



IN THE NATIONAL COMPANY LAW TRIBUNAL KOLKATA BENCH-II KOLKATA
(BEFORE LABH SINGH, MEMBER (JUDICIAL) AND REKHA KANTILAL SHAH,
MEMBER (TECHNICAL))

C.P. (IB) No.182/KB/2024
Date of Hearing: 25.3.2025
Date of Order: 29.4.2025

In the Matter of:

J.P Financial Services Private Limited
(CIN:U51909WB1995PTC070922)
A Company registered under the provisions
of the Companies Act 1956
Having its registered Office at:
P-46-A, Radha Bazar Lane,
4th Floor, Kolkata,
West Bengal-700001
Previously situated at:
2, Abhoy Guha Road,
Howrah, West Bengal-711204

APPLICANT/FINANCIAL CREDITOR

Versus

Avadh Merchants Private Limited
(CIN: U51109WB1993PTC058278)
A Company registered under the provisions
of the Companies Act 1956
Having its registered Office at:
Vishwakarma Building, 86C
Topsia Road(South), Kolkata,
West Bengal-700046

CORPORATE DEBTOR

Coram: **Labh Singh Member (Judicial)**
Rekha K Shah Member (Technical)



Present:

For the applicant(s): Mr. Saunak Mitra Ld. Advocate

For the respondent.: Ms. Urmila Chakarborty Ld. Advocate

ORDER


Labh Singh Member(Judicial)

1. The present application has been filed by the J.P Financial Services Private Ltd. (hereinafter to be referred as “the applicant Company”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity ‘Code, 2016’) read with Rule 4 of the Insolvency and Bankruptcy (Application to adjudicating Authority) Rules, 2016 (hereinafter to be referred as ‘the Rules’) with a prayer for initiation of Corporate Insolvency Resolution Process in respect of respondent company Avadh Merchants Private Ltd.,(hereinafter to be referred as “the Corporate Debtor”).
2. The applicant company is a company registered under the Companies Act, 1956 with the registered office situated at P-46-A, Radha Bazar Lane, 4th Floor, Kolkata, West Bengal-700001. Mr. Shyamal Kumar Roy, duly authorized on behalf of applicant vide Board Resolution dated 20.3.2024, has preferred the present application on behalf of the applicant Company for initiation of insolvency resolution process against the respondent under the Code. A copy of the Board



Resolution dated 20.3.2024 has been placed on record as Annexure-A.

3. The Respondent Company against whom initiation of Corporate Insolvency Resolution Process has been prayed for, was incorporated on 26.3.1993 having its registered office situated at Vishwakarma Building, 86C Topsia Road(South), Kolkata, West Bengal-700046. Since the registered office of the respondent corporate debtor is situated in Kolkata, this Tribunal having territorial jurisdiction over the NCT of Kolkata is the Adjudicating Authority in relation to the prayer for initiation of Corporate Insolvency Resolution Process in respect of the respondent corporate debtor under sub-section (1) of Section 60 of the Code.
4. Briefly stated the facts of the applicant case are that the applicant Company (hereinafter referred to as the "Financial Creditor"), a Company registered under the provisions of the Companies Act, 1956 and engaged in the business of offering financial services and business solutions such Business Loans, Cheque Based Loans, Small Business loans, Loan against Property, etc. The Corporate Debtor namely M/s Avadh Merchants Private Limited is engaged in the construction business.
5. That Corporate Debtor approached the applicant Company for financial assistance for its business operations. Consequently, the applicant Company, considering the request



of Corporate Debtor, provided a short- term loan for a period of 90 days vide Loan Agreement dated 07.05.2015. The loan amount was to be repaid on 05.08.2015 along with an interest at the rate of 21% per annum to be paid quarterly and penal interest rate of 6% on outstanding dues.

