

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
(through web-based video conferencing platform)**

**CP (IB) No. 594/Chd/Pb/2019
Under Section 7 of IBC, 2016**

In the matter of C.P. (IB) No. 594/Chd/Pb/2019

M/s Intec Capital Limited

Having its registered office at:
708, Manjusha Building
57, Nehru Place
New Delhi- 110019
CIN: L74899DL1994PLC057410

...Petitioner/Financial Creditor

Vs.

M/s DKM Agencies Private Limited

Having its registered office at:
Plot No. 12-13
Hazoori Bag Colony
Village Bhattian, Ludhiana
Punjab- 141008
CIN: U51909PB1999PTC022359

....Respondent/Corporate Debtor

Judgement delivered on: 31 .05.2024

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE MR. L. N. GUPTA, MEMBER (TECHNICAL)**

Present :

For the Petitioner/Financial Creditor : Mr. Dhruv Parwal, Advocate
For the Respondent/Corporate Debtor : Mr.Sandeep Suri, Advocate

Per: Sh. Harnam Singh Thakur, Member (Judicial)

Sh. L. N. Gupta, Member (Technical)

JUDGEMENT

The present petition has been filed by Intec Capital Limited (hereinafter referred to as the “**Petitioner/Financial Creditor**”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**the Code**”), seeking the initiation of the Corporate Insolvency Resolution Process against M/s DKM Agencies Private Limited, (hereinafter referred to as the “**Corporate Debtor/Corporate Debtor**”), claiming a default of Rs. 54,48,035.19/- (Rupees Fifty Four Lacs Forty Eight Thousand and Thirty Five only) on the part of the Corporate Debtor, which became due and payable on 25.10.2017.

2. The Petitioner/Financial Creditor, has averred that :

- i. It is a NBFC which granted a finance facility of Rs. 85,87,000/- (Rupees Eight Five Lacs Eighty Seven Thousand Nine Hundred Forty Three only) to the Corporate Debtor vide sanction letter dated 22.07.2014, pursuant to which the parties entered into a loan agreement dated 31.07.2014 for availing of the above mentioned finance facility for a period of 60 months, bearing interest at the rate of 14.36% per annum, to be paid in 60 monthly EMIs of Rs. 1,02,770/- (Rupees One Lakh Two Thousand Seven Hundred Seventy only) for the first three installments and Rs. 2,08,713/- (Rupees Two Lakh Eight Thousand Seven Hundred

and Thirteen only) for the balance installments, payable on the first day of each month. The loan was disbursed on 11.08.2014 and 12.08.2014. Pursuant to the loan agreement, the Corporate Debtor opted for ECS payment mode.

- ii. The first and exclusive charge on the financed assets was created in favour of the Petitioner/Financial Creditor, and the Corporate Debtor also gave ECS Security Cheque and a Security Post-dated Cheque from the Directors of the Corporate Debtor, who gave personal guarantee for repayment of the loan on behalf of the Corporate Debtor.
- iii. The Corporate Debtor started making payments of EMIs on 01.09.2014 instead of 01.08.2014, when the first EMI was due. The Corporate Debtor defaulted in repayment of the loan, and the Petitioner/Financial Creditor issued a Loan Recall Notice (LRN) dated 25.10.2017 to the Corporate Debtor to pay all the outstanding amounts due on that date.
- iv. The Corporate Debtor paid only Rs. 68,84,768/- (Rupees Sixty Eight Lakh Eighty Four Thousand Seven Hundred Sixty Eight only) till the date of LRN and paid Rs. 22,285/- (Rupees Twenty Two Thousand Two Hundred and Eighty Five only) afterwards. The total outstanding amount after adjustment of the amounts paid by the Corporate Debtor is Rs. 54,48,035.19/- and the calculation is valid upto 31.08.2019.
- v. The Petitioner/Financial Creditor had filed complaints against the Corporate Debtor for dishonouring ECS under Section 25 of the

Payment and Settlement Act, 2007 and filed two complaints against the Guarantor for dishonouring Security Post Dated Cheque under Section 138 of the Negotiable Instruments Act, 1881.

- vi. In terms of the Arbitration Agreement executed between the parties, an Arbitration Award dated 06.07.2018 was passed by the Ld. Sole Arbitrator, for which the execution petition is under process. It is also submitted by the Petitioner/Financial Creditor that no application has been filed on the same cause of action earlier.
3. On issuance of notice, the Corporate Debtor pleaded the following in its reply dated 12.07.2021 filed vide diary no. 01250/1:
- i. A writ petition titled **“DKM Agencies vs. PNB and Intec,” CWP 27614/2019**, is already pending before the Hon’ble High Court of Punjab and Haryana, whereby the Hon’ble High Court took cognizance of the dispute on 26.09.2019.
 - ii. It is an enterprise registered under the Micro, Small, and Medium Enterprise Development (MSMED) Act, 2006, (hereinafter referred to as **“the Act”**). During February-March 2019, it called upon its creditors, including the Petitioner/Financial Creditor, to consider the Corporate Debtor under the provisions of the “Framework for Revival and Rehabilitation of Micro, Small, and Medium Enterprises Scheme” (hereinafter referred to as the **“Scheme”**) notified on 29.05.2015. The Petitioner/Financial Creditor, along with Punjab National Bank (the

largest lender of the Corporate Debtor) refused to consider the Corporate Debtor's case under the Scheme. A notice dated 10.05.2018 under Section 13(2) of the SARFAESI Act was also issued to the Corporate Debtor.

