



**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

ORDER SHEET OF THE HEARING ON 5th AUGUST 2025

**Present: 1. Hon'ble Member (Judicial), Shri Rammurti Kushawaha
2. Hon'ble Member (Technical), Shri Yogendra Kumar Singh**

In the Matter of	Punjab National Bank Vs Pride Coke Private Limited
Under Section	U/s 7 of IBC, 2016

Appearances (via video conferencing/physically)

For Petitioner (s) : None

For Respondent (s) : Ms. P. Bhagat, Adv.

ORDER

Order pronounced in open court *vide* separate sheets.

Sd/-

**Yogendra Kumar Singh
Member (Technical)**

Sd/-

**Rammurti Kushawaha
Member (Judicial)**

No. 64
Date of Presentation of Application for copy 07/08/2025
No of Pages 15
Copying fee Nil
Registration & postage fee Nil
Total Nil
Date of receipt & Date of copy
Date of preparation of copy 07/08/2025
Date of delivery of copy 07/08/2025

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**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
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In CP(IB)/4/GB/2025

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

In the matter of:

Punjab National Bank, represented in this case by the Chief Manager, Punjab National Bank, Zonal Sastra Centre, 1st Floor, Zonal Office, H.B Road, Panbazar, Guwahati - 781001, Assam;

...Petitioner/ Financial Creditor

-Versus-

Pride Coke Private Limited, having its registered office at House No. 3/1, Rajdeep Complex, Above HDFC ATM, F.A. Road, Kumarpara, Guwahati-781009, Assam and factory at 12th Mile, Village- Ambher, Jorabat, District- Kamrup, Assam-781023, CIN U23101AS2004PTC007464, PAN Number: AADCP3856G;

...Respondent/ Corporate Debtor

Coram:

Shri Rammurti Kushawaha : Member (Judicial)

Shri Yogendra Kumar Singh : Member (Technical)

Appearances (through video conferencing):

For Petitioner : Mr. S. Dutta (Adv.)

For Respondent : Mr. Bikash Sharma (Adv.), Ms. Pooja Bhagat (Adv.)

Order pronounced on: 05.08.2025





NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

CP(IB)/4/GB/2025

ORDER

1. The present Application has been filed by **Punjab National Bank** ("Financial Creditor"), under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, to initiate Corporate Insolvency Resolution Process ("CIRP") of **Pride Coke Private Limited** ("Corporate Debtor") for an unresolved Financial Debt of Rs. 42,02,42,577.55/-
2. As per the Petitioner, the brief facts of the case are as follows: -
 - 2.1. The Corporate Debtor is a Public Limited Company incorporated on 02.02.2009 under the Companies Act, 1956, and registered with the Registrar of Companies, Shillong. The Directors of the Corporate Debtor are Sri Amit Agarwal, Sri Hemant Harlalka, Smt. Nisha Harlalka, Sri Amiyo Islary, and Sri Sanjib Deka. Additionally, Sri Kamal Kumar Harlalka, Sri Hari Chand Agarwal, and Sri Vipin Singhal stood as personal guarantors. Equitable mortgages were created over the properties of the Corporate Debtor, Sri Amiyo Islary, and Sri Hari Chand Agarwal by deposit of title deeds in favour of the Financial Creditor as security for repayment of credit facilities.
 - 2.2. Pursuant to the Corporate Debtor's request, the Financial Creditor, *vide* Sanction Letter dated 14.09.2010, sanctioned various facilities aggregating to ₹1833.47 lakhs including:
 - i. Takeover of existing facilities: Cash Credit – ₹725.00 lakhs, WCTL against Transport Subsidy – ₹525.00 lakhs, Term Loans – ₹14.14 lakhs and ₹114.33 lakhs.
 - ii. Fresh Term Loan – ₹280.00 lakhs.
 - iii. Ad-hoc limit – ₹175.00 lakhs.
 - 2.3. Subsequently, *vide* Sanction Letter dated 08.04.2011, the existing facilities were reviewed and enhanced. The Cash Credit limit was increased to ₹1100.00 lakhs, WCTL reviewed at ₹487.18 lakhs, and Term Loans revised to ₹93.61 lakhs and ₹283.45 lakhs respectively, increasing the total sanctioned limit to ₹19.75 Crores.