6. The Corporate Debtor, in order to secure the loan, provided security by way of the equitable mortgage of immovable properties in Mouza Khariberia & Ganesh Khariberia within the limits of Purba Bishnupur Gram Panchayat, P.S. & A.D.S.R Office Bishnupur in the District of South 24 Parganas, West Bengal as enshrined in the Loan Agreement and had also submitted all the title deeds of the said immovable properties to the Financial Creditor.
7. The said loan assistance had to be repaid by 05.08.2015; however, the Corporate Debtor failed to repay the loan. Thereafter, the Corporate Debtor sought several extensions and promised to repay the said amount in due time. It is pertinent to state that the Corporate Debtor has been acknowledging the debt by showing the debt in its balance sheet for the past few years and the Corporate Debtor's balance sheet for the year ending on 31.03.2021 expressly and admittedly acknowledges the non-payment of financial assistance extended by the Financial Creditor and the Corporate Debtor.



8. It has further been averred that the Corporate Debtor visited the offices of the Financial Creditor on 09.01.2024 and assured to make the payments with immediate effect. Furthermore, it was also assured by the Corporate Debtor that the Corporate Debtor would immediately help the Financial Creditor in identifying the plots of land owned by the Corporate Debtor as mentioned in the Sale Deeds which had been mortgaged to the Financial Creditor and additionally the Corporate Debtor would also offer adjoining pieces and parcels of land having clear and marketable title along with all the documents which are duly registered with the concerned SRO Offices to meet out the entire dues comprising the financial assistance along with contractual interest.
9. Thereafter, the Financial Creditor sent emails on 11.01.2024 and 31.01.2024 regarding the discussion which happened in the office and the assurances provided by the Corporate Debtor but to no avail as the Corporate Debtor did not respond to the said emails.
10. The applicant Company, vide letter dated 05.03.2024, provided a final opportunity to the Corporate Debtor to repay the amount due Rs. 2,50,000/- (Rupees Two Crores and Fifty Lakhs Only) along with accrued interest within a period of 7 days but Corporate Debtor failed to avail the opportunity granted and did not respond to the same.



11. It has been averred that it is evident that the Corporate Debtor has failed to repay the financial loan availed along with applicable interest despite sufficient opportunities granted by the applicant Company. Consequently, the Corporate Debtor is required to be admitted into the Corporate Insolvency Resolution Process.
12. The applicant Company, in compliance of sub-section (3)(b) of Section 7, has proposed the name of Mr. Bishwanath Chaudhary, for appointment as Interim Resolution Professional having registration number IBBI/IPA-002/IP-N00597/2018-19/12042 resident of Flat No. 8F, Block-7, Prasad Exotica, 71/3, Canal Circular Road Kolkata, West Bengal-700054.
13. The Corporate Debtor appeared in pursuance of notice issued by this Tribunal and filed its affidavit of reply raising preliminary objection that the present petition is not maintainable in law as well as on facts having filed in gross abuse of process of law and hence, the same liable to be dismissed in limine with cost.
14. It has further been replied that as per Master Data as downloaded from the website of the Ministry of Corporate Affairs, the applicant Company has an authorized share capital of Rs.11 crore and paid-up share capital of Rs.66,42,500/-. As such, it is evident that the paid-up capital of the petitioner/alleged Financial Creditor is less



than Rs. 1 crore. It is not the case of the petitioner that the petitioner is a Non-Banking Financial Company (for short, "NBFC"). The applicant Company is admittedly not in the business of giving any loan and/or financial accommodation and/or advance and/or finance and/or any non banking financial services and/or any money lending business. As such, being not a money lender, the petitioner could not have lent and advanced a sum of Rs.2,50,00,000/- to the respondent. In this regard, a copy of the Master Data of the petitioner as downloaded from the website of the Ministry of Corporate Affairs is annexed hereto and marked with the letter "A". Having only a paid-up capital of Rs.66,42,500/-, the petitioner could not have provided any loans or advances without being authorized by a special resolution passed in a general meeting under Section 186 of the Companies Act, 2013.

15. It has further been replied that the loan agreement was purported to be dated May 7, 2015. The paid-up share capital of the petitioner was Rs.66,42,500/- for financial year 2015-16 and hence, the loan amount of Rs.2,50,00,000/- exceeds 60% of the paid-up share capital of the petitioner and, as such, without there being a special resolution passed in general meeting of the petitioner, no loan could have been given, as alleged or at all.