- iii. PNB issued a letter dated 20.09.2018 to the Corporate Debtor stating that the request of the Corporate Debtor for the release of 3 Immoveable Properties and personal guarantee of Smt. Suman Malik, gurantor/mortagagor against payment of Rs. 230 lakhs and upgradation of the account, competent authority had accorded approval for the same on the stated terms and conditions. An amount of Rs. 105 lakhs was deposited against the release of the said properties, as admitted vide letter dated 05.12.2018/20.12.2018 and an amount of Rs. 25 lakhs as deposited in the 'No lien account' was also adjusted.
- iv. Later on, the Corporate Debtor wrote to PNB on 28.01.2019 for the release of the property, but no response was received. Vide letter dated 16.02.2019, a request for restructuring was made and a proposal was submitted stating that Rs. 160 lacs shall be deposited and liability will be further reduced by selling a commercial property building situated at Kipps market, Ludhiana, with the prior approval of releasing the above mentioned mortgaged property from the bank along with the

release of the personal guarantee of Mrs. Suman Malik, which was rejected by PNB vide letter dated 25.02.2019.

- v. Again, an application dated 10.03.2019 under clause 2.3 of the Scheme was made by the Corporate Debtor for restructuring of its account. No action was taken on the same, though the same was required to be referred to the Standing Committee as provided within 5 days of intimation. PNB issued a letter dated 15.03.2019 admitting that the account was not a NPA and had been upgraded out of NPA, thus, the application for sending the same to the Statutory Committee was rejected.
 - vi. The account of the Corporate Debtor was declared NPA on 31.03.2019. A notice dated 17.04.2019 under Section 13(2) of the SARFAESI Act was issued to take over the possession of the property mortgaged under the loan, to which the Corporate Debtor replied on 07.06.2019, raising an objection that the account was not an NPA in terms of the RBI framework as the matter was still not referred to the Committee as was required under the Act and that no recovery proceedings could be done till such time as the matter is decided by the committee. The Corporate Debtor approached the banking Ombudsman and order dated 04.05.2019 was passed.
4. The Petitioner/Financial Creditor, in its rejoinder dated 25.08.2021 filed vide diary no. 01250/2 submitted that the proceedings before the Hon'ble

High Court of Punjab and Haryana in Writ Petition 27614 of 2019 have no bearing on or relevance to the proceedings being conducted by this Adjudicating Authority under the Code for the adjudication of an application under Section 7.

The Petitioner/Financial Creditor further referred to the Hon'ble Supreme Court's judgment dated 26.03.2021, in the matter of **Laxmi Pat Surana vs. Union Bank of India & Anr., Civil Appeal No. 2734 of 2020**, wherein it was observed that the declaration of the respondent as NPA by the applicant has no bearing as to the adjudication of the Section 7 application of the applicant under the Code.

5. The Petitioner/Financial Creditor filed its written submissions dated 12.09.2022, vide diary no. 01250/7. Similarly, the Corporate Debtor filed its short written submissions dated 27.03.2024 vide diary no. 01250/11.
6. During the course of hearing, the Ld. Counsel for the Petitioner/Financial Creditor submitted that the Corporate Debtor had acknowledged the debt in the balance sheet (attached as Annexure-B) for the accounting year 2021-22 which is in terms of Sections 18 and 19 of the Limitation Act, 1963, read with Article 137 of the Schedule to the said Act, and thus, a fresh period of limitation of 3 years commenced each time the Corporate Debtor acknowledged its debt. Reliance is placed upon Hon'ble Supreme Court's verdict in the matter of **Asset Reconstruction Company (India) Limited vs. Bishal Jaiswal & Anr., Civil Appeal No. 323 of 2021**.

- i. The Ld. Counsel for the Petitioner/Financial Creditor also placed reliance upon the Hon'ble NCLAT's order in the matter of ***Bannari Amman Spinning Mills Ltd. vs. My Choice Knit & Apparels Pvt. Ltd., Company Appeal (AT) (Insolvency) No. 513 of 2019***, wherein it was observed by the Hon'ble NCLAT that there is no provision under the Code, which stipulates that a corporate debtor which is an MSME does not come within the purview of the Code or an application under Section 7 or 9 or 10 of the Code is not maintainable against the corporate debtor.
 - ii. It was also argued by the Ld. Counsel for the Petitioner/Financial Creditor that the present petition was filed on 17.10.2019 much prior to the notification, which enhanced the threshold limit from Rupees One lakh to Rupees One crore. Reliance is placed on the Hon'ble NCLAT's order in the case of ***Jumbo Paper Products vs. Hansraj Agrofresh Pvt. Ltd., Company Appeal (AT) (Ins) No. 813 of 2021***. Further, to corroborate it's claim, the Ld. Counsel for the Financial Creditor/Petitioner has filed record of default with Information Utility (attached as Annexure-C).
7. Opposing the contentions of the Ld.Counsel for the Petitioner/Financial Creditor , the Ld. Counsel for the Corporate Debtor argued that the account of a MSME could not be declared NPA without referring the same to the Statutory Committee provided under the Scheme and Framework

for Revival and Rehabilitation of Micro, Small, and Medium Enterprises Scheme”, notified on 17.03.2016.

