

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)**

CP (IB) No. 291/Chd/Chd/2018

**Under Section 7 of the
Insolvency & Bankruptcy Code,
2016**

In the matter of:

**Edelweiss Asset Reconstruction Company Limited
through its Authorised Signatory, Naman Awasthi**

having its Registered Office at:
Edelweiss House, Off C.S.T. Road, Kalina,
Mumbai, 400098
(acting in its capacity as trustee of EARC Trust SC 168)

....Petitioner-Financial Creditor

Vs.

M/s Winsome Yarns Ltd.,
having its Registered Office at:
SCO 191-192, Sector 34A, Chandigarh 160022
CIN No. L17115CH1990PLC010566

...Respondent-Corporate Debtor

Judgment delivered on: 22.12.2023

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

Present:

For the Petitioner-Financial Creditor : Mr. Amit Singh Chada, Senior Advocate
: Mr. Sugam Seth, Advocate
: Mr. Vipul Dharmani, Advocate

For the Respondent-Corporate Debtor : Mr. Anand Chhibbar, Senior, Advocate.
: Mr. Vaibhav Sahni, Advocate

Per: Subrata Kumar Dash, Member (Technical)

Harnam Singh Thakur, Member(Judicial)

JUDGMENT

The present petition has been filed by **Edelweiss Asset Reconstruction Company Limited** (hereinafter referred to as 'Petitioner/Financial Creditor') through its Authorised Signatory, Sh. Naman Awasthi, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 to initiate the Corporate Insolvency Resolution Process ('CIRP') against **M/s Winsome Yarns Ltd.**, (hereinafter referred to as 'Respondent/Corporate Debtor'). The petition is signed by Sh. Naman Awasthi, Deputy Vice-President with the affidavit verifying the contents of the application appended thereto. It is deposed by way of an affidavit filed vide Dairy No. 00062/4 dated 20.03.2023 that Sh. Naman Awasthi, Deputy Vice-President has been authorised by Financial Creditor vide Board Resolution dated 12.01.2023, interalia, to initiate and defend proceedings on behalf of this Company under Insolvency and Bankruptcy Code, 2016 or other appropriate law/laws, rule/rules before National Company Law Tribunal.

2. The Corporate Debtor is stated to be incorporated on 19.07.1990 incorporated under the Companies Act. The company having its Registered Office at: SCO 191-192, Sector 34A, Chandigarh 160022. Therefore, the jurisdiction lies with this Bench of the Tribunal.

3. The brief facts of the case are that:-

3.1 The corporate debtor was engaged in the business of manufacturing cotton yarn, knitting, and manufacturing hydropower. The respondent/corporate debtor

availed loan and cash credit facility originally from the Punjab National Bank. The account of the corporate debtor was declared Non-performing Asset on 17.04.2014. Notice dated 23.08.2014 was issued under Section 13(2) of the SARFAESI Act, 2002 to the respondents, Sh. Satish Bagrodia, Shri Manish Bagrodia, M/s Shell Business Pvt. Ltd., M/s Satyam Combines Pvt. Ltd. Reply dated 24.10.2014 was issued collectively by respondents Sh. Satish Bagrodia, Shri Manish Bagrodia, M/s Shell Business Pvt. Ltd., M/s Satyam Combines Pvt. Ltd., under Section 13(3A) of the SARFAESI Act. A possession notice dated 27.11.2014 was issued by an authority officer of PNB Bank to respondent, Sh. Satish Bagrodia, Shri Manish Bagrodia, M/s Shell Business Pvt. Ltd., M/s Satyam Combines Pvt. Ltd. Thereafter, the liability was admitted by the corporate debtor in the annual report for the financial year ended 2016-17. On 25.07.2007 equitable mortgage was created by corporate debtor to secure the financial credit facilities.

3.2. On 10.12.2015, an assignment agreement was executed by PNB in favour of the petitioner for the assignment of debt and securities of the corporate debtor. The respondent-corporate debtor had admitted its liability in its annual report for the Financial Year ended on 2016-17.

3.3 On 18.11.2019, Office of Joint Sub-Registrar/Naib Tehsildar, Mullanpur Dhaka issued a notice of recovery to the Financial creditor for Rs. 1.45 Cr on account of deficient stamp duty paid on the Assignment Deed. On 20.11.2019, Corporate Debtor preferred C.A. No. 1068 of 2019 placing on record the documents obtained through RTI, namely its RT application dated 19.11.2019 as well as the order dated 18.11.2019 passed by the Joint Sub- Registrar-cum Naib Tehsildar, and praying for impounding of Assignment Deed per Section 33 of Indian Stamp Act.