16. It has further been replied that it is a violation of Section 186 of the Companies Act, 2013 *apropos* the purported



loan transaction. Further, the purported loan agreement does not bear the common seal of the respondent nor does it contain the seal and/or stamp of the petitioner company. There is no actual proof and/or evidence of any disbursement and/or remittance of the said amount or any part or portion thereof which the petitioner claims to be a loan transaction between the petitioner and the respondent. The petitioner, from the documents disclosed in the petition, could not demonstrate that any amount has been credited to the account of the respondent by the petitioner. No bank statements have been annexed to the petition to show such purported disbursement of alleged loan transaction.

17. It has further been replied that the purported loan was repayable in 90 days, i.e. on August 5, 2015. If the loan is repayable in 90 days, i.e. on or before August 5, 2015, then, the petitioner is liable to show that its claim/purported financial debt is not barred by limitation. In the present case, the petitioner has miserably failed to show that the purported loan transaction was renewed and/or extended. No document in support thereof has been disclosed by the petitioner in the said petition to prove any renewal or extension of the loan agreement. The petitioner ought to have filed the petition on or before August 4, 2018 whereas the present petition has been filed on 30.03.2024 and hence the petition is barred by law of limitation. The time barred



debt cannot be revived by subsequent acknowledgement as claimed on the basis of balance sheet for the year ending on March 31, 2021.

18. It has further been replied that the amount was initially paid as an advance for purchase of plots of land wherein the balance payment was to be made within 90 days from the first payment; however, the petitioner failed to make balance payment and hence, in terms of agreement the advance requires to be forfeited.
19. It has further been replied that the respondent Company is solvent and viable Company. The present petition has been filed for payment of exorbitant, excessive, inconsolable claim made by the applicant Company. The applicant is using this application as a tool for recovery of dues which is not permissible under IBC Code 2016. It is well settled proposition of law that IBC Code 2016 can not be used for debt recovery purpose and if petition is filed for a purpose other than resolution is liable to be dismissed.
20. While replying para-wise to the petition, it has been replied that with reference to Parts-I, II, and III of the petition, save and except what has been stated above, each and every allegation is denied. No RP required to be appointed as prayed in the petition. With reference to Part-IV of Sr. 1 of the petition, the outstanding debt or default or any amount due is denied. The respondent did not sought



any extension or time to repay the alleged amount. The Corporate Debtor has further replied reiterating the fact stated as above.

21. The applicant Company filed its rejoinder denying the averment made in the reply and reiterating the facts as pleaded in the present petition which are not reproduced here for sake of brevity.

22. Based on pleading of the parties and the rival contentions raised by the Ld. Counsels for both the parties, the following points have arisen for determination:

(i) Whether the transaction of Rs. 2,50,00,000 qualifies to be a financial debt under Section 5(8) of the Code?

(ii) Whether the claim of the applicant/Financial Creditor is barred by law of limitation?

(iii) Whether the loan transection has been granted in provision of Section 186 of the Companies Act 2013?

(iv) Relief?

23. We have gone through the case file carefully and perused the pleadings of the parties and documents placed on record by the parties and heard the arguments put forth by learned Counsels for the parties; and after hearing the learned counsels for the parties, we shall now proceed to consider the present petition on its merits, specifically within the ambit of points involved in the instant application.



24. Mr. Saunak Mitra Learned Counsel appearing for Financial Creditor vehemently argued that the applicant is secured creditor as the Corporate Debtor has created first charge by way of equitable mortgage over its properties though the charge is not registered. The Corporate Debtor has acknowledged its liability vide letter dated 02.8.2018. Thus, period of limitation was extended by way of acknowledgment vide letter dated 02.8.2018 and thereafter, repeated acknowledgment of debt in its Balance Sheets for the financial year 2017-2018, 2018-19, 2021-22, and 2022-23. The Financial Creditor issued demand notice dated 05.3.2024 consequent default committed by the Corporate Debtor on 05.8.2015.
25. On the aspect of acknowledgment of debts, he has placed reliance on judgment passed by Hon'ble Supreme Court in case of Laxmi Pat Surana Vs. Union Bank of India and Anrs (2021) 8 SCC 481. He has further relied upon judgment of Hon'ble NCLAT in case of Kalpesh Raniklal Shah Vs. Mundrara Estate Developers Limited & Anrs (2023) SCC OnLine NCLAT 1871 regarding non-compliance of provision of Section 186(2) of the Companies Act 2013.
26. He further argued that the rejoinder has been filed as of right since liberty was granted by the Tribunal to file the same. The loan was not repayable on demand rather the loan become repayable after the period of 90 days. The Corporate




Debtor has expressed its desire to settle the matter before the Tribunal which amount to admission of liability.

