



**BEFORE THE ADJUDICATING AUTHORITY
IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT-1, AHMEDABAD**

ITEM No.101

C.P.(IB)/61(AHM)2025

Proceedings under Section 7 IBC

IN THE MATTER OF:

IDBI Bank Limited

Registered office at IDBI Tower,
WTC Complex, Cuffe Parade,
Colaba, Mumbai – 400005

...Applicant/FC

VERSUS

Aldiam Motors Private Limited.

Registered office at Plot No. 986/31-32,
GIDC, Makarpura, Vadodara,
Gujarat – 390010

...Respondent/CD

Order delivered on: 06/05/2025

C O R A M:

Mr. Shammi Khan, Hon'ble Member(J)
Mr. Sanjeev Kumar Sharma, Hon'ble Member(T)

P R E S E N T:

For the Applicant/FC : Mr. Ravi Pahwa, Advocate.
For the Respondent/CD : None

(Handwritten signature)



ORDER
(Hybrid Mode)

1. The present Petition is filed on 28.12.2024 by the Applicant/FC viz., IDBI Bank Limited (hereinafter referred to as **“Financial Creditor”**) against the Respondent M/s. Aldiam Motors Pvt. Ltd. (hereinafter referred to as **“Corporate Debtor”**) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as **“IBC, 2016”**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as **“IB (AAA) Rules, 2016”**) for initiation of Corporate Insolvency Resolution Process (**CIRP**), to appoint Interim Resolution Professional (hereinafter referred to as **“IRP”**) and declare the moratorium for having defaulted payment of its outstanding dues of **Rs.30,46,11,634.42ps.** including interest. The date of default is stated to be 08.01.2020.
2. In this matter, a Notice was issued to the Petitioner/CD on 04.02.2025. As per the Service Report Affidavit filed on 25.02.2025 (Diary No. D-1250), the Petitioner/CD was duly served through Dasti mode on 13.02.2025, with acknowledgment of service.
3. On 25.02.2025, the Petitioner/CD appeared through counsel, who filed a Vakalatnama. However, no reply was filed by the Respondent/CD despite being granted sufficient time. The Respondent/CD failed to appear or file a reply on



subsequent hearings scheduled on 17.03.2025 and even today. Hence, due to the Respondent/CD's failure to file a reply or appear consistently, the right to file a reply is closed, and the matter is proceeded **ex-parte**, notwithstanding the late appearance of counsel during dictation.

4. On perusal of Part-I of the Form-1 revealed that the Financial Creditor is IDBI Bank Limited, a banking company, registered under the provisions of the Companies Act, 1956, with its registered office IDBI Tower, WTC Complex, Cuffe Parade, Colaba, Mumbai 400005. This Petition is filed through its Deputy General Manager, Mr. Chirag Acharya, who has been authorised by a Letter of Authority dated 21.12.2024, which is annexed at **Annexure-A** to the petition.
5. On perusal of Part-II of the Form-1 revealed that the Respondent/CD is one M/s. Aldiam Motors Private Limited, having CIN No. U34300GJ2008PTC055391. The Respondent/CD was incorporated on 10.11.2008 and has a registered office at Plot No.986/31-32, GIDC, Makarpura, Vadodara, Gujarat-390 010.
6. On perusal of Part-III of the Form-1 revealed that the Financial Creditor has named **Mr. Manohar Lal Vij**, having Registration No. IBBI/ IPA-001 /IP-P-01480 /2018-2019/ 12269 having address at: 8/28, MPL-10078-80, Third Floor, Right Side Main, W.E.A Road, Abdul Aziz Road, Karol Bagh,



National Capital Territory of Delhi-110005 (e-mail: mlvij1956@gmail.com) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). He has filed his written communication annexed with the Application as **Annexure-D** as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

7. Part-IV of the Form-1 revealed that the Corporate Debtor had availed various Term Loan Facilities from the Financial Creditor. The total dues as claimed by the Financial Creditor are Rs30,46,11,634.42ps. consisting of Rs.19,06,29,908.40ps., being the principal amount and Rs.11,39,81,736.02ps. as interest from 10.01.2020 till 01.07.2024.
8. It is the case of the Applicant/FC that from 29.03.2014 till 27.07.2017, four credit facilities in the form of a Term Loan were extended to the corporate debtor to the tune of Rs. 24,45,00,000/—against the mortgage of the immovable properties in favour of the Applicant/FC. For which various loan security documents were executed by the Respondent/CD and their Directors, including the personal guarantee in favour of the Applicant / FC.
9. However, after availing the aforesaid credit facilities, the Respondent/CD failed to adhere to the financial discipline of the Applicant/FC and committed default in payment of the instalments. Accordingly, on the occurrence of default, on 08.01.2020, loan accounts were classified as Non-



Performing Asset (NPA). Thereafter, the Applicant/FC issued a recall notice dated 01.02.2020 followed by a SARFAESI Notice dated 18.02.2020 under Section 13(2) of the SARFAESI Act, 2002 . However, the Respondent/CD failed to repay the outstanding dues as demanded through the recall and demand notice.