3.4. On 13.12.2019, Ld. Adjudicating Authority rejected the prayers for impounding, however this Tribunal allowed the Corporate Debtor to place on record the additional documents, i.e. The RTI application and the order dated 18.11.2019 of the Naib Tehsildar with liberty raise all grounds in the main CP. if so advised.

The aforesaid order was impugned in an appeal before the Hon'ble Appellate Tribunal in Company Appeal (AT) (Ins.) No. 182/2020, by the Corporate Debtor, and that the appeal was not allowed. The Financial Commissioner (Revenue) under the Miscellaneous Application 24/2020 passed an order, observing that " *it is hoped that any Statutory Authority shall not place any reliance on the alleged Vasika No. 1328 dated 10.12.2015*".

3.5. Order dated 19.02.2020 was issued by Ld. Financial Commissioner imposing restraint per section 35 of the Indian Stamp Act until further orders were passed. Financial creditor preferred a Writ Petition (C) No. 13346 of 2020 before the Hon'ble Punjab & Haryana High Court. Corporate Debtor was impleaded as a party in WP (C) No. 13346 of 2020. Ld. Financial Commissioner (Revenue) wherein it was held in MA 24/2020 that, "*the Financial Commissioner has the jurisdiction to adjudicate upon such a matter and hence hold the present miscellaneous application to be maintainable for final adjudication.*"

3.6. The Section 7 petition preferred by the Corporate Debtor was dismissed by this Adjudicating Authority on the ground that the assignment deed dated 10.12.2015 in favour of Appellant was insufficiently stamped. The Financial creditor, being aggrieved by the order dated 17.03.2020 filed an appeal before NCLAT vide Company Appeal No.871 of 2020. Appeal was allowed vide order

dated 21.07.2022 passed by the Hon'ble National Company Law Appellate Tribunal and the case was remanded back.

3.7. On the other hand, a single judge of the High Court of Punjab and Haryana in Writ Petition ©. No. 13346 of 2020 vide order dated 26.10.2021 set aside the order of the Controlling Revenue Officer by holding that the same was passed without jurisdiction and that the action of the Controlling Revenue Officer was barred by limitation under section 47A of the Indian Stamp Act as applicable in the State of Punjab.

3.8. The Corporate Debtor preferred LPA No.1253 of 2021, LPA No.1254 of 2021 and PA No.9/2022 before the Division Bench of the Punjab and Haryana High Court against the order in Writ Petition (Civil) No.13346 of 2020 passed on 26.10.2021.

3.9. The State of Punjab and Haryana and the Controlling Chief Revenue Officer also preferred appeals in LPA Nos. 137/2022, 139/2022, and 138/2022 respectively against the order in Writ Petition (Civil) No.13346 of 2020 passed on 26.10.2021, which are pending final decision.

3.10 The Corporate Debtor preferred CM No. 1818/2023 in LPA 1253/2021 vide which the pronouncement of final order in main CP reserved by this authority was stayed vide order dated 01.06.2023 by the Hon'ble High Court. Aggrieved by the order dated 01.06.2023, the Financial creditor approached the Hon'ble Supreme Court vide SLP No.12209 of 2023 filed against the Corporate Debtor herein. The Hon'ble Supreme Court granted leave in the petition vide order dated 25.08.2023. A Review petition (Civil) no. 1325 of 2023 was preferred by the Financial Creditor seeking review of order of the Hon'ble Supreme Court, dated 25.08.2023. Thereafter, the Financial Creditor obtained a clarification on the previous order of

25.08.2023 from the Supreme Court (in MA No.1984 of 2023 in Civil Appeal No.5532 of 2023), where the Hon'ble Supreme Court vide order dated 18.09.2023 reiterated holding that, *“the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Insolvency and Bankruptcy Code, 2016 shall continue unhindered and without going into the issue of stamp duty. No order of any court or tribunal staying the proceedings under the two enactments, on the issue of under-stamping or non-stamping of the assignment deed, will come in the way and stall the proceedings. Other questions and contentions can be raised in the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act and the Insolvency and Bankruptcy Code, 2016 and will be decided in accordance with law”*.

Thereafter, as per the order dated 18.09.2023 passed by the Hon'ble Supreme Court arguments were heard on four additional points and the order was reserved by this Adjudicating Authority, on these additional points whereas final order on CP was already reserved.