27. Ms. Urmila Chakarboraty Learned Advocate appearing for the Corporate Debtor vehemently argued that the loan transaction is in violation of Section 186 of the Companies Act 2013 since the loan amount granted is Rs. 2.50 crores; however, the paid up capital of Financial Creditor is Rs. 66,42,500/- only.
28. She further argued that the loan transection is barred by law of limitation as the loan was repayable within 90 days i.e on 05.8.2015 as per loan agreement dated 07.5.2015 and there is no such document to prove extension of limitation from 05.8.2015 to 31.3.2021. There is no document for renewal of loan agreement dated 05.8.2015. There is no letter of demand raised by the Financial Creditor claiming repayment of loan until 11.01.2024. The loan amount has been inflated and fictitious one. Therefore, she has prayed for dismissal of the present petition.

Point No.(i)

29. The petitioner, in order to prove its claim as financial debt, has relied upon Loan Agreement dated 7th May 2015 which is Annexure-4 filed with the petition. The said loan agreement is executed between the applicant/Financial Creditor and Corporate Debtor. The Corporate Debtor has requested to provide a short-term loan of Rs. 2,50,00,000/-



(Rupees Two Crores Fifty Lakh Only) against security of first mortgage on property detailed in para no. 2 of the petition and the applicant/Financial Creditor has agreed to lend. The loan was granted on short term basis repayable in 90 days i.e on 05.8.2015 with interest at the rate of 21% per annum quarterly i.e on 5th August 2015 from the date of disbursement of loan i.e on 7th May 2015 and penal interest was 6% per annum on the outstanding loan balance amount from date of disbursement till repayment.

30. Section 3 (11) of the Insolvency and Bankruptcy Code 2016 (hereinafter to be referred as “IBC”) defines “debt” to mean a liability or obligation in respect of a claim which is due from any person and includes a *financial debt* and operational debt. Section 3(12) of IBC defines default to mean non-payment of debt when whole or any part or instalment of the amount has become due and payable and is not paid by the debtor or the corporate debtor, as the case may. Further Section 5(8) of IBC defines financial debt to mean:

(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;

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



(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;

(d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;


(e) receivables sold or discounted other than any receivables sold on non-recourse basis;

(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;

(g) xxxxx

31. A perusal of the aforesaid provision reveals that for a transaction to be considered as a financial debt under the IBC, there should be *disbursal against consideration for the time value of money*. Similarly, for an applicant to be considered as a "Financial Creditor" under the IBC, it is to be proved that such applicant had assessed the financial viability of the corporate debtor and would engage in restructuring of the loan or reorganization of the corporate debtor's business if the latter would fall in a financial stress.

32. In the facts and circumstances of this case, a perusal of account statement of the applicant reveals that an amount of Rs. 2,50,00,000/- (Rupees Two Crores Fifty Lakh Only) was disbursed in the account of the Corporate Debtor on 7th May 2015 which is proved by Annexure-E filed with the rejoinder



and the same is not disputed by the Corporate Debtor. It is submitted by the applicant that the said transaction of Rs. 2,50,00,000/- (Rupees Two Crores Fifty Lakh Only) was advanced as a loan with interest at the rate of 21% per annum as per terms and condition of loan agreement dated 07.03.2015 and the said loan amount has been acknowledged by the Corporate Debtor in its audited Balance Sheet dated 31.3.2018, 31.3.2019, 31.3.2021, 31.3.2022 and 31.3.2023. Therefore, existence of financial debt has been proved on file.

