



**In the National Company Law Tribunal
Division Bench, (Court-I), Kolkata**

C.P. (IB)No. 349/KB/2022

*An application under Section 7(1) 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:

Gokul Sai Udyog LLP, office at Gokul Niwas, Judges Colony, Opposite R.P.S.
More Police Station-Rupaspur, Bailey Road, Patna – 801 503.

...Financial Creditor

Versus

Katyani Natural Resources Limited, having its registered office Hazi
Akhter, W/O Irshad Ahmad Makhdum Rasti Nagar, Khagaul, Phulwarisharif,
Patna Br. – 801 505.

...Corporate Debtor

Date of pronouncement of order: 22.05.2025

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

CMDE SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)

Counsel appeared physically / through video Conferencing

Mr. Shaunak Mitra, Adv.] For the Financial Creditor

Mr. Avik Chaudhuri, Adv.]

Ms. Shruti Majumdar, Adv.]

Mr. Gulshan Sachdeva, Adv.] For the Corporate Debtor

Mr. Tushar Yadav, Adv.]



ORDER

Per Bidisha Banerjee, Member (Judicial):

1. The Court convened through hybrid mode.
2. Ld. Counsel for the parties were heard at length.
3. This Petition has been preferred by **Gokul Sai Udyog LLP** the Financial Creditor (**FC** in short) to seek initiation of Corporate Insolvency Resolution Process (**CIRP**) against the **Katyani Natural Resources Limited** the Corporate Debtor (or **CD** in short).

4. Brief facts of the Case:

- a. Gokul Sai Udyog LLP the FC has averred that the Corporate Debtor had approached it for Financial assistance in the form of a loan of Rs. 4 Crores for business purposes.
- b. After negotiations, it was agreed that the Financial Creditor would disburse an amount of Rs. 4 Crores to be repaid with an interest @ 12% per annum within 6 months from the date of first transfer of money by the Financial Creditor.
- c. The disbursement was made in three tranches which are as follows:

Sl. No.	Date	Amount disbursed
i.	23.010.2017	1,50,00,000.00
ii.	23.010.2017	1,50,00,000.00
iii.	30.010.2017	1,00,00,000.00

- d. The transfers were made by way of RTGS. To support the statement, copies of bank statements of Financial Creditor evincing disbursements have been annexed as annexure – F.
- e. The Financial Creditor further avers that the Corporate Debtor committed default in repaying the said amount which was

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payable within 6 months from the date of first transfer of money that is within 02.04.2018.

- f. In 6 (six) months from 23.10.2017, the Financial Creditor claims that Corporate Debtor has repaid an amount of Rs. 2.77 Crores by way of RTGS in different tranches as would be evident from the bank statement annexed as Annexure -H with the application. The repayments are enumerated as follows:


Sl. No.	Date	Amount Repaid
i.	29.05.2017	2,00,00,000.00
ii.	25.06.2018	32,00,000.00
iii.	24.01.2019	25,00,000.00
iv.	08.03.2019	20,00,000.00

- g. The Financial Creditor further claims that it was constrained to issue a legal notice dated 14.04.2022 to the Corporate Debtor demanding repayments of the outstanding principal sum of Rs. 1.23 Crores with interest @ 12% thereon and the legal notice Annexed with the application as Annexure -I.
- h. It is submitted that the Corporate Debtor by way of its reply dated 05.05.2022, made baseless and frivolous allegations against the Financial Creditor.
- i. Further demand notice dated 18.06.2022 in form III was issued by the Financial Creditor as annexed as Annexure- K with the application. It was replied to by the Corporate Debtor on 01.08.2022 as in Annexure -L. That till date the principal sum remains unpaid.
- j. It is submitted that in its reply dated 05.05.2022, the Corporate Debtor has baselessly and frivolously alleged that the transaction between the parties was that of supply of materials. The Financial Creditor denies such allegations as baseless and not supported by any material on record.

