



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (I.B.C) No. 171/KB/2025

***An Application under Section 7 of the Insolvency and Bankruptcy
Code, 2016, read with Rule 4 of the Insolvency and Bankruptcy
(Application to the Adjudicating Authority) Rules, 2016.***

IN THE MATTER OF:

UCO Bank

... Financial Creditor/ Applicant.

Versus

Oyster Sales Private Limited

... Corporate Debtor/ Respondent.

Date of Pronouncement: 24.03.2026.

Coram:

SMT. BIDISHA BANERJEE, MEMBER (JUDICIAL)

CMDE . SIDDHARTH MISHRA, MEMBER (TECHNICAL)

Appearance:

For the Financial Creditor

: Mr. S.K. Ray, Adv.

: Ms. Ashmita Lohia, Adv.

: Ms. Utkarshika, Adv.

: Ms. Varsha Khowala, Adv.

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ORDER

PER: Bidisha Banerjee, Member (Judicial):

1. The Court congregated through physical / hybrid mode.
2. Heard the Learned Counsels for the Petitioner.
3. **Factual matrix:**
 - 3.1 The instant company petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, (for brevity “IBC”) read with Rule 4 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, by “**UCO Bank**”, hereinafter referred to as “**Financial Creditor**”/ “**Applicant**” against “**Oyster sales Private Limited**”, hereinafter referred to as “**Corporate Debtor**”/ “**Respondent**” seeking direction to initiate Corporate Insolvency Resolution Process (for brevity “CIRP”) in respect of the Corporate Debtor due to a default in repayment of a financial debt amounting to Rs. 1,54,34,515.81/-.
4. **Submissions of the Ld. Counsel for the Applicant:**
 - 4.1 Ld. Counsel submits that the Corporate Debtor along with guarantors had approached the Financial Creditor for availing credit facilities in the year 2021 for its working capital requirement and the same duly approved and sanctioned by the Bank. A copy of the **Sanction Letter dated 02.08.2021** along with acknowledgement is annexed and marked as **Annexure- A3**.
 - 4.2 Ld. Counsel submits that pursuant to the said sanction the Corporate Debtor executed the following security documents:- 1) Demand Promissory Note dated 03.08.2021 2) Letter of Waiver dated 03.08.2021 3) Letter of Continuity dated 03.08.2021 4) Composite Deed of Hypothecation dated 03.08.2021 5) Letter of Deposit of Title Deeds dated 03.08.2021 6) Memorandum of Entry dated 09.08.2021 and 7) Deed of Guarantee dated

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03.08.2021. A copy of the above mentioned documents are annexed and marked as **Annexure- A4, A5, A6 and A7.**

- 4.3 Ld. Counsel submits that under the said agreement the Corporate Debtor were mandated to repay the sums, but after making part payments from time to time have failed or neglected to make repayments of the principle debt and interest in accordance with the terms and conditions of the said sanction letter.
- 4.4 Ld. Counsel submits that the account of the Principal Borrower was declared NPA on 14.10.2022 and the date of default is 16.07.2022.
- 4.5 Ld. Counsel submits that the Financial Creditor was constrained to issue a demand notice dated 31.10.2022 under Section 13(2) of the SARFAESI Act, 2002. Additionally, the Financial Creditor also issued possession notice dated 28.02.2023 under Section 13(4) of the SAEFAESI and notice dated 13.01.2025 under Section 13(8) of the said act. A copy the said letter and reply by the Corporate Debtor are annexed and marked as **Annexure- A8, A9 and A10.**
- 4.6 Ld. Counsel submits that the Financial Creditor initiated proceedings against the principle borrower under Section 19 of the Recovery of Debts and Bankruptcy Act being O.A No. 283 of 2023 before the Debts Recovery Tribunal, Kolkata and the said application is pending for adjudication.
- 4.7 Ld. Counsel submits that the outstanding sums due and payable by the Corporate Debtor amounts to Rs. 1,54,34,515.81/- (inclusive of interest) as on 01.07.2025 in respect of the credit facilities availed. Copies of **Statements of Accounts** duly certified by the Financial Creditor under the Information and Technology Act, 2000 and the **Banker's Book**

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of Evidence Act, 1891 are annexed and marked as **Annexure-A11**.