4. It is stated in Part-IV of Form No.1 that the total amount claimed to be in default is Rs. 2,37,49,54,804.29/- (Rupees Two Hundred and Thirty-Seven Crores Forty-Nine Lakhs Fifty-Four Thousand Eight Hundred and Four and Twenty-Nine Paise) and date of default is 17.01.2014. The various payments were made by corporate debtor starting from 31.03.2016 to 01.02.2018. Thus, the date of default can be taken as 01.02.2018 i.e. when the last payment was made. Copy of Assignment Agreement (Annexure P-1), Board Resolution (Annexure P-2 & P6), Annual Report for Financial Year 2016-2017 (Annexure P-5), Sanction Letter (Annexure P-6, 27 & 39, 54), Agreement of Hypothecation of Assets Rs.7500 Lacs

(Annexure P-8), Hypothecation of movable assets (Annexure P-9), Deed of Hypothecation (Annexure P-10), Term Loan Agreement (Annexure P-16), Counter Indemnity Agreement (Annexure P-18), Balance confirmation letter (Annexure P-21), Master restructuring agreement (Annexure P-22), Pledge of Goods Agreement for Rs.20 Crore (Annexure P-30), Deed of Guarantee (Annexure P-36), Deed of Hypothecation of secure LC on DA Basis (Annexure P-55), Hypothecation of Goods and Book Debts to secure CC Facility (Annexure P-57), Hypothecation of Movable assets (Annexure P-59), Agreement for FOBP/FOUBP/FOB NLC of Rs.10.63 Crores (Annexure P-60), CDR Sanction (Annexure P-67), Balance Confirmation Letter (Annexure P-68), Valuation Report (Annexure P-70), Statement of Accounts (Annexure P-71), 13(2) Notice to the corporate debtor Annexure P-72), Notice to Satish Bagrodia(Annexure P-73) & Possession Notice to Corporate Debtor (Annexure P-78) are attached with the main petition.

5. The notice of this petition was issued by this bench to the respondent corporate debtor to show cause as to why this petition be not admitted. The reply has been filed by the respondent wherein it is stated that as per the declaration of the circular dated 12.02.2018 issued by the RBI, the present petition is not maintainable and is liable to be dismissed in limine. The financial creditor has failed to provide the requisite information/documents. It is submitted that the corporate debtor has been making payments since the year 2016 along with the Resolution proposals for the final settlement. However, it is further submitted by the corporate debtor that the financial creditor has not been accepting any such . proposal. The financial creditor afterward was actively involved with the Corporate Debtor to arrive at a final amicable Resolution Plan between the parties. In a civil

suit filed before the Civil Court, Chandigarh, the Financial Creditor on 11.12.2018 admitted to the fact of mutually agreed final restructuring. The corporate debtor has paid around Rs. 22.68 Crores to the Financial Creditor. The counter claim has been filed to the Original Application No. 837 of 2018 filed by the Financial Creditor before Debts Recovery Tribunal-II. The petitioner has failed to show the estimated value of assets and total days of default.

6. The rejoinder has been filed vide diary No. 3758 dated 30.07.2019 wherein it is stated that the petitioner never relied on the RBI Circular dated 12.02.2018. The Original Application by the present applicant has been filed before the Civil Court, Chandigarh and the said suit pertains to certain amounts lying in different banks which the corporate debtor wanted to get adjusted against the outstanding. The supporting documents by the financial creditor like the annual report of the corporate debtor etc. provide the total amount in default. The execution of the Assignment Agreement dated 10.12.2015 between the parties is admitted where by Punjab National Bank assigned the debt to EARC trust SC168. The proposal dated 21.02.2019 for the sum of Rs. 214 crore was proposed to be paid in four years. It is submitted that the corporate debtor was trying to make money out of OTS.

7. The sur-reply was filed vide Dairy No. 4331 dated 26.08.2019. The short written submission/synopsis was filed by the respondent/corporate debtor vide Diary Nos.00062/6 dated 23.03.2023 and 00062/8 dated 04.12.2023.

8. We have heard the learned counsel for the parties and have also perused the record carefully.

9. Section 7(5)(a) of the Code is as follows:-

“5) Where the Adjudicating Authority is satisfied that—

- (a) *a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application.*”

10. The issue for consideration is whether the present application is filed within limitation. It is stated that the records show 17.01.2014 as the date of default. The present petition is filed vide diary No. 3500 dated 17.09.2018. Ld. counsel for the corporate debtor pleaded that the petition is time barred and placed reliance upon the judgments:- ***B.K. Educational Services Private Limited vs. Parag Gupta and Associates, (2019) 11 SC 633*** wherein it is stated that, “*para 42- Since the Limitation Act is applicable to applications under sections 7 and 9 of the Code, section 137 of the Limitation Act gets attracted. If the default occurs over three years prior to filing of the application, the application would be barred under section 137 of the Limitation Act*” and further placed reliance upon ***Babulal Varharji Gurjar vs. Veer Gurjar Aluminium Industries Pvt. Ltd. Anr., (2020) 15 SCC 1*** wherein it is stated that, “*para 90-The period of limitation for an application seeking initiation of CIRP under section 7 of the Code is governed by section 137 of the Limitation Act and is therefore three years from which the right to sue accrues*”.