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- k. The Financial Creditor further claims that the Corporate Debtor has acknowledged its indebtedness to the Financial Creditor in its financial statements. In support of this, the Corporate Debtor's financial statements for the Financial year ending on 31.03.2021 is annexed with the application as Annexure -M.
 - l. According to the Financial Creditor it assaults to unequivocal acknowledgement and admission of liability and establishes jural relationship between Corporate Debtor and the Financial Creditor as debtor and creditor respectively.
 - m. It is submitted that the provisions of Section 18 of the Limitation Act are squarely attracted.
 - n. The Financial Creditor submits that the total outstanding is 1,73,71,000.00 after adjusting part payment made by the Corporate Debtor as on 30.06.2022.
 - o. The Financial Creditor further submits that the threshold limit of 1 Crore is met and the application is within the prescribed period of limitation and therefore, the application should be admitted.


5. Per contra Ld. Counsel for the Corporate Debtor would submit the following:

- a. That the Respondent (Mr. Dhananjay Kumar, Partner of the Petitioner) is a non-government company involving in mining activities in different states and the Respondent Company entered into business relationship and had participated in the process of e-Auction / e-Tender being the highest bidder for which letter of Intent (LoI) dated 18.10.2017 bearing number 1808/Khanij-30, Banda was issued.
- b. The respondent Company deposited an amount of Rs. 14,80,00,000.00 towards Security and an amount of Rs. 14,80,00,000.00 towards the first instalment.

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- c. That On 02.03.2019, the Respondent was granted Environmental Clearance with the total proposed annual production capacity of 740000 cubic metres per year.
- d. The Respondent Company was granted mining lease and lease deed was executed on 08.03.2019 from 03.03.2019 to 07.03.2024.
- e. That Mr. Dhannjay Kumar supported various such activities of the Respondent Company and was assigned the responsibility of mining lease at Banda for which he executed an agreement on behalf of the Balaji Enterprises (an entity related to the respondent company). When dispute arose between the respondent company and Government of Uttar Pradesh in respect of the mining land at Banda, the respondent company approached the High Court at Allahabad at Lucknow Bench by filing a Writ.
- f. The alleged Financial Creditor first issued a notice under Section 8 of the Code claiming that there was mutual agreement between Corporate Debtor and Operational Creditor whereby Mr. Dhananjay Kumar was appointed as an exclusive partner of the Corporate Debtor for forthcoming mining projects.
- g. Since the alleged Financial Creditor was aware of the fact that he would not succeed, if he files a petition under Section 9 with the help of forged document filed as Annexure – G, he has preferred the instant Petition under Section 7.
- h. It is further submitted that the document alleged to be resolution passed by LLP authorising loan or advances to the respondent company is on 20.10.2017 but it was executed on 15.05.2017 and as such the document could not have been executed prior to its existence. Further, it mentions GST number where as GST was introduced in July, 2017.
- i. The Respondent Company further claims that in terms of the judgment of the Hon'ble Apex Court in **S P Chengalvaraya**

Naidu Vs. Jagananth & Ors. AIR 1994 SC 853, has succinctly held that:

“It is settled position in law that a person who approached court with unclean hands and where the case of a person is based on the falsehood or if the person is guilty of withholding vital documents in order to gain advantage on other side, then such party is guilty of fraud on the Court”

- j. The Respondent Company further placed reliance on Hon’ble Delhi High Court decision in **Satish Khosla Vs Eli Lilly Ranbaxy, 1998 (44) DRJ (DB)** to contend that

“a person whose case is based on falsehood has no right to approach the court.”

6. We have considered the rival contentions and perused the records.

Analysis and Findings:

7. We find that on 03.12.2024 IA (IB)No. 982/KB/2024 preferred by Katyayni Natural Resources Limited the Respondent in CP(IB)No. 349/KB/2022 was filed seeking dismissal of the Company Petition alleging that it is frivolous and in the nature of malicious prosecution by the Financial Creditor against the debtor.
8. This Tribunal has already considered the provision of Section 65 of the IBC and held that to admit a petition under Section 65 of IBC that there must exist documents to prove the presence of fraudulent element to initiate CIRP or liquidation proceedings and to unearth fraudulent intention for initiation, there must be documents evincing sham and bogus transactions whereas there is an emphatic admission of receipt of Rs. 4 Crores from the Financial Creditor.
9. Hence, it will not be just to reject the Company Petition on the ground of purported resolution document which was an Agreement or an MoU between the parties.



