

IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT-IV

RCP (IB) 05 (MB) 2025

Connected with

C.P.(IB) 986(MB) 2021

[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]

Kailash M. Kakrania

.... Applicant

In the matter of

Kailash M. Kakrania & Anr.

..... Financial Creditor

V/s.

**Apurva Oil and Industries Private
Limited**

[CIN: U17120MH1980PTC022719]

...Corporate Debtor

Pronounced: 17.06.2025

CORAM:

SHRI ANIL RAJ CHELLAN

SHRI K. R. SAJI KUMAR

HON'BLE MEMBER (TECHNICAL)

HON'BLE MEMBER (JUDICIAL)

Appearances: Hybrid

For the Applicant/FC : Adv. Sandeep Bajaj a/w Ms. Parijat
and Mr. Mayank Biyani

ORDER

1. This Application is the restored C.P.No.986/(MB)/C-IV/2021, pursuant to the order dated 15.10.2024 of the Hon'ble NCLAT and the subsequent order dated 21.01.2025 passed by this Tribunal to renumber the Company Petition as RCP (IB)/05(MB)2025.

BACKGROUND

2. The C.P.No.986(MB)2021 was filed by Mr. Kailash Motilal Kakrania and his wife Mrs. Manju Kailash Kakrania (Applicants) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code) on 04.09.2021 against Apurva Oil and Industries Private Limited (Corporate Debtor). The Application was rejected by this Tribunal *vide* order dated 14.07.2023 primarily for the reason that the Applicants do not meet the threshold prescribed under Section 4 of the Code as no interest on the said loan appeared to have been agreed to by the Corporate Debtor in the relevant period and that there was a counter claim of the Corporate Debtor for Rs.10,85,850/-, which brought the debt to less than Rs.1 Crore. Against the said order of rejection, the Applicants filed appeal C.A. (AT) (Ins.) No.1257/2023 before the Hon'ble NCLAT wherein it was held as under:

“14. In the present case, there is no dispute regarding financial debt of Rs. 1,01,50,009/- which is duly reflected

in the balance sheets for various years, including for financial year 2021-22. The debt is due and is within limitation. We find that the Adjudicating Authority has erred in allowing adjustment of Rs. 10,85,850/- against the financial debt for the reasons aforesaid. The Order of the Ld. NCLT dated 14.07.2023 is set aside and is remanded back to the Ld. NCLT for passing necessary consequential order admitting Corporate Debtor in CIRP under Section 7 of the Code. The Appeal is accordingly allowed. No order as to costs. All connected IAs, if any, are also disposed off.”

3. As per the order of Hon'ble NCLAT, the Company Petition was restored and renumbered, and the Registry was directed to issue notice to the Corporate Debtor. Accordingly, a fresh notice dated 13.02.2025 was issued to the Corporate Debtor. The track consignment records reveal that the notice has been duly served upon the Corporate Debtor on 18.02.2025. However, when the matter was taken up on 10.03.2025, no one was present on behalf of the Corporate Debtor.
4. The facts of the case briefly stated are that the Applicants claim default of Rs.1,22,42,927/-, which includes Rs.1,01,50,009/- towards principal amount and Rs.20,92,918/- towards interest calculated at the rate of 9% per annum till 30.06.2021 as per balance sheet of the Corporate Debtor.
5. The Corporate Debtor filed its reply to C.P. No.986/2021 contending that the outstanding amount was less than the threshold limit prescribed under Section 7 of the Code, the

Application was barred by the law of limitation, etc. This Tribunal came to a finding that there exists “financial debt” within the meaning of Section 5(8) of the Code, but the outstanding amount is less than Rs.1 Crore. The above finding has been set aside and the case has been remanded to this Tribunal for passing the necessary consequential order admitting the Corporate Debtor into Corporate Insolvency Resolution Process (CIRP) under Section 7 of the Code.

6. In view of the specific direction passed by the Hon’ble NCLAT, we do not consider it necessary to reconsider the merits of the case. Further, the Corporate Debtor, in spite of service of notice, has remained absent. It has also been brought to our notice that the Corporate Debtor has not opposed the appeal before the Hon’ble NCLAT.
7. Having regard to the facts and circumstances of the case and the order passed by the Hon’ble NCLAT on 15.10.2024, the Application is only to be admitted.

ORDER

In the result, this Application bearing RCB (IB)/05(MB)2025 connected to C.P.(IB)/986(MB)2021 under Section 7 of the IBC read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, filed by Kailash Motilal Kakrania, the Financial Creditor, for initiating CIRP in respect of Apurva Oil and Industries Private Limited, the Corporate Debtor is **admitted**.

We further declare moratorium u/s 14 of the IBC, with consequential directions as follows:

- I. We prohibit-
 - 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 SARFAESI Act;
 - d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.
- III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Bench approves the resolution plan under section 31(1) of the IBC or passes an order for the liquidation of the Corporate Debtor under section 33 thereof, as the case may be.

- IV. That the public announcement of the CIRP shall be made in accordance with the provisions of the IBC, the Rules and Regulations made thereunder.
- V. That this Bench hereby appoints **Mr. Charudutt Pandhrinath Marathe**, a registered Insolvency Professional having Registration Number- IBBI/IPA-001/IP-P00350/2017-2018/10651 and e-mail- charuduttm@yahoo.co.in, having valid Authorisation for Assignment up to 30.06.2025 as the IRP to carry out the functions under the IBC. The fee payable to IRP/RP shall be in accordance with the Regulations/Circulars issued by the IBBI.
- VI. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of IBC. The officers and managers of the Corporate Debtor are directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. 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/RP within a period of one week from the date of receipt of this Order and shall not commit any offence punishable under Chapter VII of Part II of the IBC. Coercive steps will follow against them under the provisions of the IBC read with Rule 11 of the NCLT Rules for any violation of law.
- VII. In exercise of the powers under Rule 11 of the NCLT Rules, we order the Financial Creditor to deposit a sum of Rs.5,00,000/-

(Five Lakh Rupees) with the IRP to meet the initial CIRP cost, if demanded by the IRP to fund initial expenses on issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Financial Creditor on priority upon the funds available with IRP/RP. The expenses, incurred by IRP out of this fund, are subject to approval by the Committee of Creditors (CoC).

- VIII. A copy of this Order be sent to the Registrar of Companies, Mumbai Maharashtra, for updating the Master Data of the Corporate Debtor.
- IX. Registry is directed to immediately communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by way of e-mail and WhatsApp, not later than two days from the date of this Order.
- X. The Registry is directed to communicate electronic version of this order to the Insolvency and Bankruptcy Board of India forthwith for information and record.
- XI. Compliance report of the order by Designated Registrar is to be submitted today.

**Sd/-
ANIL RAJ CHELLAN
MEMBER (TECHNICAL)**

**Sd/-
K. R. SAJI KUMAR
MEMBER (JUDICIAL)**