



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA**

Casebook Issue

12:

**Journey of SRS
Limited**

**INSOLVENCY
UNCOVERED**

Index

1. About SRS Limited.....	2
2. Major Financial Creditors/Bankers.....	2
3. CIRP of SRS Ltd.....	3-4
▪ <i>State Bank of India (“SBI”) files an application for initiating CIRP under section 7 of the Insolvency and Bankruptcy Code, 2016</i>	
▪ <i>RP files application for extension of CIRP</i>	
▪ <i>RP moves an Application to NCLT for Non- Cooperation</i>	
▪ <i>NCLT passes the Liquidation Order</i>	
4. Liquidation of SRS Limited.....	4-6
▪ <i>RP moves application to NCLT under section 66 of the Code</i>	
▪ <i>Mr. Raju Bansal, one of the suspended directors of the Board moves an application to NCLT challenging the continuation of proceeding under section 138 of Negotiable Instruments Act, 1881</i>	
▪ <i>The Liquidator moves to NCLT questioning the provisional attachment by Directorate of Enforcement</i>	
▪ <i>NCLT order passed in case of attachment of Bank Accounts by Directorate of Enforcement</i>	
▪ <i>Liquidator moves application to NCLT for consideration of claims of all deposit holders submitted during CIRP</i>	
5. Concluding Notes.....	6
6. Timeline.....	7
7. Bibliography.....	8

About SRS Limited¹

SRS Limited, a public Listed Company registered under Companies Act, 1956 is a diversified Company with a business portfolio comprising of Gold and Jewellery (retailing, wholesaling and manufacturing), Cinema Exhibition, Retail and F&B. The Company was incorporated on August 29, 2000 with the objective of trading in FMCG Goods and it later entered into other business segments. The four business verticals of the Company enable it to profitably exploit the business synergies, as well as, smoothen out seasonal business fluctuation.

It has its registered office at NTH SRS Multiplex, 2nd Floor, City Centre, Sector-12 Faridabad, Harayana- 121007. Its Authorised Capital is Rs 2,80,00,00,000/- and Paid up Capital is Rs 2,78,58,20,000/-.

Mr. Anil Jindal, Mr. Raju Bansal, Mr. Vinod Kumar, Mr. Sandeep, Mr. Yogesh Kumar and Mr. Rajesh Yadav are the six directors of whom Mr. Yogesh and Mr. Rajesh were the newest entrant.

Major Financial Creditors/Bankers

The major Financial Creditors of the Company were State Bank of India (“SBI”), Bank of India (“BOI”), Oriental Bank of Commerce (“OBC”), Union Bank of India (“UBI”) and Axis Bank.

There were also unsecured Deposit Holders to whom the Corporate Debtor (“CD”) owed money.

CIRP of SRS Limited

State Bank of India (“SBI”) files an application for initiating CIRP under section 7 of the Insolvency and Bankruptcy Code, 2016 ²

SBI, a Financial Creditor filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016. The total amount of default was Rs. 5,85,20,16,323/- calculated upto 5th May, 2018. National Company Law Tribunal (“NCLT”) on 21st August, 2018 admitted the Corporate Insolvency Resolution Process (“CIRP”).

Resolution Professional (“RP”) files application for extension of CIRP³:

Resolution Professional (RP), Mr. Ashok Kumar Gulla, filed an application in NCLT to for extension of CIRP under section 12(2) of Code. The initial 180 days ended on 17th February, 2019 while the extended period for submission of the Resolution Plan was 15th February, 2019. Therefore, in context of the same the RP filed application for an extension by 90 days. NCLT through its order dated 5th February, 2019 allowed the extension of CIRP.

RP moves an Application to NCLT for Non- Cooperation⁴

After several reminders to the suspended Board of Directors of the Corporate Debtor (CD), RP Mr. Ashok Kumar Gulla filed application in NCLT under section 19(2) read with section 60 (5) of the Code for non-cooperation by the erstwhile directors of the Company.

NCLT passes the Liquidation Order⁵

Resolution Plans were received from 3 resolution applicants: Movie Time Cineplex Pvt. Ltd. with Movie Time Cinemas Pvt. Ltd., Mr. Sahil Virmani and Mr. Davinder Kumar. Resolution Plan submitted by Mr. Davinder Arora did not comply with section 29A of the code while the resolution plan submitted by Mr. Sahil Virmani submitted bid for real estate and did not intended to take over all the assets. However, both were asked to revise/modify the plan submitted.