10. We also find from records that time and again, the Corporate Debtor has been permitted to file Affidavits and GST returns to prove supply of goods with the balance sum which the CD claims to have; which they failed to produce.
11. We further find that while disposing of IA (IB)No. 982/KB/2024, this Tribunal has given its findings as under:

“9. However, to substantiate disbursement of the alleged loan amount, bank statements have been attached. On perusal of bank statements, we find that on 23.10.2017, a sum of Rs. 3 crores (in two tranches of 1.5 crores each) has been disbursed to the Corporate Debtor, Katyayani Natural Resources Limited. Further, on 30/10/2017 a sum of Rs. 1 crore have been paid to the Corporate Debtor. Thus, a total sum of Rs. 4 Crores has been paid to the Corporate Debtor.

*10. On 23.10.2017, the **bank statements evince** that a sum of Rs. 2.77 crores have been returned by the Applicant (Corporate Debtor) to the Respondent (Financial Creditor). The contention of the applicant is that it has returned an amount of Rs. 2.77 Crores through bank transaction and it has provided material for the remaining amount, in fact of a value slightly more than that remaining amount with it. Thus, even though there is not written agreement between the parties, the jural relationship is clearly established from the facts stated on oath. There is nothing on record to establish the fact that materials worth Rs. 1.23 crores has been supplied to the Financial Creditor by the Corporate Debtor.*

11. Therefore, ignoring the purported incongruities in the Board resolution, this being an internal document and not an MoU or agreement executed between the parties, no inference can be drawn in the favour of the Applicant to reject the concerned company petition under section 65 IBC.

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12. Hence, even though there are no written documents evincing loan arrangement between the parties involved in this dispute, we will have to go by the disbursements made and how it has been treated in the books of accounts of both the parties. Accordingly, an Order, dated 09th January, 2024 was passed directing the FC to file an affidavit along with copy of the Statement placed on record at pages 62-64 duly authenticated by the Bank Officials. Moreover, the corporate debtor was also directed to produce evidence of the supply of goods including GST invoice and e-way bills to substantiate his claim of supply of materials worth Rs. 1.23 crores to the respondent herein vide order dated 10th May, 2024.

13. While, the FC submitted its duly authenticated financial statements on 8th February 2024, the corporate debtor has failed to submit proof of dispatch/GST invoice/e-way bills towards supply of materials worth a sum of Rs. 1.23 crores as claimed by it. In fact, not even a single GST invoice claimed to have been raised by him was produced before us.

12. The said order passed in IA (IB)No. 982/KB/2024 seems to have not been challenged by the Corporate Debtor.
13. The documents at Annexure -F of the Petition shows that the Financial Creditor being Gokul Sai Udyog LLP("FC") had disbursed sum to the tune of Rs. 4 Crores in favour of the Corporate Debtor. Annexure -H evidencing the repayment by the Corporate Debtor to the tune of Rs. 2.77 Crores is marked as Annexure -H to the Petition.
14. There is no written agreement between the parties and the only document that appears at page 62 of the Petition is alleged to be a forged one.
15. Disbursement of the amount could not be denied as they are supported by corresponding bank statements.
16. We therefore, find that the reply filed by the Respondent does not deny the disbursement made by the Creditor.



All that the reply says is that an amount of Rs. 4,07,35,000/- has been repaid by the Respondent to the Petitioner. No document in support of this has been provided.