- 2.4. On subsequent occasions, based on further requests of the Corporate Debtor, the Financial Creditor sanctioned the following additional ad-hoc and working capital limits:
- ₹70.00 lakhs (03.09.2011)
 - ₹100.00 lakhs (22.11.2011)
 - ₹150.00 lakhs (13.03.2012)
 - ₹200.00 lakhs (17.10.2012)
- 2.5. In view of the Corporate Debtor's request for Bank Guarantee ("BG") and Letter of Credit ("LC") facilities, vide Sanction Letter dated 19.02.2013, the Financial Creditor sanctioned a BG/LC limit of ₹200.00 lakhs, reducing the Cash Credit accordingly. The Term Loan facilities stood reviewed at ₹71.00 lakhs and ₹275.00 lakhs. The overall exposure remained at ₹19.46 Crores.
- 2.6. Thereafter, the Cash Credit limit was reinstated to ₹1600.00 lakhs, and additional ad-hoc limits were sanctioned as follows:
- ₹100.00 lakhs (03.12.2013)
 - ₹100.00 lakhs (15.03.2014)
 - ₹300.00 lakhs (23.04.2014)
 - ₹200.00 lakhs (09.12.2014)
 - ₹250.00 lakhs (14.05.2015)
- 2.7. These were accompanied by periodic reviews of Term Loans and retention of the Cash Credit limit at ₹1600.00 lakhs, with the overall credit exposure peaking at ₹21.75 Crores.
- 2.8. Pursuant to a Board Resolution dated 19.05.2015, the Corporate Debtor sought bifurcation of the Cash Credit facility for its Coke and Rice Mill Units. *Vide* Sanction Letter dated 06.08.2016, the Financial Creditor sanctioned bifurcated Cash Credit limits of ₹600.00 Lakhs and ₹1000.00 Lakhs respectively, along with a fresh Term Loan of ₹950.00 Lakhs, BG of ₹250.00 Lakhs, and Foreign Letter of Credit





NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

CP(IB)/4/GB/2025

("FLC")/ Local Letter of Credit ("LLC") of ₹150.00 Lakhs. Consequently, the overall exposure stood revised at ₹29.50 Crores.

2.9. The FLC/ LLC limit of ₹150.00 Lakhs was subsequently converted into Term Loan-II. The loan facilities were renewed *vide* Sanction Letter dated 28.03.2018. The Corporate Debtor, through its Directors, executed all relevant Loan cum Security Documents, including Demand Promissory Notes, Hypothecation Agreements, Deeds of Guarantee, and Letters of Continuity. The Personal Guarantors executed corresponding Guarantee Agreements.

2.10. Equitable mortgages were created over immovable properties of the Corporate Debtor and its guarantors:

- i. The Corporate Debtor mortgaged land measuring 6 Bigha 4 Katha 17 Lechas and 2 Katha 15 Lechas by depositing registered sale deeds dated 15.10.2004 and 04.10.2005.
- ii. Sri Amiyo Islary mortgaged 13 Bighas of land by depositing a registered sale deed dated 06.10.2012.
- iii. Sri Hari Chand Agarwal mortgaged two plots measuring 1 Katha 13 Lechas and 4 Katha 3 Lechas *vide* deeds dated 16.02.2000 and 24.02.1989, though one of the properties has since been sold under the SARFAESI Act on 11.08.2022.

2.11. The execution of mortgage documents and continuity letters were acknowledged by the Directors, including Letters of Confirmation dated 10.11.2010, 30.11.2010, and subsequent dates through 2015. Charges were duly registered with the Registrar of Companies.

2.12. The last renewal and execution of the loan documents took place on 28.03.2018 and 10.08.2018 respectively. The Directors acknowledged liability through Balance Confirmation Letters dated 01.08.2019. The audited Balance Sheets for FYs 2018–2021 filed by the Corporate Debtor records and admits the liability. Further, the Corporate Debtor submitted One-Time Settlement ("OTS")





NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

CP(IB)/4/GB/2025

proposals dated 18.06.2022 and 03.09.2024, evidencing continuing acknowledgment of debt.