4.8 Ld. Counsel further submits that having no other alternative for the recovery of dues the Financial Creditor filed this application against the Corporate Debtor for initiation of CIRP.

5. Supplementary Affidavit dated 18.02.2026 filed by the Financial Creditor

5.1 Ld. Counsel submits that vide order dated 21.01.2026, this Hon'ble Tribunal directed the Financial Creditor to place on record the steps taken in respect of the properties mortgaged by the corporate debtor.

5.2 Ld. Counsel submits that pursuant to the said direction, the Financial Creditor placed on record the sale notices published in newspaper with respect to the mortgaged properties for recovery of its outstanding dues. Despite due publication of the said sale notices, the proposed auction of the mortgaged properties could not be successfully conducted on account of non-participation of bidders, and therefore the sale could not materialize.

6. Analysis and Findings

6.1 We have heard the Ld. Counsels for the Financial Creditors and have carefully considered the pleadings, documents placed on record and submission advanced on behalf of the party.

6.2 This Adjudicating Authority vide order dated 30.10.2025 decided to proceed *ex parte* against the Corporate Debtor. For ease of reference, the exact text of the order is provided below:

“Despite our order dated 20th August, 2025, the Corporate Debtor has failed to file a reply affidavit and we have indicated in the said order that if they failed to file a reply

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affidavit within a period of two weeks, the right to file the same stands closed. No one appears on behalf of the Corporate Debtor for the last two consecutive dates.

Therefore, the Corporate Debtor is set ex parte.”

- 6.3 It is pertinent to note that in the interest of justice, this Adjudicating Authority again granted an opportunity to the Corporate on 09.12.2025 to enter appearance through counsel. However, the Corporate Debtor still failed to appear and in view of the continued non-appearance the matter was finally reserved for orders on 10.03.2026.
- 6.4 The Corporate Debtor was granted credit facilities by the Financial Creditor amounting to **Rs. 1,00,00,000/-** for business purposes but is unable to make any payment of interest and outstanding principal amounting to **Rs. 1,54,34,515.81/-** as on 01.07.2025.
- 6.5 The Financial Creditor have clarified in the Limitation clause that the account was classified as defaulted on **16.07.2022**, the present application was filed on **20.11.2024** which is well within limitation. The outstanding financial debt is of 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 10 A of IBC, 2016.
- 6.6 Regarding existence of debt, it is important to mention Section 5(8) a & b of the IBC which defines “Financial Debt” expressly includes-

“(8) “financial debt” means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes—

(a) money borrowed against the payment of interest;

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(b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;”

Thus, the credit facilities sought by the Corporate Debtor squarely within the statutory definition of financial debt.

- 6.7 The existence of financial debt stands duly established from the documents placed on record. The sanction letter clearly stipulates the terms and conditions governing the said facilities including the rate of interest and repayment obligations. The existence of debt is clearly established by the Statement of Account which reflect the outstanding liability of the Corporate Debtor towards the Financial Creditor and are supported by interest calculation chart and charges in accordance with the contractual terms. As such, the existence of financial debt stands clearly established.
- 6.8 Regarding occurrence of default, it is clearly established from the materials placed on record that the Corporate Debtor committed defaults in repayment of dues despite repeated notices and communication issued by the Financial Creditor calling upon the Corporate Debtor to regularize the account and clear the outstanding dues.
- 6.9 Section 3(12) of the IBC defines “Default” as non-payment of debt when the same has become due and payable. As per the terms and condition of the sanction letter dated 02.08.2021 the Corporate Debtor was mandated to repay the sums, but after making part payments from time to time the Corporate Debtor have failed and negelected to make repayment of principal debt and interest in accordance with the sanction letter. Consequently, default occurred on 16.07.2022 and the same is supported by the statement of account and demand notices placed on record. Thus, we are satisfied that default has occurred within the menaing of Section 3(12) of the IBC.

