



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
SPECIAL BENCH (COURT II)  
KOLKATA**

**IVN.A.No. 1/KB/2025  
In  
C.A. No. 38/KB/2024  
And  
C.A. No 41/KB/2024  
And  
C.A. No. 40/KB/2024  
In  
T.P. No. 160/KB/2024**

***An Application unde Section 433, 434 and 439 of the Companies Act,  
2013 and Rule 11 of the National Company Law Tribunal Rules, 2016***

**IN THE MATTER OF:**

Hanuman Tea Company Limited

And

Pawan Trading Company

...Petitioning Creditor

And

**IN THE MATTER OF:**

Sudhir Credit Private Limited

...Applicant

Versus

1. Pawan Trading Company

...Respondent

2. Win N Quiz.com Ltd.

...Proforma Respondent

**Date of Pronouncement: 29.04.2025**

**Coram:**

**SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)  
SMT. MADHU SINHA, HON'BLE MEMBER (TECHNICAL)**

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**Appearance (via video conferencing/physically)**

Mr. Rishav Banerjee, Adv.

Mr Saubhik Chowdhury, Adv.

For the Applicant

Mr. Dripto Majumdar, Adv.

For Corporate Debtor

Mr. Kanishk Kejriwal, Adv.

For the Respondent No. 2

**ORDER**

***Per Bidisha Banerjee, Member (Judicial):***

- 1.** The Court is congregated through hybrid mode.
- 2.** The Learned Counsels for all the parties were heard at length.
- 3.** This petition has been preferred to seek the following reliefs:
  - (i) The applicant may be allowed to intervene in T.P. No. 160/KB/2024 and make the petition IBC compliant;*
  - (ii) Corporate Insolvency Resolution Process be started against the Company (in liquidation);*
  - (iii) Mr. Ashish Giria be appointed as IRP to carry on the Corporate 2/18 Insolvency Resolution Process against the company (in liquidation);*
  - (iv) The Official Liquidator appointed earlier by the High Court at Calcutta be directed to hand over the keys and all relevant documents in their possession to the Interim Resolution Professional to be*

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*appointed in Corporate Insolvency Resolution Process by this Hon'ble  
Tribunal;*

*(v) Ad-interim order in terms of prayers above;*

**4. FACTS OF THE CASE**

**4.1** The applicant is a secured creditor of a company that is currently undergoing liquidation. In 1990, the company secured financial assistance from Bank of Baroda through various loan agreements, which included a mortgage on assets like a tea garden, machinery, and a flat in Mumbai. The company's failure to repay the loan resulted in recovery proceedings initiated under the Recovery of Debts due to Banks and Financial Institutions Act, 1996.

**4.2** In 2014, Bank of Baroda transferred its rights, title, and interest in the loan agreement, along with the deed of hypothecation and mortgage, to the applicant, valued at Rs. 54.56 crores. The Debt Recovery Tribunal upheld it in 2020, confirming the applicant's rights from April 21, 2014. By July 2022, the title documents were delivered to the applicant.

**4.3** As the bank's assignee, the applicant has assumed its role as the secured creditor. As of December 2024, the applicant's total claim, including interest, amounts to approximately Rs. 307.24 crores. The applicant further asserts that it was unable to participate in earlier proceedings because its status as a secured creditor was only established in 2020.

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**4.4** It is stated that, since the petitioning creditor has not taken any action in either the High Court or the Tribunal, the applicant has submitted a request to intervene in the proceedings and commence the Corporate Insolvency Resolution Process (CIRP) for the company in liquidation. The applicant is seeking the initiation of CIRP, appointment of Mr. Ashish Giria as the Interim Resolution Professional (IRP) and requests the Official Liquidator's assistance in transferring the necessary documents and assets to the IRP for this matter.

**5. SUBMISSION OF THE APPLICANT**

**5.1** It is stated that the Applicant is a secured creditor of the Company (in Liquidation). In 1990, the Company obtained financial accommodation from Bank of Baroda, secured by various loan documents, including:

- Mortgage on Sonajuli Tea Estate, Assam
- Mortgage on Flat No. 15, Mount Unique Co-operative Housing Society, Mumbai

Due to non-repayment, recovery proceedings were initiated under the Recovery of Debts due to Banks and Financial Institutions Act, 1996, before the Debt Recovery Tribunal, Kolkata.