However, various payments were made by the corporate debtor during the period starting from 31.03.2016 upto 01.02.2018 which is evident from the summary sheet alongwith the statement of account annexed as P-4 in the petition. Thus, in our view the date of default can be taken as 01.02.2018 i.e. when the last payment was made. The authorities ***B.K. Educational Services Private Limited vs. Parag Gupta and Associates, (2019) 11 SC 633 and Babulal Varharji Gurjar vs. Veer Gurjar Aluminium Industries Pvt. Ltd. Anr., (2020) 15 SCC 1***

(supra) relied upon by the learned counsel for the corporate debtor on the point of limitation are not applicable to the present petition. Thus, it can be said that the present petition is well within the period of limitation of three years.

11. Second additional point which is argued by the Ld. counsel for the corporate debtor is that the Financial Creditor has no locus standi to file the present petition. In the assignment agreement dated 10.12.2015 petitioner claims to be the trustee of EARC Trust-SC 168. But this trust has not authorised the petitioner to file this petition. However, this contention of Ld. Counsel for Corporate Debtor is devoid of legal force because the petitioner's financial statements show the petitioner (Edelweiss Asset Reconstruction Co. Ltd.) as a financial creditor. This fact is evident from the admission in reply as the details of payments are annexed at Annexure R-48 in reply which show that Rs.22,68,50,108/- (Rupees Twenty Two Crores Sixty Eight Lakhs Fifty Thousand One Hundred and Eight Only) has been paid to Edelweiss Asset Reconstruction Co. Ltd. and not to the Trust. Thus, the corporate debtor is estopped by its own act and conduct to take this plea.

12. The third additional point raised by learned counsel for the corporate debtor is that the issue in respect of insufficient stamping of the assignment deed is currently pending before the Hon'ble High Court Punjab and Haryana, wherein LPA No.1253 and 1254 of 2021 have been filed by the CD. The State of Punjab has also filed an Appeal LPA No.13/2022 against the order passed by the Ld. Single Judge which has also not been decided. Thus, at the present juncture, the petition is premature as it has not been determined whether EARC can stand on the footing of a Financial Creditor and seek relief against the corporate debtor.

However, this contention of learned counsel for the respondent corporate debtor is not much convincing because as per the order dated 18/09/2023 passed by the Hon'ble Supreme Court of India, no order or Court or Tribunal staying the proceedings on the issue of understamping or no stamping of assignment deed will come in the way and stall the proceedings.

Moreover, it is stated by learned counsel for the petitioner in IA No.2276/23 that he has already deposited the *ad valorem* stamp duty of Rs.1,45,85,000/- (Rupees one Crore Forty-Five Lakh Eighty Five Thousand Only) in the Hon'ble High Court vide Original Demand Draft No.026631 dated 12.09.2023 in favour of "Registrar General Punjab and Haryana High Court, Chandigarh" in terms of order dated 25.08.2023 passed by Hon'ble Supreme Court of India in SLP No.12209 of 2023 with the office of the Registrar General, Punjab, and Haryana High Court, Chandigarh along with the Cover letter dated 15.09.2023. Be that as it may, the fact remains that in pursuance to the Hon'ble Supreme Court's order, there is no impediment to the pronouncement of the final admission order by this Adjudicating Authority during the pendency of the above-mentioned LPAs before the Hon'ble High Court.

13. The last issue for consideration is whether there is a default in payment or not, it is observed from the record that in the present case, the default is evidenced by the Assignment Agreement (Annexure P-1), Board Resolution (Annexure P-2 & P6), Annual Report for Financial Year 2016-2017 (Annexure P-5), Sanction Letter (Annexure P-6, 27 & 39, 54), Agreement of Hypothecation of Assets Rs.7500 Lacs (Annexure P-8), Hypothecation of movable assets (Annexure P-9), Deed of Hypothecation (Annexure P-10), Term Loan Agreement (Annexure P-16), Counter Indemnity Agreement (Annexure P-18), Balance