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- 6.10 This Adjudicating Authority, upon a careful perusal of the sanction letters, deed of hypothecation and other documents placed on record, observes that the Corporate Debtor, namely Oyster Sales Private Limited, had availed credit loan facilities. It is further noted that the Corporate Debtor defaulted in the repayment of installments under the said facilities. Such default squarely attracts the statutory rights available to the Financial Creditor under the IBC entitling it to initiate proceedings for the commencement of the CIRP against the Corporate Debtor.
- 6.11 Therefore, the present application is complete in terms of Section 7(5) of the IBC, 2016. The Applicant/Financial Creditor is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt.
- 6.12 The Hon'ble Supreme Court in the case of ***Innoventive Industries Limited v. ICICI Bank Limited*** (Civil Appeal No. 8337-8338 of 2017), where it has discussed extensively the scope of the Adjudicating Authority under section 7 of the IBC is limited to assessing the records provided by the financial creditor to satisfy itself that the default has occurred as held in para 27, 28 and 30.

“27. The scheme of the Code is to ensure that when a default takes place, in the sense that a debt becomes due and is not paid, the insolvency resolution process begins...”

*28. the corporate debtor is entitled to point out that a default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. **A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete,...***

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30. *On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e., payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.*"

6.13 Further, in the case of **Indus Biotech Private Limited Vs. Kotak India Venture (offshore) Fund** reported in (2021) 6 SCC 436: MANU/SC/0231/2021, the Hon'ble Apex Court held as follows:

"14. ... in order to trigger an application, there should be in existence four factors: (i) there should be a debt (ii) default should have occurred (iii) debt should be due to financial creditor and (iv) such default which has occurred should be by a corporate debtor."

7. In terms of the foregoing discussion, we **ALLOW** the instant application bearing **Company Petition (IB) No. 171/KB/2025** filed under **Section 7 of the IBC**, and accordingly, we order the initiation of the **Corporate Insolvency Resolution Process (CIRP)** in respect of the Corporate Debtor i.e., **M/s Oyster Sale Private Limited** and pass the following **Orders**:

7.1 The Petition filed by UCO Bank under Section 7 of the Insolvency and Bankruptcy Code, 2016, is hereby, ADMITTED

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for initiating the CIRP in respect of M/s Oyster Sales Private Limited.

7.2 As a consequence of this Petition being admitted in terms of Section 7 of the IBC, 2016, 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.

7.3 Moratorium under Section 14 of the IBC, 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 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,

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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;]

- 7.4 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.
- 7.5 The provisions of sub-section (1) of the Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- 7.6 The Applicant has proposed the name of **Mrs. Brinda Bidasaria**, having Registration No. **IBBI/IPA-001/IP-P-02818/2023-24/14329** (Email ID: cabrindadalmia@gmail.com) as the Interim Resolution Professional (“**IRP**”). We have perused that there is a written communication & consent of IRP in Form- 2 and authorisation for assignment in Form- B annexed at pages 124-126 to the petition, as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Hence, we appoint “**Mrs. Brinda Bidasaria**” as the Interim Resolution Professional (IRP) of the Corporate Debtor (subject to the condition that no disciplinary proceedings are pending against the IRP) to carry out the functions as per the IBC 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. According to IBBI website the AFA of the RP is valid upto 31.12.2026. The IRP shall carry out



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his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the I & B Code.

- 7.7 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 the IBC, 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.
- 7.8 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, 2016. 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.
- 7.9 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.
- 7.10 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 CIR Process in respect of the Corporate Debtor.
- 7.11 The Financial Creditors shall be liable to pay to IRP a sum of **Rs. 3,00,000** /-(Rupees Three Lakhs only) as payment to meet the



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cost of CIRP arising out of issuing public notice and inviting claims etc., 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).

- 7.12 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.
- 7.13 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), Kolkata to whom the company is registered with, by all available means for updating the Master Data of the Corporate Debtor.
- 7.14 The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- 7.15 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 CIR Process in respect of the Corporate Debtor to this Adjudicating Authority from time to time.
- 7.16 The order of moratorium shall cease to have effect as per Section 14(4) of the I&B Code.
8. Certified copies of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.

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9. Post the Company Petition on **04.05.2026** for filing the Periodical Progress Report by the IRP/RP as appointed herein.

**Cmde Siddharth Mishra
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

Order signed on the 24th day of March, 2026.

S.T (LRA)