

**NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH**

(IB)-1440(ND)/2018

**In the matter of**

**M/s. K.K.R. India Financial Services Pvt. Ltd.**

.....Operational Creditor

**V/s**

**M/s. Kwalitiy Ltd.**

.....Corporate Debtor

**SECTION: 7 of IBC, 2016**

**Order delivered on 11.12.2018**

**Present:**

**SMT. INA MALHOTRA, HON'BLE MEMBER (J)**  
**SMT. DEEPA KRISHAN, HON'BLE MEMBER (T)**

**Present:**

Mr. Bishwajit Dubey, Ms. Surabhi  
Khattar, Advocates for the Petitioner  
Mr. Neeraj Malik, Mr. Amit Dhall,  
Advocates for the Respondent.

**ORDER**  
**PER SMT. INA MALHOTRA, MEMBER (J)**

1. The petitioner, as a Financial Creditor has filed the present petition against the respondent/Corporate Debtor praying for initiation of Corporate Resolution Process for their inability to liquidate their outstanding dues.

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2. As per the averments, the Financial Creditor had granted financial assistance to the Corporate Debtor. A Facility Agreement dated 24<sup>th</sup> June, 2016 was executed for procuring the loan of Rs. 2 Crores. The same was disbursed as under:

**Total amount of debt disbursed and dates of disbursement**

Sr. No.	Facility	Disbursed amount (INR)	Date of Disbursement
1.	Term Loan	350,000,000/-	29/06/2016
2.	Term Loan	400,000,000/-	25/07/2016
3.	Term Loan	320,000,000/-	18/08/2016
4.	Term Loan	600,000,000/-	27/09/2016
5.	Term Loan	330,000,000/-	27/10/2016
	Total	2,000,000,000/-	

3. The aforesaid loan was required to be repaid as per a schedule agreed upon, which the Corporate Debtor has failed to adhere to. The Financial Creditor has enlisted various defaults which has led to a total outstanding liability of Rs. 32,73,47,082/- inclusive of delayed and penal interest till 9<sup>th</sup> October, 2018.

4. On filing of the present petition, the Corporate Debtor has entered appearance through their counsel. Though the default is admitted, it is submitted that the consortium of banks is considering restructuring their loan repayment. It is, however,

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admitted that the re-scheduling of the repayment plan is only towards the loans availed from the banks and does not take into account the liability due and accruing to the Financial Creditor herein. The factum of the outstanding liability towards the petitioner is neither denied nor disputed. It is also admitted by the Corporate Debtor that they are unable to liquidate their dues. Under such circumstance the prayer made by the Financial Creditor merits consideration. This Petition is therefore admitted. A moratorium in terms of Section 14 of Code comes into effect forthwith, staying:

*“(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 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*

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*Securitization 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.*

Further,

*(2) The supply of essential goods or services to the  
corporate debtor as may be specified shall not be  
terminated or suspended or interrupted during  
moratorium period.*

*(3) 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.*

*(4) Further, the order of moratorium shall have effect  
from the date of such order till the completion of the  
corporate insolvency resolution process:*

*“Provided that where at any time during the corporate  
insolvency resolution process period, if the Adjudicating  
Authority approves the resolution plan under sub-section (1) of  
section 31 or passes an order for liquidation of corporate*



*debtor under section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.”*

5. The Financial Creditor has named Mr. Shailendra Ajmera, Registration No. IBBI/IPA-001/IP-P00304/2017-2018/10568 Residence of Ernst & Young LLP, 3<sup>rd</sup> Floor, Worldmark 1, Aerocity Hospitality, New Delhi, National Capital Territory of Delhi-110037, Email: - [Shailendra.ajmera@in.ey.com](mailto:Shailendra.ajmera@in.ey.com) as the Interim Resolution Professional. His consent in Form-2 alongwith the copy of the certificate of registration with the IBBI is on record. This Bench therefore confirms the aforementioned as IRP in this case. The IRP is directed to take steps in accordance with the Statutory requirements more specifically under Sections 15, 17, 18, 20 and 21 of the Code and file his interim report by the next date of hearing.

To come up on 14<sup>th</sup> January, 2019.

*Sd-*

**(Deepa Krishan)**  
Member (T)

*Sd-*

**(Ina Malhotra)**  
Member (J)