confirmation letter (Annexure P-21), Master restructuring agreement (Annexure P-22), Pledge of Goods Agreement for Rs.20 Crore (Annexure P-30), Deed of Guarantee (Annexure P-36), Deed of Hypothecation of secure LC on DA Basis (Annexure P-55), Hypothecation of Goods and Book Debts to secure CC Facility (Annexure P-57), Hypothecation of Movable assets (Annexure P-59), Agreement for FOBP/FOUBP/FOBNC of Rs.10.63 Crores (Annexure P-60), CDR Sanction (Annexure P-67), Balance Confirmation Letter (Annexure P-68), Valuation Report (Annexure P-70), Statement of Accounts (Annexure P-71), 13(2) Notice to the corporate debtor (Annexure P-72), Notice to Satish Bagrodia(Annexure P-73) & Possession Notice to Corporate Debtor (Annexure P-78) are attached with the main petition. As per the financial records, it is evident that an amount of Rs. 2,37,49,54,804.29/- (Rupees Two Hundred and Thirty-Seven Crores Forty-Nine Lakhs Fifty-Four Thousand Eight Hundred and Four and Twenty-Nine Paise) is still pending which amounts to default, when corporate debtor avoided the payment of outstanding amount despite repeated requests by petitioner-financial creditor.

In the reply has been filed by the respondent wherein it is stated that as per the declaration of the circular dated 12.02.2018 issued by the RBI, the present petition is not maintainable and is liable to be dismissed in limine. However, it is seen from the records available that this contention of respondent cannot be relied upon as due to lack of supporting documents. Further, the petitioner has also stated in its rejoinder that they have not relied upon the RBI circular dated 12.02.2018.

Thus, it is established on record that there is outstanding debt above the threshold limit and default has been committed by the corporate debtor.

14. We have gone through the contents of the application filed in the Form 1 and find the same to be complete. In Part-III of Form No. 1, Mr. Sanjay. Gupta,

Interim Resolution Professional (IRP) has been proposed by the petitioner. The form-2 along with certification of registration issued by the Insolvency and Bankruptcy Board of India is submitted with the main petition. As per available records, AFA Certification is valid till 24.04.2024. The Law Research Associate of this Tribunal has checked the credentials of Mr. Sanjay Gupta, there is nothing adverse against him. In view of the above, we appoint Mr. Sanjay Gupta, RegistrationNo.IBBI/IPA-002/IP-N00982-C01/2017-2018/10354,Email:sanjay@sga india.in, Mobile No. 9810041074, the Interim Resolution Professional with the following directions: -

- i.) The term of appointment of Mr. Sanjay Gupta shall be in accordance with the provisions of Section 16(5) of the Code;
- ii.) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor, etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of the inventory of assets of the Corporate Debtor;

- iii.) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government, and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and morals;
- iv.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;
- v.) It is hereby directed that the Corporate Debtor, its Directors, personnel, and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;
- vi.) The Suspended Board Of Directors is directed to give complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act. In case the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider

kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. The statutory auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI. The IRP/Resolution Professional is directed to take possession of the Books of Account in physical form or the computer systems storing the electronic records at the earliest. In case of any non-cooperation by the Suspended Board of Directors or the statutory auditors, he may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order. For retrieval of relevant information from the systems of the corporate debtor, the IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances. The Interim Resolution

Professional is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.

- vii.) The Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with requests for information/documents available with those authorities/institutions/others pertaining to the corporate debtor which would be relevant in the CIR proceedings. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the Resolution Professional to enable him to conduct the CIR Proceedings as per law.
- viii.) The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying the constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene the first meeting of the Committee within seven days of filing the report of the constitution of the Committee; and
- ix.) The Interim Resolution Professional is directed to send a regular progress report to this Tribunal every fortnight.

15. In the given facts and circumstances, the present petition being complete and having established the default in payment of the Financial Debt for the default amount being above the threshold limit, the petition is admitted in terms of Section 7(5) of the IBC and accordingly, also direct moratorium in terms of sub-section (1) of Section 14 of the code to take effect as below:

- 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 Securitization and Reconstruction of Operational Assets and Enforcement of Security Interest Act, 2002; and
- 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.
- e) It is further directed that the supply of essential goods or services to the corporate debtor as may be specified, shall not be terminated or suspended or interrupted during the moratorium period. The provisions of Section 14(3) shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.
- f) The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this

Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33 as the case may be.

16. We direct the Financial Creditor to deposit a sum of ₹2,00,000/- (Rupees Two Lakhs Only) with the Interim Resolution Professional, to meet out the expense to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The amount, however, is subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional on the conclusion of CIRP.

17. A copy of the order shall be communicated to both parties. The learned counsel for the petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send a copy of this order to the Interim Resolution Professional at his email address forthwith.

18. The petition is admitted accordingly.

sd/-

(Subrata Kumar Dash)
Member (Technical)

December 22 , 2023

TBG/SD

sd/-

(Harnam Singh Thakur)
Member (Judicial)