10. Thereafter, the Respondent/CD submitted an OTS proposal on 06.10.2021 for Rs. 13.73 Crores, which was rejected by the Applicant/FC on 18.12.2021 due to its inadequacy. Another OTS proposal was submitted on 03.05.2023, which was also rejected.
11. The Applicant/FC also initiated recovery proceedings by filing O.A. No. 572 of 2020 before DRT-II, Ahmedabad, which is pending. The Applicant/FC also published public notices for the e-auction of the mortgaged property under the SARFAESI Act on 10.01.2022 and 18.10.2023.
12. The Applicant/FC had earlier filed CP (IB) No. 325 of 2024 under Section 7 of the IBC, which was withdrawn with liberty to file a fresh petition with better particulars, as per the Tribunal's order dated 08.11.2024 (Annexure T).
13. As on 01.07.2024, the outstanding debt stood at Rs.30,46,11,634.42, comprising: -Principal: Rs. 19,06,29,908.40, Interest: Rs. 11,39,81,736.02 (calculated at 11.50% per annum from 08.01.2020 to 01.07.2024). The Applicant/ FC has also filed an account statement supported by Bankers' Books Evidence Certificate under the



Bankers' Books Evidence Act by way of additional affidavit on 25.02.2025, vide Inward Diary No. D-1251 in support of the calculation of the outstanding dues annexed with the main petition as **Annexure E** at pages 27 to 43.

14. The Applicant/FC has also filed a copy of the record of default in **Form-D** issued by the NeSL as Annexure-H dated 17.07.2024, pages 70-76, in which the date of default is recorded as 08.01.2020, with the status of Authenticated.
15. The Applicant/FC has submitted the following documents to substantiate the existence of financial debt and default: -
 - a. **Annexure A:** Letter of Authority dated 21.12.2024, authorizing Shri Chirag Acharya to represent the Applicant/FC.
 - b. **Annexure B:** Vakalatnama authorizing Mr. Ravi Pahwa of Thakkar and Pahwa Advocates.
 - c. **Annexure C:** Companies Master Data dated 03.07.2024 from the Ministry of Corporate Affairs website, confirming the Corporate Debtor's details.
 - d. **Annexure D:** Consent of the proposed Interim Resolution Professional (IRP), Shri Manohar Lal Vij, dated 25.06.2024, in Form-AA.
 - e. **Annexure E:** Statement of computation of the outstanding debt.
 - f. **Annexure F:** RoC search report dated 18.03.2024, confirming registration of charge, along with a Valuation Report dated 23.07.2024, estimating the realizable value of the mortgaged property at Rs. 17,62,52,475.60.
 - g. **Annexure G:** Order dated 16.01.2024 passed by the Debt Recovery Tribunal (DRT), allowing amendment of property schedules in O.A. No. 572 of 2020.



- h. **Annexure H:** Form-D (Record of Default) filed with National E-Governance Services Limited (NESL) on 17.07.2024.
- i. **Annexure I:** CIBIL Report dated 02.04.2024, confirming the Corporate Debtor's default.
- j. **Annexure J:** Certificate dated 02.07.2024 under the Bankers' Book Evidence Act, 1891, for the loan accounts.
- k. **Annexure K (Colly):** Four Loan Agreements executed between the Applicant/FC and the Respondent/CD.
- l. **Annexure L (Colly):** Sanction Letters dated 29.03.2014, 08.05.2015, 04.07.2016, and 27.07.2017.
- m. **Annexure M (Colly):** Registered Mortgage Deeds and Deeds of Extension of Equitable Mortgage.
- n. **Annexure N:** Recall Notice dated 01.02.2020.
- o. **Annexure O:** Demand Notice under Section 13(2) of SARFAESI Act dated 18.02.2020.
- p. **Annexure P:** One-Time Settlement (OTS) proposal dated 06.10.2021 by the Corporate Debtor.
- q. **Annexure Q:** Letter dated 18.12.2021 rejecting the OTS proposal.
- r. **Annexure R:** Communication dated 20.01.2024 demanding repayment of Rs. 28,91,47,326 as on 31.12.2023.
- s. **Annexure S:** Title Clearance Certificate dated 20.02.2024, confirming the charge over the mortgaged property.
- t. **Annexure T:** Order dated 08.11.2024 in CP (IB) No. 325 of 2024, permitting withdrawal of the earlier petition with liberty to file afresh.

These documents collectively establish the existence of the financial debt, default, and procedural compliance.



