



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI**

**CP (IB) No.472/(PB)/2024**

**ORDER 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:**

M/S Comex Infratech Pvt. Ltd.

M-104, Greater Kailash

New Delhi- 110048

CIN-U45203DL2005PTC140517

**Corporate Applicant**

**Order Pronounced On: 03.07.2025**

**CORAM:**

**CHIEF JUSTICE (RETD.) RAMALINGAM SUDHAKAR  
HON'BLE PRESIDENT**

**SHRI RAVINDRA CHATURVEDI  
HON'BLE MEMBER (TECHNICAL)**

**APPEARANCES:**

For the Corporate Applicant : Mr. Rajesh Bohra, Ms Sangeeta Bohra Adv.

For the Financial Creditor : Mr. Abhindra Maheshwari, Adv.



## **ORDER**

The present application has been filed by M/s Comex Infratech Pvt. Ltd. (CIN-U45203DL2005PTC140517) (hereinafter referred to as ('Applicant'/ 'Corporate Applicant') on 22.03.2024, under Section 10 of the Insolvency and Bankruptcy Code, 2016 ('The Code'), r/w Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiating the Corporate Insolvency Resolution Process (CIRP), declaring moratorium and for appointment of Interim Resolution Professional (IRP) for a total financial default of Rs.18,79,56,633 /- i.e. (Rupees Eighteen Crores Seventy Nine Lakhs Fifty Six Thousand Six Hundred Thirty Three).

### **PARTIES**

1. The 'Corporate Applicant' herein is a company incorporated on 08.09.2005 under the Companies Act, 1956, having its registered office at M-104 Greater Kailash-I, New Delhi-110048 as a Company limited by shares . The authorized capital of the company is Rs. 5,00,00,000/- (Rupees Five Crore Only) and the paid up share capital is Rs. 3,27,16,050/- (Rupees Three Crore Twenty Seven Lakhs Sixteen Thousand and Fifty Only) The Corporate Applicant is represented through Mr. Jatinder Singh Bagga, Director of the Corporate Applicant.

### **BRIEF FACTS**

1. It is stated by the Corporate Applicant that it is engaged in the business of construction of roads and civil engineering and has been running the aforesaid business. The main objective for which the company was formed are extracted below:

*a) To build, repair, widen, expand, assemble & fabricate all types of infrastructures including buildings, roads, foundation, civil or engineering projects, like bridges, over bridges, ports, airports, jetties, wharves, roads, highways, expressways, hydroelectric projects, dams, canals barrages, pipelines, tanks, reservoirs and to work as civil/mechanical engineers, contractors and to execute*



contracts for works involving the supply or other works comprised in such contracts, for government, semi government, local authorities or any other statutory body, Company or other persons, joint ventures, on the basis of BOT (Build, Operate & Transfer), BOOT (Build, Own, Operate & Transfer) or in any other manner, in public private partnership and to build purchase, sell the residential, commercial and every other kind of real estate buildings, complex, apartments, markets etc. and all other types of infrastructure projects including for power generation, power distribution, telecommunications services, rail, water supply, technology parks.

b) To carry on the business of developing, maintaining and operating of Special Economic Zones or other Export Promotion Parks, Software Technology Parks, Electronic Hardware Parks, Bio-Technology Parks and other industrial parks either individually or as joint venture with Government, Semi Government body any company/firm/individual/consultant whether local or foreign etc.

2. The composition of directorship and shareholding pattern of the Corporate Applicant is extracted below for ready reference:

ANNEXURE-1

LIST OF DIRECTORS OF THEIR ADDRESS

SR.	NAME OF PROMOTER	ADDRESS
1.	MR. JATINDER SINGH BAGGA	M-104, GREATER KAILASH PART -1 NEW DELHI-110048
2.	MR. SHIV KARAN SINGH BAGGA	M-104, GREATER KAILASH PART -1 NEW DELHI-110048



ANNEXURE- 3

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LIST OF SHAREHOLDING PATTERN AND LIST OF SHAREHOLDERS

(b) Shareholding pattern of all classes of shares :	Equity	% of Aggregate Paid-up Capital
(i) Promoters , Director & Relatives	32.71,605	100.00%
(ii) Associates	-	-
(iii) Public Financial Institution	-	-
(iv) Banks (Bank –Wise)	-	-
(v) General Public		
Total	32.71,605	100.00%

DETAILS OF ALL SHAREHOLDERS:-

S. No.	Name of the Shareholders	Number of Shares held	% of Aggregate Paid-up Capital
1.	MR. SHIV KARAN SINGH BAGGA	20,42,000	62.42 %
2.	MR. JATINDER SINGH BAGGA	10,74,605	32.85%
3.	MR. JAGPREET KUMAR GULATI	1,50,000	4.58%
4.	MRS. INDERJEET KAUR BAGGA	5,000	0.15%
	Total	32,71,605	100.00%

