



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH, COURT - I
KOLKATA**

CP(IB) No. 307/KB/2024

*A petition under **section 10** 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:

M/s Fairsnow Aviation Limited

.....Petitioner/Corporate Applicant

Date of pronouncement of order: 26.03.2026

Coram:

Smt Bidisha Banerjee : **Member (Judicial)**

Cmde Siddharth Mishra : **Member (Technical)**

Appearances (via video conferencing/ physical):

For the Applicant:

Mr. Shaunak Mitra, Adv.

Mr. Dripto Majumdar, Adv.

Ms. Sohini Dey, Adv.

ORDER

Per : Bidisha Banerjee, Member (Judicial)

1. This Court convened through hybrid mode.
2. We have heard learned Counsel for the petitioner at length.
3. This Company Petition has been preferred by M/s Fairsnow Aviation Limited hereinafter referred to as the “**Corporate Applicant/Petitioner**”(hereinafter to be referred to as CA) under section 10 of the Insolvency and Bankruptcy Code, 2016 (IBC).



4. Submissions on behalf of the Corporate Applicant:

- i.** The Corporate Applicant has filed the present CP under section 10 of the IBC in respect of unpaid operational debts of Rs. 6,45,90,281.95/-, owed to Visa Steel Limited and operational debts of Rs. 1,60,00,000/-, owed to Visa Resources India Limited. The total aggregated debt came down to Rs. 8,05,90,281.95/-. The debts of default for Visa Steel is 01.07.2011 and for Visa resources, the same is 08.02.2011.
- ii.** The applicant stated that since 2013, the Corporate Applicant has stopped its business operations of non-scheduled air transport (passenger services) as it continued to suffer losses and could not restart its aviation business. It has large amount of liabilities which exceeds the value of assets.
- iii.** It is submitted that the Corporate Applicant does not have any financial creditors. One of the operational creditors viz. Visa Steel has issued demand notices on 12.04.2011 and on 14.05.2012, calling upon the CA to pay the sum of Rs. 6,45,90,281.95/-
- iv.** It is further submitted that Visa Resources the other operational creditor has issued demand notices on 19.11.2021 and on 29.12.2021, inter-alia, calling upon to pay the sum of Rs. 1.60 Cr being sum advanced for booking flying hours.
- v.** The CA would further submit that a letter was issued on 31.12.2021, to Visa resources for balance

confirmation as on 31.12.2021, and the same was duly confirmed by Visa Resources.

- vi.** It was stated that the unpaid operational debt to Visa Steel and Visa Resources has also been admitted by the CA in its financial statements as on 31.03.2025.
- vii.** It was further stated that the CA has one statutory liability with regards to one appeal pending before the Learned Customs Excise & Service Tax Appellate Tribunal (CESTAT) relating to demands raised by tax authorities of Rs. 815.56 lakhs since 2014. Since the management of the CA is of opinion that there are sufficient grounds for the appeal to be adjudicated in its favour, the amount of input credit has been carried forward in the financial statements as a current asset.
- viii.** The CA does not have any business, the Corporate Applicant's principal financial assets are cash, short-term deposits and trade receivables representing dues from related parties. The Company does not have any employees as on 31.03.2023.
- ix.** It is further stated that under the above circumstances, the CA at its board meeting held on 01.07.2024, resolved to file the present application for initiation of CIRP. Subsequently, at its Extra-ordinary General Meeting held on 26.07.2024, by passing a special resolution by 99.97% votes, the shareholders voted in favour of the filing of the CP.



5. Analysis and Findings :

- i. The date of default with regard to Visa Steel has been stated to be 01.07.2011 and for Visa resources, the same is 08.02.2011, and the debt has been acknowledged in the balance sheet as on 31.03.2025.
- ii. The acknowledgment of the debt in the balance sheet as on 31.03.2025, constitutes a valid admission of liability. The Hon'ble Supreme Court in ***Asset Reconstruction Company (India) Limited v. Bishal Jaiswal*** has held that entries in balance sheets amount to acknowledgment of debt under Section 18 of the Limitation Act, 1963.
- iii. In view of the acknowledgment of debt, the existence of 'default' as envisaged under section 3(12) stands established.
- iv. The Corporate Applicant has stopped its business operations for a considerable period and has no employees. The financial statements reflect continued default.
- v. The Special Resolution as envisaged in the Code in case of a section 10 application is also in the records with 99.97% voting share.
- vi. The Hon'ble Supreme Court in ***Swiss Ribbons Pvt. Ltd. v. Union of India*** has observed that the primary objective of the Code is resolution and, failing that, maximization of value through an orderly process.
- vii. At this juncture, we would fumigate our mind with the oft quoted judgment of the Hon'ble Apex Court, which are as under :



(a) Innoventive Industries Ltd. v. ICICI Bank
reported in **(2018) 1 SCC 407:**
MANU/SC/1063/2017 has laid down that:

“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, ...”

XXX XXX XXX XXX

(Emphasis added)

viii. Considering the admitted default, acknowledgment in balance sheets, and the financial position of the Corporate Applicant, this Bench is satisfied that the present case warrants admission under Section 10 of the Code.

6. Accordingly, we pass the following orders :

i. The Application filed by **M/S FAIRSNOW AVIATION LIMITED(Corporate Applicant)**, under Section 10 of the Insolvency & Bankruptcy Code, 2016, is hereby, **ADMITTED** for initiating the **Corporate Insolvency Resolution Process**.



ii. As a consequence of this Application being admitted in terms of Section 10 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 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 applicant as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
- v.** 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.
- vi.** The Applicant has proposed the name of **“Mr. Sanjit Kumar Nayak”**, Address: 30E, Haramohan Ghosh Lane, Flat-2B, Beliaghata, Kolkata, West Bengal-700085, Registration no. IBBI/IPA-003/IP-N00079/2017-2018/10702, Email id. sknayak31@gmail.com, as the “IRP”. We have perused that there is a written communication and consent of IRP in Form 2 with Affidavit, annexed as ‘A-6’ at pages 125 to 132B of the petition, 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 IIIP of ICAI. In addition, further necessary disclosures have been made by **“Mr. Sanjit Kumar Nayak”** as per the requirement of the IBBI Regulations. Hence, we appoint **“Mr. Sanjit Kumar**



Nayak” as the **Interim Resolution Professional** (IRP) of the Corporate Applicant 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.

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 the 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 CIR Process 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 I&B Code. 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.
- 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 CIR Process in respect of the Corporate Applicant.
- xi.** 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.
- xii.** 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), with whom the company is registered, 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.

xiii. 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.

xiv. The IRP/RP shall be liable to submit the periodical report including the minutes of the CoC of the Corporate Applicant, with regard to the progress of the CIR Process in respect of the Corporate Debtor to this Adjudicating Authority from time to time.

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

- 7.** Post the Company Petition on **5th May, 2026**, for filing the periodical Progress Report by the IRP/RP as appointed herein above.
- 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.

Cmde Siddharth Mishra
Member (Technical)

Bidisha Banerjee
Member (Judicial)

This Order is signed on this the **26th** day of **March, 2026**.

Arnab M. [LRA]