITION NUMBER : TCP/89/ (IB)/2017
NAME OF THE PETITIONER(S) : A.PREM KUMAR
NAME OF THE RESPONDENT(S) : KK FLATS PVT LTD
UNDER SECTION : 433 (e)(f)**

S.No.	NAME (IN CAPITAL)	DESIGNATION	SIGNATURE
REPRESENTATION BY WHOM			

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, CHENNAI

TCP/89/(IB)/CB/2017

Under Section 7 of the Insolvency and Bankruptcy Code
2016 R/W Rule 4 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016

In the matter of

A. Prem Kumar

Vs.

M/s. K.K. Flats Pvt. Ltd.

Order delivered on 21th of August, 2017

CORAM :

CH MOHD SHARIEF TARIQ, MEMBER (JUDICIAL)
S. VIJAYARAGHAVAN MEMBER (TECHNICAL)

For the Petitioner(s) : Counsel Mr. Y. Prakash

For the Respondent(s): Counsel Mr. M. Nalla Thambi

ORDER

Per: CH MOHD SHARIEF TARIQ, MEMBER (J)

1. Under adjudication is the Petition originally came to be filed before Hon'ble High Court of Madras and the same has been transferred to this Bench and renumbered as TCP/89/(IB)/CB/2017. The prayer made is to admit the application and to initiate the Corporate Insolvency Resolution Process under the Insolvency and

Bankruptcy Code, 2016 (I&B Code) by appointing an Interim Resolution Professional (IRP).

Heard the Counsels appearing on behalf of the Financial Creditor and for Corporate Debtor in the presence of Managing Director of Corporate Debtor and perused the Petition along with the documents placed on record.

2. Counsel for the Financial Creditor drew our attention towards certain documents such as the balance sheet of the Corporate Debtor for the year 2012-2013, which is placed at pages 1 to 12 of the typed set of papers filed by the Petitioner, wherein the outstanding debt is reflected at page 12. The break-up amount is given at page 18 of the said typed set, wherein the Financial Creditor's name (Mr. A. Prem Kumar), is shown and as on 31.03.2012, an amount to the tune of Rs.31,10,382/- is shown as outstanding debt against the Corporate Debtor. In support of which the Financial Creditor has placed on record the Income Tax Return for the 2013-2014 filed on 24.12.2013

which is placed at page 57 of the additional typed set of papers, which reflects the outstanding debt claimed by the Petitioner. The Financial Creditor has also served the statutory notice dated 25.10.2014 upon the Corporate Debtor, copy of which is placed at page 54 of the typed set filed before Hon'ble High Court, wherein the outstanding debt in respect of the Financial Creditor/Petitioner along with other Financial Creditor has been shown.

3. Reply has been given by the Corporate Debtor which is placed at page 59 of the typed set of documents filed before Hon'ble High Court, wherein the investment made by the Financial Creditor/Petitioner is admitted. However, the defence taken by the Corporate Debtor is that the amount of outstanding debt is paid to the father of the Petitioner. However, the father of the Petitioner has already filed an Affidavit denying the ~~factum~~^{fact} of payment of the outstanding debt. The Affidavit is taken on record. From the documents placed on file and the arguments

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submitted, this Bench is satisfied that the Corporate Debtor defaulted in making payment of the outstanding debt. In other words, the Corporate Debtor failed to make payment of the outstanding debt claimed by the Financial Creditor. The Financial Creditor proposed the name of the Interim Insolvency Resolution Professional after seeking written consent in Form-2. Therefore, TCP/89/(IB)/CB/2017 is admitted and we order the commencement of the Corporate Insolvency Resolution process which ordinarily shall get completed within 180 days, reckoning from the day this order is passed.

4. We appoint Mr. R. Sundaram, as Interim Resolution Professional (IRP) as proposed by the Financial Creditor. There is no disciplinary proceedings pending against the IRP and his name is reflected in IBBI website. The IRP is directed to take charge of the Respondent Corporate Debtor's management immediately. He is also directed to cause public announcement as prescribed under Section 15

of the I&B 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.

5. We declare the moratorium which shall have effect from the date of this Order till the completion of Corporate Insolvency Resolution Process, for the purposes referred to in Section 14 of the I&B Code, 2016. We order to prohibit all of the following, namely :

- (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 Securitisation 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.

6. The supply of essential goods or services of the Corporate Debtor shall not be terminated or suspended or interrupted during moratorium period. The provisions of Sub-section (1) of Section 14 shall not apply to such transactions, as notified by the Central Government.

7. The IRP shall comply with the provisions of Sections 13 (2), 15, 17 & 18 of the Code. The directors of the Corporate Debtor, its promoters or any person associated with the management of the Corporate Debtor is expected to extend all assistance and cooperation to the IRP as stipulated under Section 19 and for discharging his functions under Section 20 of the I&B Code, 2016.

8. The Financial Creditor and the Registry are directed to send the copy of this Order to IRP so that he could take charge of the Corporate Debtor's assets etc. and make compliance with this Order as per the provisions of I&B Code, 2016.

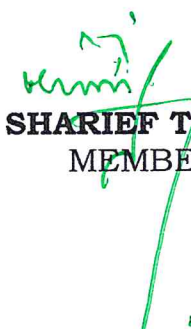
9. The Registry is directed to communicate this Order to the Financial Creditor and the Corporate Debtor.

The address details of the IRP are as follows: -

Mr. R. Sundaram,
Insolvency Resolution Professional
IP Registration No. IBBI/IPA-002/IP-N00009/2016-2017/10013,
73, 1ST Floor, K.K. Nagar,
Madurai 625 020.
Email- sundarammadurai@gmail.com
Mobile No. 9994393324.



S. VIJAYARAGHAVAN
MEMBER (T)
PAM


CH. MOHD SHARIEF TARIQ
MEMBER (J)