3. It is stated by the Corporate Applicant that it availed credit facilities from Dena Bank (now Bank of Baroda) in the form of Cash Credit Hypothecation and Term Loan amounting to Rs. 19,00,00,000/- (Rupees Nineteen Crore Only) out of which Rs. 17,50,00,000/- (Rupees Seventeen Crores and Fifty lakhs Only) was in the form of Cash Credit which was availed against hypothecation



of Net Block of fixed assets as on 30.09.2013 and collateral security of property located at F-66 Ground Floor, Rajouri Garden New Delhi-110027 owned by Mr. Rajpreet Kaur Gulati and Rs. 1,50,00,000/- (One Crore Fifty Lakhs Only) was in the form of term loan for the purchase of machinery. That the corporate debtor initially was regular in making the payment, however it could not make the payment against the credit facilities availed from the bank and consequent thereupon its account was declared as NPA on 31.12.2014.

4. In view of the account being declared as NPA, the financial creditor i.e. Dena Bank invoked the guarantee by issuing a demand notice dated 29.05.2015 under Section 13(2) of the SARFAESI Act, 2002 to the Corporate Applicant as well as the Guarantors for a default of Rs.18,79,56,633/- (Rupees Eighteen Crores Seventy Nine Lakhs Fifty Six Thousand Six Hundred Thirty Three). The copy of demand notice issued under Section 13 (2) of the SARFAESI Act, 2002 has been annexed as **Annexure A-8** at page 51 of the application.
5. It is stated that the Creditor i.e. Dena Bank (Now Bank of Baroda) filed an application before the District Court, Tis Hazari for taking the physical possession of the property i.e. F-66 Ground Floor, Rajouri Garden New Delhi-110027 in pursuance of the power conferred under Section 13(4) of the SARFAESI Act, 2002 and the application was allowed.
6. Pursuant thereto, the Corporate Applicant held an Extra Ordinary General Meeting on 09.02.2024 (Annexure A-10 at Page 81) and passed a special resolution for filing an application under Section 10 of the Code. The relevant portion of the resolution is extracted below for ready reference:



EXTRACTS OF THE MINUTES OF THE EXTRA ORDINARY GENERAL MEETING OF THE MEMBERS OF M/S COMEX INFRATECH PVT. LTD. IN THEIR MEETING HELD ON 09.02.2024 AT 10.30 A.M. AT M-104, GREATER KAILASH, PART-1, NEW DELHI-110048

RESOLVED THAT by special resolution, the members have approved for filing of application under Section 10 of the Insolvency and Bankruptcy Code, 2016 and under Rule 7 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rules 2016 as a Corporate Debtor in view of default for payment to financial creditors and others and for the purpose, the Board is hereby authorized to take all steps for the filing and all necessary documents and Mr. Jatinder Singh Bagga, Director is authorized to prepare, sign and file the Application before

The National Company Law Tribunal (NCLT) New Delhi for initiating the corporate insolvency resolution process under section 10 of Insolvency and Bankruptcy Code, 2016 in Form 6.

FURTHER RESOLVED THAT he is authorized to engage the services of Advocate(s)/Consultants to file said Application and represent the matter to National Company Law Tribunal, New Delhi and to submit the Application and all necessary papers in the regard.

7. The Corporate Applicant had already served the application to the Creditor on 22.03.2024 and the proof of service has also been attached. Further, the Notice of this application was issued on 07.01.2025 by this adjudicating authority. After due service, the Creditor appeared through its counsel and filed its reply to the application and the relevant portion of the reply is extracted below:



5. That the Creditor Bank further submits that the perusal of the balance sheet of the Corporate Debtor reflects that no substantial asset is available with the company.

6. That the Creditor Bank further submits that as per the reports available with the bank the Corporate Debtor has already ceased its operations and at present no business activity is going on in the Corporate Debtor Company.

7. That the Creditor Bank further submits that in view of the aforementioned circumstances and since the petition for initiation of CIRP is filed by corporate debtor itself, therefore the creditor bank does not have any objection if the present application for initiation



of Corporate Insolvency Resolution Proceedings are initiated against the Applicant/ Corporate Debtor is allowed.