**5.2** It is further stated that, during the pendency of O.A.No.181/2002 and O.A.No.7/2004, Bank of Baroda assigned its rights under the loan agreement to the Applicant on June 18, 2014, for Rs. 54.56 Crores. The assignment was initially contested but ultimately recognized by the Debt

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Recovery Tribunal-III, Kolkata on March 2, 2020, in T.A.No.1397/2014, with the Company withdrawing its objections.

**5.3** It is submitted that the Applicant received the deposited documents from the bank in July 2022, after the Debt Recovery Tribunal-III, Kolkata's order on March 2, 2020. As per the deed of assignment dated June 18, 2014, the Applicant stepped into Bank of Baroda's shoes as a secured creditor, effective April 21, 2014. The Applicant's total claim, including interest, as a secured creditor is ₹307.24 crores as of December 31, 2024.

**5.4** It is contended that the Applicant couldn't appear earlier as its secured creditor status wasn't confirmed until the March 2, 2020 order. The bank, as secured creditor, also didn't appear. The Applicant moved Company Application No. 2 of 2023 before the Calcutta High Court, which transferred C.P. No. 598 of 2004 to this Tribunal via an order dated March 14, 2023. Despite multiple hearings, Respondent No. 1 remained unrepresented which certainly indicates that the Petitioning Creditor i.e. the Respondent No. 1 is not showing any interest in the proceeding.

**5.5** It is further submitted that the Applicant, a Financial and Secured Creditor of the Corporate Debtor, seeks to intervene in the matter due to the Petitioning Creditor's inaction. With a substantial voting percentage in the Committee of Creditors, the Applicant aims to facilitate a successful Resolution Process. The Applicant requests

- Liberty to intervene and enforce its claim as a Secured Creditor.
- Initiation of the Corporate Insolvency Resolution Process.

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- Appointment of Mr. Ashish Giria as Interim Resolution Professional (IRP)."
- Directions to the Official Liquidator appointed earlier by the High Court at Calcutta to hand over the keys of the properties and all the relevant document in possession to the IRP to be appointed in the proceeding.

**Analysis:**

**6.** We have considered the rival contentions and perused the records.

**7.** Section 434 of the Companies Act 2013, envisages **Transfer of certain pending proceedings** and provides as under: (1) On such date as may be notified by the Central Government in this behalf,

*(a) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this section referred to as the Company Law Board) constituted under sub-section (1) of section 10E of the Companies Act, 1956 (1 of 1956), immediately before such date shall stand transferred to the Tribunal and the Tribunal shall dispose of such matters, proceedings or cases in accordance with the provisions of this Act;*

*(b) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order:*

*Provided that the High Court may if it is satisfied that the appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days; and*

**(c) all proceedings under the Companies Act, 1956 (1 of 1956), including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer:**

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*Provided that only such proceedings relating to the winding up of companies shall be transferred to the Tribunal that are at a stage as may be prescribed by the Central Government.*

*Provided further that only such proceedings relating to cases other than winding-up, for which orders for allowing or otherwise of the proceedings are not reserved by the High Courts shall be transferred to the Tribunal*

*Provided also that]--*

*(i) all proceedings under the Companies Act, 1956 other than the cases relating to winding up of companies that are reserved for orders for allowing or otherwise such proceedings; or*

*(ii) the proceedings relating to winding up of companies which have not been transferred from the High Courts;*

*shall be dealt with in accordance with provisions of the Companies Act, 1956 and the Companies (Court) Rules, 1959.*

*Provided also that proceedings relating to cases of voluntary winding up of a company where notice of the resolution by advertisement has been given under sub-section (1) of section 485 of the Companies Act, 1956 but the company has not been dissolved before the 1st April, 2017 shall continue to be dealt with in accordance with provisions of the Companies Act, 1956 and the Companies (Court) Rules, 1959.*

*(2) The Central Government may make rules consistent with the provisions of this Act to ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the courts, to the Tribunal under this section.”*

The word “all” shows that even liquidation proceedings can be taken up for consideration and the word “including” explicits inclusiveness of all kinds of proceedings.