16. We have heard the Ld. Counsel for the Applicant/FC ex-parte against the Respondent/CD and perused the record.
17. The Applicant/FC has provided comprehensive evidence, including Loan Agreements (Annexure K), Sanction Letters (Annexure L), and Registered Mortgage Deeds (Annexure M), establishing that it disbursed term loans totalling Rs. 24,45,00,000/- to the Corporate Debtor.
18. The Certificate under the Bankers' Book Evidence Act, 1891 (Annexure J), and the Statement of Computation (Annexure E) confirm the outstanding debt as Rs. 30,46,11,634.42 as on 01.07.2024. The CIBIL Report (Annexure I) and Form-D filed with NESL (Annexure H) further corroborate the existence of the financial debt. The OTS proposals submitted by the Corporate Debtor (Annexure P) constitute an acknowledgement of the debt, as per Section 18 of the Limitation Act, 1963.
19. The Tribunal finds that the amounts disbursed by the Applicant/FC constitute a "financial debt" as defined under Section 5(8) of the IBC, as they were disbursed against the consideration for the time value of money and secured by mortgages.
20. The loan accounts were declared NPA on 08.01.2020, as evidenced by the Recall Notice (Annexure N) and Demand



Notice under SARFAESI Act (Annexure O). The CIBIL Report (Annexure I) confirms a significant number of months in NPA status, indicating a consistent failure to repay.

21. The Corporate Debtor's failure to respond to the Recall Notice, Demand Notice, and subsequent communication dated 20.01.2024 (Annexure R) establishes a clear default. The Tribunal is satisfied that a default occurred on 08.01.2020 and has continued thereafter, as the Corporate Debtor has not repaid the outstanding debt despite multiple opportunities.
22. The acknowledgement of debt through OTS proposals under Section 18 of the Limitation Act extends the limitation period. The OTS proposals dated 06.10.2021 and 03.05.2023 constitute such acknowledgements. Additionally, the Supreme Court's order excluding the period from 15.03.2020 to 28.02.2022 due to COVID-19 (In ***Suo Moto WP (Civil) No. 3 of 2022 in Re: Cognizance for Extension of Limitation 2022 SCC OnLine SC 257***, excluded the period from 15.03.2020 to 28.02.2022 for the computation of limitation due to the COVID-19 pandemic) further extends the limitation period.
23. Hence, given the default date of 08.01.2020, the OTS acknowledgements on 06.10.2021 and 03.05.2023, and the exclusion of the period from 15.03.2020 to 28.02.2022 as per the Supreme Court's order, the limitation period for filing this petition extends beyond 28.12.2024, rendering the petition well within time.



24. During the course of the dictation of the order, the ex-parte Respondent/CD appeared through counsel Mr. Kuldeep Adedasara. However, the counsel's late appearance during dictation, without prior participation or counter-submissions, did not affect the ex-parte nature of the proceedings.
25. Hence, the present Petition is complete in terms of Section 7(5) of the Code. The Applicant/FC is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. The outstanding financial debt is more than rupees one crore, which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present application. Moreover, the said default is not covered under the period exempted under Section 10A of the IBC, 2016.
26. Hence, the Application filed under section 7(2) of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the Respondent/Corporate Debtor deserves to be admitted.
27. Accordingly, in light of the above facts and circumstances, it is **hereby ordered** as under: -
- (i) The Respondent/Corporate Debtor **Aldiam Motors Private Limited** is **admitted** in the Corporate Insolvency Resolution Process (**CIRP**) under section 7 of the IBC, 2016.



(ii) As a consequence, thereof, a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the IBC, 2016.

- 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;*
- 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. *The provisions of sub-Section (1) shall, however, not apply to such transactions, agreements as may be notified by the Central Government in consultation with any financial sector regulator,*



and to a surety in a contract of guarantee to a Corporate Debtor.

- (iii) The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.
- (iv) However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period. The corporate debtor to provide effective assistance to the IRP as and when he takes charge of the assets and management of the corporate debtor.
- (v) As proposed by the Financial Creditor, we appoint **Mr. Manohar Lal Vij**, having Registration No.IBBI/IPA-001/IP-P-01480/2018-2019/12269 having address at: 8/28, MPL-10078-80, Third Floor, Right Side Main, W.E.A Road, Abdul Aziz Road, Karol Bagh, National Capital Territory of Delhi-110005 (e-mail: mlvij1956@gmail.com) as Interim Resolution Professional (**IRP**). He shall conduct the Corporate Insolvency Process as per the Insolvency and



Bankruptcy Code, 2016, r.w. Regulations made thereunder.

- (vi) The IRP so appointed shall make a public announcement of the initiation of the Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
- (vii) The IRP shall perform all its functions as contemplated, *inter alia*, by sections 17, 18, 20, and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code, to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or co-operate with IRP do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- (viii) The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.



- (ix) The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of the obligation imposed by section 20 of the Code.
- (x) The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority a periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- (xi) We direct the financial creditor to pay IRP a sum of **Rs.3,00,000/- (Rupees Three Lakh Only)** in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims etc. till the CoC decides about his fees/expenses.
- (xii) The Registry is directed to communicate this order to the financial creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in the MCA portal, specifically mentioning regarding admission of



this Application, and shall forward the compliance report to the Registrar, NCLT.

(xiii) The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST (centre), State Trade Tax, Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/employees' associations so that they are informed of the initiation of CIRP against the Corporate Debtor timely.

(xiv) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

28. Accordingly, this Application **CP(IB)/61/AHM/2025** is hereby **admitted**. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.


SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

RV


SHAMMI KHAN
MEMBER (JUDICIAL)