No revised plan was received. The Plan submitted by the third resolution applicant was revised five times for an improved offer to Financial Creditors and other terms of payment. Final Resolution Plan submitted by resolution applicant namely Movie Times Cineplex Pvt. Ltd. jointly with Movie Time Cinemas Pvt. Ltd. was rejected by Committee of Creditors (CoC) when put to voting. In absence of any Resolution Plan and ending of 270 days, NCLT on 15th October, 2019 ordered for Liquidation of the CD, appointing the RP Mr. Ashok Kumar Gulla as the Liquidator under section 33(1) of the Code.

RP moves application to NCLT under section 66 of the Code⁶

RP through its learned counsel filed an application to NCLT under section 66(2) of the code. The respondents given time to file reply on the matter. The matter is still pending before the NCLT as the CD is already under Investigation of Serious Fraud Investigation Office (SFIO).

Mr. Raju Bansal, one of the suspended directors of the Board moves an application to NCLT challenging the continuation of proceeding under section 138 of Negotiable Instruments Act, 1881⁷

Mr. Raju Bansal through his application challenged the continuation of proceedings initiated under section 138 of Negotiable Instruments Act, 1881 against the Company and its directors. The respondents were ordered to reply atleast before two weeks

untill next date of hearing. Later, NCLT by its order dated 29th January, 2020 dismissed the petition fil.ed by the director.

The Liquidator moves to NCLT questioning the provisional attachment by Directorate of Enforcement⁸

Application was filed by the Liquidator of the Corporate Debtor Mr. Ashok Kumar Gulla against the Directorate of Enforcement and other seven secured creditors challenging the action of Directorate of Enforcement in attaching the bank accounts of the Corporate Debtor under section 60(5) of the Code read with Rule 11 of the National Company Law Tribunal Rules, 2016. NCLT held that other respondents except Directorate of Enforcement are not necessary parties. NCLT also ordered to issue notice to Directorate of Enforcement to reply on the captioned matter before the next hearing.

NCLT order passed in case of attachment of Bank Accounts by Directorate of Enforcement⁹

NCLT heard both the parties. According to the applicant, functioning of the bank accounts of the CD is necessary to run the company as a going concern and referring to the judgments passed by the National Company Law Appellate Tribunal and Supreme Court in which the attachments by Directorate of Enforcement has been stayed by the respective authority. If all the bank accounts were attached, it will not be possible to run CD as a going concern resulting in closing down of CD, which is against the object of the Code. NCLT permitted the Liquidator to open a new account in State Bank of India and to operate the same for the purpose of maintaining the CD as a going concern, until further orders.

Liquidator moves application to NCLT for consideration of claims of all deposit holders submitted during CIRP¹⁰

Liquidator under section 60 (5) moved application to NCLT for consideration of claims of deposit holders submitted during CIRP but not submitted during Liquidation Process may be due to aged or residents of far off places and may not have knowledge that they have to submit their claims once again during liquidation process. After hearing, NCLT permitted the Liquidator to consider the claims of all deposit holders whose claims have been admitted during the CIRP process, but not resubmitted or updated after the liquidation process is initiated to treat as if the said claims are preferred under the liquidation process, for all purposes.

Concluding Notes

Corporate Debtor is a going concern operating cinemas across India and with over 425 employees. The CD is also under investigation of agencies such as Directorate of Enforcement, Economic Office Wing and Serious Fraud Investigation Office (SFIO). Also, avoidance application under 66 is pending before NCLT. The Liquidator was making efforts to sell Company under section 230 of the Companies Act, 2013.

Directorate of Enforcement and Income Tax Authorities has provisionally attached the properties of SRS Limited. The matter is pending with NCLT to be heard in the next date.

Timeline

- 21.08.2018
- NCLT admitted application for CIRP.

- 05.02.2019
- NCLT allowed extension of CIRP by 90 days

- 04.04.2019
- The application for Non- Cooperation filed.

- 15.10.2019
- Liquidation Order passed by NCLT.

- 30.10.2019
- Avoidance application under section 66 filed in NCLT.

- 10.12.2019
- Mr. Raju Bansal, one of the suspended board of directors filed application in NCLT.

- 22.01.2020
- Application filed by Liquidator against Directorate of Enforcement.

- 31.01.2020
- NCLT permitted Liquidator to open a new Bank account in SBI for the purpose of maintaining CD as a going concern.

- 05.02.2020
- Liquidator moves application to NCLT for inclusion of all claims of deposit holders submitted in CIRP

Bibliography

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