Point No. (ii)

33. The next question to be considered and decided is whether the debt is barred by law of limitation. Insofar as default in repayment of loan amount is concerned, the default in repayment of loan was made on 05.8.2015 and default has been recorded in record of default maintained with National E-Governance Services Limited (NeSL) and total outstanding dues and default amount is Rs. 19,91,04,049/- (Rupees Nineteen Crores Ninety One Lakh Four Thousands Forty Nine Only) as on date.
34. It is evident from loan agreement dated 07.5.2015 and account statement of the applicant/Financial Creditor that loan amount was disbursed on 07.5.2015 and it was a short term loan repayable in 90 days i.e on 07.8.2015 from the date of disbursement. The Corporate Debtor acknowledged its



liability vide letter dated 02.8.2018 which extended period of limitation for a further period of three years till 01.8.2021. The Copy of letter is Annexure-A filed with rejoinder. It is relevant to reproduce the content of letter verbatim which is as under:

“ Date: 02.8.2018

*To
J.P Financial Services Private Limited
2, Abhoy Guha Road,
Howrah-711204
Dear Sirs,*

Sub: Loan of Rs. 2,50,00,000/-

Refer to our discussion had with you, we are sending herewith Cheque No. 001031 dt. 02.08.2018 for Rs. 2,50,00,000/- towards repayment of Loan and Ch. No. 001032 dt. 02.08.2018 for Rs. 31,45,684/- towards outstanding interest. We are trying to close account by 30.09.2018.

Thanking you once again for your co-operation from time to time.

*Yours faithfully
For Avadh Merchants Pvt. Ltd
Sd/-
Director”*

35. Thus, it is crystal clear that vide acknowledgment dated 02.8.2018, the limitation period was extended for further period of three year i.e upto 01.8.2021 since acknowledgment was made before the expiry of period of limitation. The loan amount has further been acknowledged by the Corporate Debtor in its Balance Sheet for the financial year 2017-18, 2018-19, 2021-22 and 2022-2023 which are collectively marked as



Annexure-3 to rejoinder filed by the applicant/Financial Creditor. A perusal of Balance Sheets reveals that the loan amount has been shown to be long term liability.

36. Hon'ble Supreme Court in case of Laxmi Pat Surana(supra) held that "when the principal borrower and/or the corporate guarantor admit and acknowledge their liability after declaration of NPA but before expiration of three years therefrom including the fresh period of limitation due to successive acknowledgments, it is not possible to extricate them from the renewed limitation accruing due to the effect of Section 18 of the Limitation Act". Thus, disbursal of loan coupled with acknowledgment of debt vide letter dated 05.8.2018 and acknowledgment of debt in Balance Sheet of the Corporate Debtor proves the liability of the Corporate Debtor to recover the debt as on filing of the present application on the case file.
37. It is pertinent to note here that Learned Counsel for the Corporate Debtor, upon instruction from the Corporate Debtor, stated at Bar on 12.02.2025 that the Corporate Debtor is trying to settle the dispute with the Financial Creditor. If there was no outstanding loan on the ground that it is time barred then question of settling the matter with the applicant has not arisen at all.



38. Therefore, in view of the above, the plea of the Corporate Debtor that the debt is barred by law of limitation is devoid of merit.

Point No. (iii)

39. The Corporate Debtor has taken a plea that the loan transaction is in violation of Section 186 of the Companies Act 2013 since the paid-up capital of the applicant/Financial Creditor is Rs. 66,42,000/- (Rupees Sixty Six Lakh Forty Two Thousands only) whereas the loan amount stated to be granted is Rs. 2,50,00,000/- (Rupees Two Crores Fifty Lakh Only). The Corporate Debtor has relied upon copy of Master Data of CD Annexure-2.

40. On this aspect, it would be relevant to refer the provision of Section 186 of the Companies Act 2013 which provides as under:

“Section 186 of the Companies Act, 2013


(1) xxxxx

(2) No company shall directly or indirectly—

(a) give any loan to any person or other body corporate.

(b) give any guarantee or provide security in connection with a loan to any other body corporate or person; and

(c) acquire by way of subscription, purchase or otherwise, the securities of any other body corporate, exceeding sixty per cent of its paid-up share capital, free reserves and securities premium account or one



hundred per cent of its free reserves and securities premium account, whichever is more.

(3) Where the giving of any loan or guarantee or providing any security or the acquisition under subsection (2) exceeds the limits specified in that subsection, prior approval by means of a special resolution passed at a general meeting shall be necessary.

(4) The company shall disclose to the members in the financial statement the full particulars of the loans given, investment made, or guarantee given or security provided and the purpose for which the loan or guarantee or security is proposed to be utilized by the recipient of the loan or guarantee or security.

