



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

**C.P. (IB) No. 886/MB/2023**

*[Under Section 10 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016].*

**In the matter of**

**Zusak Exim Private Limited**

CIN: U51909MH2017PTC300291

Registered Office: 19-Orchard Complex  
Above Hi-Tech Tyre, Near Panch Kutir Bus  
Stop Powai, Mumbai- 400076.

**... Corporate Applicant**

**Pronounced: 13.08.2025**

**CORAM:**

**SHRI ANIL RAJ CHELLAN**

**HON'BLE MEMBER (TECHNICAL)**

**SHRI K. R. SAJI KUMAR**

**HON'BLE MEMBER (JUDICIAL)**

***Appearances: Hybrid***

For the Corporate Applicant:

Adv. Agam H. Maloo

For the Financial Creditor:

Adv. Atishay Jain a/w Adv.  
Tanushree Sogani i/b Adv. Kunal  
Kanungo



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**ORDER**

***[PER: K. R. SAJI KUMAR, MEMBER (JUDICIAL)]***

**1. BACKGROUND**

1.1 This Application is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 (Code) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, by Zusak Exim Private Limited (Corporate Applicant/Applicant), seeking initiation of its Corporate Insolvency Resolution Process (CIRP). It is submitted that the Application is preferred owing to the financial stress faced by the Corporate Applicant, consequent to which it is not in a position to repay the debts due to its creditors.

**2. SUBMISSIONS OF CORPORATE APPLICANT**

2.1 The Corporate Applicant is a Private Limited Company and incorporated on 29.09.2017, with Corporate Identity Number U51909MH2017PTC300291. It is engaged in the business of agricultural products. The registered office of the Applicant is at 19-Orchard Complex, Above Hi-Tech Tyre, Near Panch Kutir Bus Stop, Powai, Mumbai and therefore, this Bench has jurisdiction to entertain and decide the Application.

2.2 The Applicant submits that it has been incurring losses and is not in a position to pay off its creditors. There is only one Financial Creditor for the Corporate Applicant, and the total debt payable to them amounts to Rs.11,60,18,714/- (Eleven Crore Sixty Lakh Eighteen Thousand Seven Hundred and Fourteen Rupees).

2.3 The Corporate Applicant has availed working capital facilities in the form of cash credit amounting to Rs.9.50 Crore from State Bank of India (SBI), *vide* loan cum hypothecation agreement dated 05.06.2018. In addition to the existing financial facilities and in line of expansion and rapid growth in the business, the Applicant further availed an additional financial facility amounting to Rs.1.40 Crore from SBI, *vide* supplemental loan cum hypothecation agreement dated 27.03.2019, which was duly repaid and closed by the Applicant on 16.08.2019.



2.4 Due to its rapid growth in business and to honour its existing orders on timely basis and to further meet its projected sales/turnover, the Applicant requested SBI to renew and enhance the existing credit facilities from Rs.9.5 Crore to Rs.18 Crore by letter dated 10.06.2019. However, due to non-responsive approach of SBI, the Corporate Applicant has again written a letter on 27.09.2019 to the Bank but no sanction was received.

2.5 Due to non-receipt of enhancement of SBI credit facility and adverse conditions of its bank account, the Applicant sent letters dated 16.09.2020; 09.10.2020; and 12.10.2020, to SBI, requesting for restructuring of its loan account, which was sanctioned by the Bank, *vide* sanction letter dated 20.10.2020.

2.6 Further, due to non-receipt of additional revolving Special Line of Credit Facility by SBI, the Applicant incurred heavy losses, which resulted in a deep financial crunch. Thereafter, due to unavailability of the funds, and on continuous default in repayment of the instalment/interest/principal debt in the existing financial facility, the account of the Corporate Applicant was classified as Non-Performing Asset (NPA) on 29.06.2022 by SBI, which is its sole Financial Creditor.

2.7 Recovery proceedings were initiated by SBI due to continuous default of the instalment/interest/principal debt, and, accordingly, the Bank issued notice on 05.07.2022 under Section 13(2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) to the Applicant, directing it to repay the sum of Rs.11.60 Crore outstanding as on 29.06.2022, within 60 days from the receipt of the notice.

2.8 Consequently, the Applicant presented OTS/compromise proposal to SBI, offering increase in the amount of repayment. However, after several discussions and deliberations with SBI, the same was conditionally accepted by the Bank for an offer of Rs.9.00 Crore *vide* letter dated 19.05.2023, stating that as per the Bank's policy, the title deeds of property mortgaged with them cannot be returned upon compromise/settlement. Pursuant to the conditional acceptance of OTS proposal by the Bank, the Corporate Applicant expressed their unwillingness to accept the sanction for OTS/compromise proposal, at the given terms and conditions, and further



requested the refund of the initial amount as deposited along with OTS/compromise proposal.

2.9 The Corporate Applicant further submits that it has ceased business operations since 2021-2022, and is no longer a going concern, and is not in a position to meet its day-to-day expenses. Considering the deep financial stress and its inability to pay off its liabilities in time, the board of directors of the Applicant in the Special Resolution passed on 28.07.2023, resolved to move an application under Section 10 of the IBC for initiation of its CIRP of the Corporate Applicant. Therefore, the present Application is filed for initiation of CIRP, which is to be admitted.