2.13. The loan accounts, namely Cash Credit-I, Cash Credit-II, Term Loan-I, and Term Loan-II, were classified as Non-Performing Assets (NPA) as on 31.03.2021. A Demand Letter dated 04.09.2019 and a Demand Notice dated 13.09.2021 were issued. As on 31.01.2025, the total debt stands at ₹42,02,43,577.55.

2.14. The Corporate Debtor filed objections, to which the Financial Creditor has filed detailed rejoinders. Simultaneously, the Financial Creditor has instituted OA No. 521/2022 before the Debit Recovery Tribunal ("DRT") for recovery of ₹25,22,80,880.78, which remains pending.

2.15. The instant petition under Section 7 of the IBC has been filed well within the period of limitation, supported by sufficient documentary evidence of default and acknowledgment of liability by the Corporate Debtor. Therefore, a case is made out for admission of the Petition and initiation of CIRP against the Corporate Debtor.

3. Submissions by the Corporate Debtor:

3.1. Mr. Amit Agarwal, Director of the Corporate Debtor, filed an Affidavit-in-Reply on behalf of the Corporate Debtor and raised preliminary objections regarding the maintainability of the Petition, asserting that the Applicant has failed to produce admissible documentary evidence to establish the existence of a "financial debt" as defined under Section 5(8) of the IBC, or the date of default as required under Section 7(3)(a) of IBC.

3.2. It is contended that the mere existence of banking transactions or fund transfers does not *ipso facto* constitute a financial debt, unless supported by valid documentation that evidences an intention to create a debtor-creditor relationship.

3.3. It is further contended that the conduct of the Financial Creditor reveals that the alleged credit facilities were extended primarily to earn usurious interest, and the





present insolvency proceeding is a misuse of IBC for debt recovery, contrary to IBC's objective of resolution.

- 3.4. It is also asserted that there is no legally enforceable "record of default" as defined under Section 3(12) of the IBC and relevant regulations, and therefore, the petition is not maintainable.
- 3.5. It is submitted that the present petition is barred by limitation. The last alleged acknowledgment of liability, dated 01.08.2019, cannot extend the limitation beyond three years under Article 137 of the Limitation Act, 1963. Hence, the petition filed in 2025 is time-barred.
- 3.6. The Corporate Debtor challenges the Applicant's reliance on OTS proposals dated 18.06.2022 and 03.09.2024 for the purpose of extending limitation under Section 18 of the Limitation Act. It is contended that these OTS proposals were executed unilaterally by a single director without a valid Board Resolution or authority from the company, and thus cannot be treated as valid acknowledgments of debt.
- 3.7. The Corporate Debtor places reliance on *Indian Bank v. ABS Marine Products Pvt. Ltd.*, (2020 SCC OnLine SC 602), to argue that any act with financial implication must be backed by requisite corporate authorization, failing which such act is *ultra vires* and non-binding.
- 3.8. It is further contended that the OTS proposals do not constitute valid acknowledgments under Section 18 of the Limitation Act, as they do not contain a clear and unequivocal admission of a subsisting liability. Reliance is placed on *Asset Reconstruction Company (India) Ltd. v. Bishal Jaiswal*, (2021 SCC OnLine SC 321), where the Hon'ble Supreme Court held that a valid acknowledgment must reflect a conscious admission of a legally enforceable debt.
- 3.9. The Respondent also relies on *Dena Bank (now Bank of Baroda) v. C. Shivakumar Reddy*, (2021 SCC OnLine SC 543), to submit that mere expressions of willingness to settle are insufficient to constitute acknowledgment under Section 18 unless there is an express admission of liability.