8. However, it is the humble submission of the Creditor Bank that, being the sole creditor, the bank is within its rights to suggest a name for an Interim Resolution Professional to be appointed for taking over the assets and books of the Corporate Debtor Company.
9. That the Creditor bank does not concur with the name of Interim Resolution Professional suggested by the Corporate Debtor in its Application and therefore, proposes Mr. Abhimanyu Mittal, having registration number, **IBBI/IPA-001/IP-P01870/2019-2020/12893**, to be appointed as an IRP in the Corporate Insolvency Resolution Process initiated against the Corporate Debtor. The Form II of Mr. Abhimanyu Mittal i.e. the Proposed Interim Resolution Professional is attached herewith as ANNEXURE-AC  

8. It is stated by the Creditor that it has no objection if the present application is considered for admission under Section 10 of the Code. In this context it is relevant to mention Section 10 of the Code, which is extracted below:

***10. Initiation of corporate insolvency resolution process by corporate applicant. –***

*(1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.*



*(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.*

*[(3) The corporate applicant shall, along with the application, furnish-*

*(a) the information relating to its books of account and such other documents for such period as may be specified;*

*(b) the information relating to the resolution professional proposed to be appointed as an interim resolution professional; and*

*(c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.]*

*(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order-*

*(a) admit the application, if it is complete and no disciplinary proceeding is pending against the proposed resolution professional; or*

*(b) reject the application, if it is incomplete or any disciplinary proceeding is pending against the proposed resolution professional:*

*Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.*

*(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section.*

The Corporate Applicant has complied with the provision of the code and has annexed all the relevant details. Further, the creditor has no objection to the application, if admitted. We have considered the documents on record and are satisfied that there exist a “debt” and “default.” Therefore, in view of the facts and circumstances and submissions made, we find no impediment in admitting the application.

In view of the above analysis, there is a clear case of debt and default. The present petition bearing no. **C.P. (IB) – 472/(PB)/2024** is **ADMITTED**.



## ORDER

In light of the above facts and circumstances, it is, **hereby ordered** as follows:

- i.** The Application bearing C.P. (IB) – 472/(PB)/2024 filed by M/s Comex Infratech Pvt. Ltd. under section 10 of the Code read with rule 7 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP is hereby **Admitted**.
- ii.** As a consequence of the Application CP (IB) 472(PB)/2024 being admitted in terms of Section 10 of the Code, moratorium as envisaged under the provisions of Section 14(1) of the Code, shall follow in relation to the Corporate Applicant 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.** The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under subsection (1) of Section 31 or passes an order for liquidation of Corporate Applicant Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.
- iv.** The Corporate Applicant has proposed the name of Mr. Arun Chadha as the IRP bearing registration number as IBBI/IPA-001/IP-P00165/2017-18/10334. It is observed that the AFA of the proposed Insolvency Professional as attached by the Corporate Applicant is valid till 07.12.2022, hence cannot be considered. The Creditor has also suggested the name of Mr. Abhimanyu Mittal, having registration number, IBBI/IPA-001/IP-P-01870/2019 -2020/12893 as the IRP. The IRP has attached its Written Consent, however, valid AFA has not been attached. Therefore, in terms of the Code we are inclined to appoint Anshul Sharma bearing Registration No. as IBBI/IPA-003/00386/2021-2022/13930 from the panel of the IBBI as the IRP. The details of the IRP is as follows:



**Name-** Anshul Sharma

**Registration no-** IBBI/IPA-003/00386/2021-2022/13930

**Email id** -cma@anshulsharma2020@gmail. com

**Address-** A-6, Ashok Nagar, Mandoli Road, Shahdara, Near Tyagi  
Diary ,East, National Capital Territory of Delhi-110093

- v.** He shall conduct the Corporation Insolvency Resolution Process as per the provision of Insolvency and Bankruptcy Code, 2016 read with Regulation made there-under. Further the IRP is directed to file his written consent in prescribed form within 3 days of the order.
- vi.** In pursuance of Section 13 (2) of the Code, we direct the IRP or the RP, as the case may be to make a public announcement immediately with regard to the admission of this application under Section 10 of the Code. 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.
- vii.** During the CIRP period, the management of the CD shall vest in the IRP or the RP, as the case may be, in terms of Section 17 of the IBC. All personal connected with the CD, its Directors or any other person associated with management including officers and managers of the CD 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.
- viii.** The IRP is expected to take full charge of the CD's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- ix.** 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 CIRP in respect of the Corporate Debtor. Further the IRP/RP is directed to comply with Section 17, 18, 20 and other provisions of the code read with relevant regulations and submit the compliance in Progress Report.



- x.** The Corporate Applicant shall deposit a sum of Rs 2,00,000/- (Rupees Two Lakhs only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to the approval of the Committee of Creditors (CoC).
- xi.** The Registry is hereby directed to communicate a copy of the order to the Corporate Applicant, the FC, the IRP and the Registrar of Companies, NCR, New Delhi,
- xii.** The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.
- xiii.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**Sd/-**

**(RAMALINGAM SUDHAKAR)  
PRESIDENT**

**Sd/-**

**(RAVINDRA CHATURVEDI)  
MEMBER TECHNICAL**