17. The contention of the Corporate Debtor that the purported claim of the Financial Creditor does not fall under the category of financial debt is also not tenable. Further, decision cited by the Corporate Debtor in **S P Chengalvaraya Naidu Vs. Jagananth & Ors. AIR 1994 SC 853** (*supra*) and **Satish Khosla Vs Eli Lilly Ranbaxy, 1998 (44) DRJ (DB)** are not applicable in the background enumerated hereinabove.
18. We have noted that there has been a disbursal of an amount of 4 Crores and an outstanding of Rs. 1.73 Crores against the Corporate Debtor is shown.
19. The Requirement of “debt” and “default” is established. Since the threshold limit is met and the Petition is filed under the prescribed period of limitation and is complete in all respects. We deem it appropriate to admit the application.
20. As such, we are fortified by the views of Hon’ble Apex Court decisions which defines “Financial Debt” to initiate Corporate Insolvency Resolution process as under:
- a. **Pioneer Urban Land and Infrastructure Ltd. v. Union of India reported in (2019) 8 SCC 416:**
- “any debt to be treated as financial debt, there must happen disbursal of money to the borrower for utilization by the borrower and that the disbursal must be against consideration for time value of money.”*
- b. **Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Limited reported in (2020) 8 SCC 401:**
- “the essential condition of financial debt is disbursement against the consideration for time value of money.”*



- c. **Indus Biotech Private Limited v. Kotak India Venture (Offshore) Fund** reported in (2021) 6 SCC 436: MANU/SC/0231/2021 (para 14) that:

“14. ... in order to trigger an application, there should be in existence four factors: (i) there should be a 'debt' (ii) 'default' should have occurred (iii) debt should be due to 'financial creditor' and (iv) such default which has occurred should be by a 'corporate debtor'...”

(Emphasis added)

- d. **In Innoventive Industries Ltd. v. ICICI Bank** reported in (2018) 1 SCC 407: MANU/SC/1063/2017, Hon'ble Apex Court 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, ...”

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*“30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, **the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e., payable unless***

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interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.”

(Emphasis added)

21. In terms of the foregoing discussions, we **ALLOW** the application bearing **Company Petition (IB) No. 349/KB/2022** filed under Section 7 of the I&B Code, and accordingly, we order the initiation of Corporate Insolvency Resolution Process (CIR Process) in respect of the Corporate Debtor and pass the following Orders:

(a) This application being **C.P.(IB)/349(KB)2022** filed by Gokul Sai Udyog LLP, the Financial Creditor, under section 7 of the Code read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against **Katyani Natural Resources Limited, the Corporate Debtor, is admitted.**

(b) There shall be a moratorium under Section 14 of the IBC.

(c) 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.

(d) Public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

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(e) The Applicant has proposed the name of “Mr. Sandip Mitra”, Address: 53C, Harish Mukherjee Road, Bhowanipur, Kolkata, West Bengal – 700 025 and having Registration no. IBBI/IPA-001/IP-P00497/2017-2018/10885, Email id: sasoso@gmail.com as the “IRP”. We have perused that there is a written communication and consent of IRP in Form 2, 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. Sandip Mitra” as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of Section 7(3)(b) of the code. Hence, we appoint “Mr. Sandip Mitra” as the Interim Resolution Professional (IRP) of the Corporate Debtor 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.

(f) During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or 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 one week from the date of receipt of this Order, in default of which coercive steps will follow. No separate notice for cooperation by the suspended management should be expected.





- (g) 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.
- (h) The IRP/RP shall submit to this Adjudicating Authority periodical report about the progress of the CIRP in respect of the Corporate Debtor.
- (i) The Financial Creditor shall deposit a sum of **Rs. 3,00,000/- (Rupees Two Lakh only)** with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (j) In terms of section 7(5)(a) of the Code, Court Officer of this Court is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (k) 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.
- (l) Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, Kolkata by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies

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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.

- 22. C.P.(IB)/349(KB)2022** to come up on **02.07.2025** for filing the progress report.
- 23.** The Registry is directed to send e-mail copies of the Order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
- 24.** Urgent 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.

(Siddharth Mishra)
Member (Technical)

(Bidisha Banerjee)
Member (Judicial)

Signed on this, the 22nd day of May, 2025

M. Jana (P.S.)