**8.** In the light of the facts stated in the **IVN.A.No. 1/KB/2025** , and the evidence placed on record and the discussion hereinabove, we **allow** this petition and accordingly, we order the initiation of Corporate Insolvency

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Resolution Process (CIRP) in respect of the Corporate Debtor by the following Orders:

**i.** The Application filed by the Sudhir Credit Private Limited, is hereby, admitted for initiating the Corporate Insolvency Resolution Process in respect of Hanuman Tea Company Limited (Corporate Debtor).

**ii.** As a consequence of this Application being admitted in terms of Section 7 of the I&B Code, moratorium as envisaged under the provisions of Section 14(1) of the Code, shall follow in relation to the Respondent/(CD) as per clauses (a) to (d) of Section 14(1) of the Code. However, during the pendency of the moratorium period, terms of Section 14(2) to 14(3) of the Code shall come into force.

**iii.** Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016, prohibits the following, as:

- 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 asset 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



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property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

- d)** The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

*[Explanation.--For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;]*

- iv.** 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.

- v.** The provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

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**vi.** The Applicant has proposed the name of “Mr. Ashish Giria”, Registration No. IBBI/IPA-001/IP-P01193/2018-2019/11918, Address Road:493/C/A, GT Road (S), Vivek Vihar, Block 8, Flat 5D, Howrah – 711102, West Bengal as the “IRP”. We have perused that there is a written communication, annexed as Annexure “F” at Page 55, to this Application as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that there are no disciplinary proceedings pending against him with the Board or Indian Institute of Insolvency Professional of Insolvency Professional Agency of Institute of Cost Accountants of India. In addition, further necessary disclosures have been made by “Mr. Ashish Giria” as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of the Section 7(3)(b) of the code. Hence, we appoint “Mr. Ashish Giria” as the Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the I&B Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the I&B Code.

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**vii.** In pursuance of Section 13 (2) of the Code, we direct the IRP or the RP, as the case shall cause a public announcement immediately with regard to the admission of this application under Section 7 of the Code and call for the submission of claims under Section 15 of the Code. The public announcement referred to in Clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016, shall be made immediately. The expression immediately means within three days as clarified by Explanation to Regulation 6 (1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

**viii.** During the CIRP period, the management of affairs of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of Section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow. There shall be no future opportunities in this regard.

**ix.** The Interim Resolution Professional is also free to take police assistance to take full charge of the Corporate Debtor, its assets and its documents without any delay, and this Court hereby directs the concerned Police Authorities and/or the Officer-in-Charge of Local Police Station(s) to render all assistance as may be required by the Interim Resolution Professional in this regard.

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**x.** The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.

**xi.** The Financial Creditors shall be liable to pay to IRP a sum of **Rs. 3,00,000/-** (Rupees Three Lakh Only) as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment. The expenses relating to the CIRP are subject to the approval of the Committee of Creditors (CoC).

**xii.** In terms of sections 7(5) and 7(7) of the Code, the Registry of this Adjudicating Authority is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by Speed Post and through email immediately, and in any case, not later than two days from the date of this Order.

**xiii.** Additionally, the Registry of this Adjudicating Authority shall serve a copy of this Order upon the Insolvency and Bankruptcy Board of India (IBBI) for their record and also upon the Registrar of Companies (ROC), West Bengal, Kolkata by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.

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**xiv.** The Resolution Professional shall conduct CIRP in time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

**xv.** The IRP/RP shall be liable to submit the periodical report including the minutes of the CoC of the Corporate Debtor, with regard to the progress of the CIRP in respect of the Corporate Debtor to this Adjudicating Authority time to time.

**xvi.** The order of moratorium shall cease to have effect as per Section 14(4) of the I&B Code.

**9.** The Official Liquidator appointed earlier by the High Court at Calcutta is hereby directed to hand over the keys and all relevant documents in their possession to the Interim Resolution Professional “Mr. Ashish Giria” within 15 days from the date of pronouncement of this order.

**9.** This order is issued under Section 7 of I&B Code 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016.

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**10.** Urgent certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

**11.** Post the matter on **10.06.2025** for filing the Periodical Progress Report by the IRP/RP.

**Madhu Sinha  
Member (Technical)**

**Bidisha Banerjee  
Member (Judicial)**

Signed on this the **29<sup>th</sup> Day of April, 2025.**

**Arunav. P (LRA)**