### **3. ANALYSIS AND FINDINGS**

3.1 We have heard the Ld. Counsel for the Applicant and the Ld. Counsel on behalf of the SBI.

3.2 The Corporate Applicant has enclosed a copy of the Special Resolution passed by the Board of Directors at the Extra Ordinary General Meeting held on 28.07.2023 to file application under Section 10 of the Code. The Board of Directors of the Corporate Applicant in the meeting dated 31.07.2023 had also authorised Mr. Vivek Kumar Mathur (DIN: 06689656), director of the company, to file necessary application under the Code before the Tribunal, and take necessary actions in matters connected with this Application.

3.3 It is on record that SBI submitted an affidavit through the authorised representative on 18.06.2024, *inter alia*, stating that they have no objection to this Application being admitted and CIRP of the Corporate Applicant commenced. It is also submitted that SBI is the sole Financial Creditor to the best of their knowledge. In Part III of the Application, the amount of default is stated as Rs.11,60,18,714/- and the date of default as 29.06.2022, being the date the Corporate Applicant's accounts with the sole Financial Creditor, viz., SBI were declared as NPA. The Corporate Applicant has attached all the documents substantiating credit facilities obtained from SBI with supporting evidence, which is acknowledged by them. There is no evidence to show that the Applicant has any operational creditors. Further, the Applicant has submitted copies of the Audited Financial Statements of the Corporate Applicant for the years,



2020-2021; 2021-2022; 2022-2023; 2023-2024; and up to May 2024. Hence, we observe that the Corporate Applicant is in default of debt, which is also evidenced by the books of account placed on record. It is also seen from the Audited Financial Statements for the year ended 2021-2022 that the Corporate Applicant has no income and is also having substantial losses. It has been submitted by the Applicant that there are no pending litigations against the Corporate Applicant.

3.4 It is noted that the authorised director of the Corporate Applicant, Mr. Vivek Kumar Mathur has placed on record an Affidavit on behalf of the Corporate Applicant. This Application is filed as per Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 in Form-6. Required information is also furnished therein. The Financial Statements placed on record acknowledge the existence of debt and default by the Applicant. As per Part III of the Application, the date of default by the Corporate Applicant is 29.06.2022. This Application is filed on 05.09.2023. Hence, the Application falls within the period of limitation.

3.5 Section 10 of the IBC provides for a corporate applicant to file application for initiating insolvency resolution process if it is in default. The same default amount of One Crore Rupees, specified under Section 4 of the Code, is applicable to a corporate applicant under Section 10 also. In view of the above, we conclude that the present Corporate Applicant has committed default of more than the specified amount under the IBC.

3.6 The Corporate Applicant has suggested the name of Mr. Kamal Kumar Jain, having Registration no IBBI/IPA-001/IP-P00092/2017-18/10192 for appointment as the Interim Resolution Professional (IRP). The proposed IRP has also submitted his Consent in Form 2, confirming eligibility and that there are no disciplinary proceedings pending against him.

3.7 After hearing the submissions and upon perusing the supporting documents, we are of the considered view that the Application made by the Corporate Applicant is complete in all respects as required by law. Hence, the present Application deserves to be admitted.



**ORDER**

In the result, **CP (IB) No. 886 of 2023** filed under Section 10 of the IBC by **Zusak Exim Private Limited**, the Corporate for initiating Corporate Insolvency Resolution Process (CIRP) is hereby **admitted**.

We further declare moratorium under Section 14 of the IBC with consequential directions as mentioned below:

- 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 moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.



- IV. That public announcement regarding the CIRP of the Corporate Debtor shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- V. That the Bench appoints **Mr. Kamal Kumar Jain** having Registration No. **IBBI/IPA-001/IP-P00092/2017-18/10192**, and has registered address at 315-A, Road No.2, Shanti Nagar, Durgapura, Jaipur, Rajasthan, 302018, Email Id: **cakamaljain07@gmail.com**; as the IRP of the Corporate Debtor to carry out the functions as mentioned under IBC. The IRP shall carry out functions as contemplated under Sections 15, 17, 18, 19, 20 and 21 of the IBC. The fee payable to IRP/RP shall be compliant with Regulations, Circulars and Directions issued by the Insolvency and Bankruptcy Board of India (IBBI), as may be applicable.
- VI. 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 of the IBC. 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 a period of one week from the date of receipt of this Order, in default of which coercive steps will follow.
- VII. In exercise of the powers conferred by Rule 11 of NCLT Rules, we order that the Corporate Applicant shall deposit a sum of Rs. 3,00,000/- (Three Lakh Rupees) with the IRP, if demanded by the IRP, to meet the initial CIRP cost arising out of issuing public notice, inviting claims, etc. These expenses are subject to approval by the Committee of Creditors (CoC). The amount so deposited shall be interim finance and paid back to the FC on priority upon the funds available with IRP/RP.
- VIII. The Registry is directed to communicate this Order to the Corporate Applicant and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.



- IX. A copy of this Order be sent to the Registrar of Companies, Mumbai, Maharashtra, 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.
- X. An electronic version of this Order shall also be sent to IBBI for information and record.
- XI. Ordered accordingly.

**Sd/-**

**ANIL RAJ CHELLAN**  
**MEMBER (TECHNICAL)**

Sanika, LRA

**Sd/-**

**K. R. SAJI KUMAR**  
**MEMBER (JUDICIAL)**