

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
SPECIAL BENCH (COURT - II)

Item No. 212
(IB)-1358(ND)2019
IA-445/2023 IA-251/2023

IN THE MATTER OF:

M/s. Shrem Residency Pvt. Ltd.

... **Applicant/Petitioner**

Versus

M/s. Shraman Estates Pvt. Ltd.

... **Respondent**

Under Section: 7 of IBC, 2016

Order delivered on 23.01.2023

CORAM:

SHRI. ASHOK KUMAR BHARDWAJ,
HON'BLE MEMBER (JUDICIAL)

SHRI. ATUL CHATURVEDI,
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Adv. Pulkit Deora, Adv. Ayushman Bhutani, Adv.
Aphune K. Kezo

For the Respondent : Sr. Advocate P Nagesh, with Adv. Akshay Sharma,

ORDER

IA-445/2023 and IA-251/2023: In terms of the order dated 11.01.2023 passed by the Hon'ble, NCLAT in Company Appeal (A1) Insolvency No. 1336/2019, the IB-1358/ND/2019 stands admitted.

Mr. Shailesh Desai (**Registration No. IBBI/IPA-001/IPP00183/2017-2018/10362 and e-mail ID: ip10362.desai@gmail.com**) is appointed as **RP**. The Court Officer/Registrar of this Tribunal/Adjudicating Authority is directed to inform the IRP about confirmation of his appointment forthwith. The term of the Interim Resolution Professional shall continue till the date of appointment of the Resolution Professional under Section 22 of the IBC, 2016 or any development if any under Section 12A of the Code, whichever is earlier. The IRP is directed to act in terms of the provisions 13(1)(b) and Section 13(2) read with Section 15 of the IBC, 2016 immediately. In other words, the IRP shall cause a public announcement of initiation of Corporate Insolvency Process qua the Corporate Debtor made and call for submission of claim under Section 15 immediately. The public announcement shall contain the



information stipulated in Section 15(1) of the IBC, 2016. We are sanguine that the IRP shall act in due deference to the provisions of Section 12,15,17,18,20 & 21 of the IBC, 2016 as also Regulation 6, 6A, 12A, 13, 14, 16A and 17 of the IBBI (Insolvency Resolution Process for Corporate Person) Regulation 2016. It goes without saying that in the wake of the moratorium, there shall be prohibition of all the following:-

- (a) 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;
- (b) Transferring, encumbering, alienating or disposing off 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
- (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.

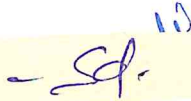
Nevertheless, it is made clear that a license, permit, registration, quota, concession, clearance or similar grant or right given by the Central Government, State Government, Local Authority, Sectoral Regulator or any Authority constituted under any other law for the time being in force shall not be suspended or terminated on the ground of Insolvency subject to the conditions that there is no default in payment of current dues arising for the use of continuation of the license, permit, registration, quota, concession, clearance or similar grant or right during the moratorium period. Besides the supply of essential goods of services to the Corporate Debtor shall not be



terminated or suspended or interrupted during the moratorium period, except where the Corporate Debtor does not pay the dues arising from such supply during the moratorium period or any other explainable situation. The Financial Creditor is directed to deposit Rs. 2,00,000/- (Two Lakhs) only with the IRP to meet the immediate expenses. The amount would be subject to adjustment by the committee of creditors as accounted for by the IRP and shall be paid back to FC.

We also take note of the submissions put forth by Mr. P. Nagesh, Ld. Senior Counsel for the CD that the order passed by the Hon'ble NCLAT is under challenged before the Hon'ble Supreme Court. It goes without saying that the order of the Hon'ble Supreme Court to be passed in the appeal would be binding on all concerned.

Let the copy of this order be made available both to the Corporate Debtor and Financial Creditor.


(ATUL CHATURVEDI)
MEMBER (T)


(ASHOK KUMAR BHARDWAJ)
MEMBER (J)