41. Thus, provision of Section 186 explicitly provides that a Company cannot advance loan to any person or body corporate exceeding 60% of its paid-up share capital, free reserves and securities premium account or one hundred per cent of its free reserves and securities premium account, whichever is more. In the instant case, the loan amount of Rs. 2,50,00,000/- (Rupees Two Crore Fifty Lakh Only) is provided in the year 2015; however, from the balance sheet of the Financial Creditor, it evident that in the year 2015, the paid up capital of the Financial Creditor was Rs.66,42,500/- (Rupees Sixty Six Lakh Forty Two Thousands Five Hundred Only) with Reserve and Surplus amounting to Rs. 1,246,422,050/- (Rupees One Hundred Twenty Four Crores Sixty Four Lakhs Twenty Two Thousands and Fifty Only). Thus, in the year 2015,



the total shareholders fund were amounting to Rs. 1,253,064,550/- (Rupees One Hundred Twenty Five Crores Thirty Lakhs Sixty Four Thousands and Five Hundred Fifty Only).

42. It is apparent that Financial Creditor could grant loan to the extent of 60% of its paid-up share capital, free reserves and securities premium account loan without any resolution being passed at the general meeting. The special resolution at a general meeting for prior approval for giving of any loan or guarantee or providing any security or the acquisition under sub-section (2) is required where exceeds the limits specified in the said Sub Section. However, in the instant case, the loan granted by the Financial Creditor is within the limits as provided by clause (c) of Sub Section 2 of Section 186 of the Companies Act 2013.
43. Therefore, in view of the above, the plea of the Corporate Debtor that loan has been granted in violation of Section 186 of the Companies Act 2013 is not tenable at law.
44. Therefore, in view of the above, we are satisfied that the present application is complete in all respect. The applicant financial creditor is entitled to move the application against the corporate debtor in view of admitted outstanding financial debt and default of the same by the



corporate debtor. The default in repayment of the financial debt is not refuted by the Corporate Debtor.

45. Mr. Bishwanath Chaudhary has agreed to accept the appointment as the interim resolution professional and has signed a communication in Form 2 in terms of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that no disciplinary proceedings are pending against him in Insolvency and Bankruptcy Board of India or elsewhere. In addition, further necessary disclosures have been made by Mr. Bishwanath Chaudhary as per the requirement of the IBBI Regulations. It is also seen that there is no disciplinary proceeding pending against the proposed Interim Resolution Professional. Accordingly, it is seen that the requirement of Section 7(3)(b) of the Code has been satisfied.

Point No.(iv)

46. As a sequel to the above discussion and in terms of Section 7(5) (a) of the Code, the present application is hereby, admitted with following directions:-
- 1) Consequently, Mr. Bishwanath Chaudhary, having registration number IBBI/IPA-002/IP-N00597/2018-19/12042 resident of Flat No. 8F, Block-7, Prasad Exotica, 71/3, Canal Circular Road Kolkata, West Bengal-700054 is appointed as an Interim Resolution Professional for the corporate debtor. He is



directed to provide his email address to the office of this Tribunal.

- 2) In pursuance of Section 13(2) of the Code, we direct that public announcement shall be made by the Interim Resolution Professional immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations, 2016) with regard to admission of this application under Section 7 of the Insolvency & Bankruptcy Code, 2016.
- 3) We direct the applicant Financial Creditor to deposit a sum of Rs. 2,00,000/- (Rupees Two Lakh Only) with the Interim Resolution Professional namely Mr. Bishwanath Chaudhary, to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Financial Creditor. The said amount however is subject to adjustment towards Resolution Process cost as per applicable rules.
- 4) We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14(1)(a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

“(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 Securitization 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.”

- 5) It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspend or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14(3)(b) of the Code.
- 6) The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost



dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day to day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing appropriate orders.

- 7) The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.
- 8) 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.

- 9) The office of this Tribunal is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim Resolution Professional and the Registrar of Companies, West Bengal at the earliest possible but not later than seven days from today.
- 10) Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, 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.
- 11) The main CP to come up on 17.6.2025 for filing the periodical report.
- 12) A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Rekha Kantial Shah
Member(Technical)

Labh Singh
Member(Judicial)