- 3.10. Accordingly, it is submitted that the present Petition is barred by limitation and liable to be dismissed at the threshold.
- 3.11. The Corporate Debtor further challenges the authority of Mr. Kumar Abhinav, who is stated to have filed the Petition on behalf of the Financial Creditor, contending that the letter of authorization issued by the Deputy General Manager lacks proper corporate sanction.
- 3.12. It is submitted that the Financial Creditor has failed to place all material facts before this Tribunal and that the Corporate Debtor continues to remain financially solvent and operationally healthy.
- 3.13. The Corporate Debtor submits that no legally enforceable financial debt exists that would give rise to a cause of action under Section 7 of IBC. It is alleged that the Financial Creditor has misused the insolvency process, which warrants dismissal of the Petition.
4. Additional Submissions by the Corporate Debtor, *vide* affidavit dated 19.05.2025:
- 4.1. The Corporate Debtor reiterates that it is a duly registered Micro, Small and Medium Enterprise (MSME) and had formally notified the Applicant Bank of its MSME status *vide* letter dated 22.06.2021, accompanied by requisite documentation in compliance with the Micro, Small and Medium Enterprises Development Act, 2006 ("MSMED Act").
- 4.2. It is submitted that the Applicant Bank failed to adhere to the RBI's binding guidelines for resolution of stressed MSME accounts, including those issued *via* Circular dated 17.03.2016, which mandate the implementation of Corrective Action Plans (CAP), viability studies, and restructuring before initiating recovery or insolvency proceedings.
- 4.3. The Hon'ble Supreme Court in *Small Scale Industrial Manufacturers Association v. Union of India & Ors.*, (2021 SCC OnLine SC 1020), has emphasized that the RBI's





MSME revival framework is a mandatory procedural safeguard and not a mere formality.

- 4.4. The Respondent relies on *Central Bank of India v. Ravindra* [(2002) 1 SCC 367] and *ICICI Bank Ltd. v. Official Liquidator of APS Star Industries Ltd.* [(2010) 10 SCC 1] to assert that RBI directives issued under Sections 21 and 35A of the Banking Regulation Act, 1949, have statutory force and bind all financial institutions.
- 4.5. Further reliance is placed on *M/s Pro Knits v. Board of Directors, Canara Bank*, where the Hon'ble Supreme Court held that actions against MSMEs must strictly adhere to the revival and rehabilitation framework.
- 4.6. The Respondent invokes the principle laid down in *Taylor v. Taylor* [(1876) 1 Ch D 426] and affirmed in *Nazir Ahmad v. King Emperor* [AIR 1936 PC 253], that where a statute prescribes a specific procedure, it must be followed strictly.
- 4.7. It is submitted that the initiation of proceedings under Section 7 of IBC without prior compliance with the MSME revival framework constitutes abuse of the insolvency process and contravenes the legislative intent underlying both the IBC and the MSMED Act, 2006.
- 4.8. The Respondent relies on *Swiss Ribbons Pvt. Ltd. v. Union of India* [(2019) 4 SCC 17], to underscore that IBC is not to be used merely as a debt recovery tool, particularly against MSMEs, and must be applied in a balanced and equitable manner.
- 4.9. Hence, the Corporate Debtor prays for dismissal of the Petition filed under Section 7 of IBC on the grounds of being non-maintainable in law, barred by limitation, unsupported by valid documents, and initiated in breach of mandatory statutory obligations applicable to MSMEs.
5. Heard the learned counsels for both parties and perused the records. The present petition under Section 7 of IBC has been filed by the Financial Creditor seeking initiation of the





CIRP against the Corporate Debtor on the ground of default in repayment of a purported financial debt.

6. The Financial Creditor has placed on record a series of Sanction Letters, Loan Agreements, Deeds of Guarantee, and documents evidencing creation of equitable mortgage by deposit of title deeds over the immovable properties of the Corporate Debtor and its personal guarantors, to demonstrate the financial facilities provided to the Corporate Debtor from 2010 to 2018. The total sanctioned facilities peaked at ₹29.50 Crores.
7. The Corporate Debtor acknowledged this liability through various documents, including continuity letters and balance confirmation letters dated 01.08.2019, further supported by audited balance sheets for the financial years 2018-2021.
8. The accounts of the Corporate Debtor were classified as Non-Performing Assets (NPA) on 31.03.2021 constituting a default under the IBC. The Demand Notice dated 13.09.2021 under Section 13(2) of the SARFAESI Act and the pending OA No. 521/2022 before the DRT for recovery of ₹25,22,80,880.78 further substantiate the default.
9. The Corporate Debtor has denied the existence of any default and contended that it continues to be financially viable. It has also alleged non-disclosure of full facts by the Financial Creditor. However, no specific instance of concealment or suppression has been pointed out by the Corporate Debtor, and the allegation remains vague and unsubstantiated.
10. In the present case, the Corporate Debtor admitted that OTS proposals dated 18.06.2022 and 03.09.2024 were issued within three years from the default dated 01.08.2019. However, the Corporate Debtor contends that these acknowledgments were not supported by board resolutions and hence are ultra vires.
11. The Tribunal notes that the OTS proposals were issued in the name of the Corporate Debtor and pertain directly to its acknowledged liabilities. The Financial Creditor was entitled to presume that the director was acting with appropriate authority based on the





doctrine of indoor management and were not required to verify internal authorizations like Board Resolutions.

12. The authority of a company is exercised through its Board of Directors, and individual directors, as Key Managerial Personnel, act as agents of the company within their scope of authority. The act of proposing an OTS is a corporate act undertaken to settle company debts, and the company cannot now disclaim such acts after having benefitted from the negotiations. To allow otherwise would enable the Corporate Debtor to approbate and reprobate, which is impermissible under settled principles of equity, estoppel, and corporate accountability.
13. Additionally, in *Dena Bank v. C. Shivakumar Reddy* and *Bishal Jaiswal v. Asset Reconstruction Co. (India) Ltd.*, the Hon'ble Supreme Court has held that a proposal for OTS can constitute a valid acknowledgment of debt under Section 18 of the Limitation Act, provided it is made before expiry of the limitation period and reflects a subsisting liability.
14. Notwithstanding the exclusion of the aforesaid OTS proposals, the audited Balance Sheets for the Financial Years 2018–2021, which are statutory documents approved by the Board, clearly reflect the admitted liability and operate as valid acknowledgments under Section 18 of the Limitation Act, 1963. Additionally, Balance Confirmation Letters dated 01.08.2019, executed by the Directors of the Corporate Debtor, have not been specifically rebutted at the relevant time and constitute further acknowledgment
15. Hence, the Balance Confirmation Letters dated 01.08.2019, coupled with the audited Balance Sheets for the Financial Years 2018–2021, constitute valid acknowledgments under Section 18 of the Limitation Act, 1963, thereby sufficiently extending the period of limitation.
16. The Corporate Debtor has raised a defence based on its MSME registration and contended that the Financial Creditor failed to comply with RBI guidelines on the restructuring of stressed MSME accounts. While the RBI circulars do mandate a structured framework





NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

CP(IB)/4/GB/2025

for resolution of MSME distress, the non-compliance with such circulars cannot render a petition under Section 7 non-maintainable per se.

17. Moreover, the IBC is a self-contained code, and where a financial debt and default are established, procedural non-compliance with RBI guidelines does not defeat the statutory remedy.
18. In *Innoventive Industries Ltd. v. ICICI Bank*, [(2018) 1 SCC 407], the Hon'ble Supreme Court held that once a default is established, the Adjudicating Authority is bound to admit the petition under Section 7 of the Code, unless there exists a bona fide dispute or the debt itself is not legally enforceable.
19. Thus, it is well settled that the Adjudicating Authority is not required to conduct a roving enquiry into disputes unless the debt is disputed with substantial grounds. In the present case, there exists ample documentary evidence showing the disbursal of financial facilities, creation of security, acknowledgment of debt, and occurrence of default.
20. The application under Section 7 is complete in terms of the requirements under the Code and the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The Financial Creditor has clearly established the existence of a financial debt under section 5(8) of IBC and the occurrence of default, which exceeds the threshold under Section 4 of the Code. Moreover, the pendency of proceedings before the DRT does not bar initiation of proceedings under Section 7 of the Code, as the remedies under IBC and recovery proceedings under The Recovery of Debts Due to Banks and Financial Institutions Act, 1993 are distinct.
21. In light of the above findings, this petition under Section 7, IBC is hereby **admitted** and initiation of CIRP is ordered against **Pride Coke Private Limited** under Section 7, IBC read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016, with the following order:
- i. The order of moratorium under Section 14, IBC shall have effect from the date of pronouncement of this order till the completion of the CIRP or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for





**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI**

CP(IB)/4/GB/2025

liquidation of Corporate Debtor under Section 33, as the case may be. This Bench hereby prohibits -

- ii. 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;
- iii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal rights or beneficial interest therein;
- iv. 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 (SARFAESI) Act, 2002;
- v. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.

22. The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

23. The Applicant has proposed the name of Mr. Sandeep Khaitan, bearing registration no. IBBI/IPA-001/IP-P00532/2017-2018/10957, e-mail ID: khaitansandeep@gmail.com, Phone No.8011048037, having Registered Office at 2nd Floor, Sanmati Plaza, G.S. Road, ABC, Guwahati-781005 as the Interim Resolution Professional ("IRP"). However, the Adjudicating Authority, having considered the profile of the proposed IRP, observes that the said insolvency professional has already undertaken and completed several assignments under the Code. In the interest of equitable distribution of assignments and promoting broader participation among registered insolvency professionals, this Authority is inclined to appoint another eligible insolvency professional.

24. Accordingly, in exercise of its inherent jurisdiction and guided by the principles of fairness and administrative efficiency, the Tribunal appoints Mr. Ashok Kumar Agarwala, bearing Registration No. IBBI/IPA-001/IP-P-01763/2019-2020/12755, e-mail ID: iip.jyotiashok@gmail.com, Phone No. 9435047557, having Registered Office at Saraswati and Co., H. No- 4/5, Dr. B. C. Das Lane, F. A. Road, Kumarpara, Guwahati,





NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

CP(IB)/4/GB/2025

Assam - 781001 who has not yet completed any assignment and has only one ongoing assignment, as the Interim Resolution Professional in this matter.

25. Accordingly, Mr. Ashok Kumar Agarwala is appointed as IRP. The IRP is directed to take charge of the Corporate Debtor's management and assets immediately and to perform duties as per the provisions of the IBC and the rules framed thereunder.
26. The IRP is directed to make a public announcement of the initiation of the CIRP as per the provisions of Section 13 of IBC and the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The IRP shall submit a report to this Tribunal within **30 days** from the date of this order, detailing the steps taken in the CIRP.
27. During the CIRP period, the management of the Corporate Debtor will vest in the IRP/RP in terms of Section 17 of IBC. The suspended directors and employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.
28. Registry shall send a copy of this order to the Registrar of Companies, Guwahati, for updating the Master Data of the Corporate Debtor.
29. The Financial Creditor shall deposit an amount of Rs. 4,00,000/- (**Rupees Four Lakhs Only**) towards the initial CIRP costs by way of a Demand Draft drawn in favour of the IRP appointed herein, immediately upon communication of this Order. The IRP shall spend the above amount only towards expenses and not towards the fee of the IRP fee till it is decided by CoC. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional and shall be paid back to the Financial Creditor.
30. Accordingly, the instant petition, *i.e.* CP (IB)/4/GB/2025 stands disposed of.
31. The Registry is directed to send e-mail copies of the order forthwith to all the parties inclusive of the Counsel and the Interim Resolution Professional.





NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH
GUWAHATI

CP(IB)/4/GB/2025

32. Urgent certified copy of this order, if applied for, be issued upon compliance with all requisite formalities.

33. File be consigned to record.

Sd/-

Yogendra Kumar Singh
Member (Technical)

Sd/-

Rammurti Kushawaha
Member (Judicial)

Signed this on 5th day of August, 2025

Madhurita Tiwari (L.R.A.)

Page 14 of 14



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[Signature] 7/8/25
Dy REGISTRAR/ASST. REGISTRAR
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DY NO. 64
DATE 07/08/2025