- i. The Ld. Counsel for the Corporate Debtor further argued that proceedings under IBC are not recovery proceedings because the Hon'ble High Court had only granted PNB (the largest creditor) the right of recovery in the writ petition it filed.
 - ii. Lastly, the Ld. Counsel for the Corporate Debtor concluded by stating that the date of default and amount mentioned in Part IV of the application are 04.09.2017 and Rs. 54,48,035.19, and the arbitral award dated 06.07.2018 allowed only Rs. 28,18,039/- as on 24.10.2017. Hence, the petition deserves dismissal on this ground.
8. We have heard the Ld. Counsels for both parties. Since the registered office of the Corporate Debtor is situated in the state of Punjab, this Adjudicating Authority has jurisdiction over the matter.
9. Having heard the Ld. Counsels for both the parties and after a careful perusal of the facts and circumstances of the case and the record, the following issues arise for adjudication:
- i. The first issue is whether the petition filed is within the period of limitation.
- The date of default relied on in Part IV of the petition is 25.10.2017, which is the date when the Notice of Termination cum Arbitration Notice for Recall of Loan Agreement was issued. As per the Record of

the Information Utility as on 30.06.2021, the date of default is 04.09.2017, and the amount in default is Rs. 1,00,16,571/-. However, the Petitioner, in its Compliance Affidavit dated 27.11.2019 filed vide diary no. 6653, stated that the date of default is 04.09.2017, besides other dates when the ECS mandate presented bounced on presentation. Since the petition was filed on 17.10.2019, we find it well within the period of limitation.

Furthermore, the Corporate Debtor has duly acknowledged its debt in the Balance Sheet for the years 2021-2022 (Annexure A-B).

- ii. The next moot issue for due consideration is whether CIRP can be initiated against an MSME Company in view of the Framework for Revival and Rehabilitation of Micro, Small, and Medium Enterprises Scheme.

It is argued by the Ld. Counsel for the Corporate Debtor that the bank cannot declare the account of the Corporate Debtor as NPA in view of the Framework for Revival and Rehabilitation of Micro, Small, and Medium Enterprises Scheme, duly notified on 17.03.2016. However, this issue has been settled by the Hon'ble High Court of Kerala in the matter of ***N. P. Abdul Nazer vs. Union Bank of India & Anr., in O.P. (Crl) No. 288 of 2023*** order dated **22.08.2023**, where the same notification was under consideration, and just like in the present matter, the action of the Bank under the

SARFAESI Act 2002 was sought to be resisted on the basis of non compliance with the said notification. The learned single Judge of the Kerala High Court, after considering the said notification, held that the failure of the banks to abide by the terms of the framework provided under the said notification cannot be considered fatal. It is further held that the said framework does not have a mandatory character. The relevant portion of this decision reads thus:

"17. Obviously, the procedure stipulated in the notification applies only before declaring an account as an NPA and not after. The date of registration as an MSME assumes significance in this context. Concededly, there is no retrospective validation for the registration, and petitioner has not produced any other certificate of registration other than Ext.P7. As registration of M/s.Panakkad Agencies as an MSME was only on 02.04.2023 i.e. after the filing of the original petition itself, the benefit, if any, under the Framework can be claimed, if at all eligible, only thereafter and not before.

18. The benefit, if at all any, that flows from the Framework provided under the notification of 2015 cannot, therefore, be applicable or claimed by the firm or by the petitioner since the account was declared as an NPA as early as 27-12-2019.

19. Apart from the above, on a reading of clause 1 of the Framework issued under the MSME Act, it can be seen that it is only an optional framework available to the bank and the borrower. The said framework in the notification cannot prevail over the statutory provisions of the SARFAESI Act in the matter of recovery of loans. As per Section 24 of the MSME Act, only the provisions of Sections 15 to 23 are given precedence over other laws. Section 9 or the notifications issued thereunder cannot prevail over the statutory provisions of the SARFAESI Act. In the decision in Kotak

Mahindra Bank Limited v. Girnar Corrugators Private Limited and Others [(2023) 3 SCC 210], it has been held that the SARFAESI Act will prevail over the MSME Act.

20. Even if a harmonious construction is to be adopted, as argued finally by the learned counsel, failure to abide by the terms of the notification of 2015 cannot render the declaration of the account as NPA void or bad in law. The words in the notification do not provide for a mandatory procedural requirement. No consequence is provided for non-compliance with the Framework. The notification only gives an opportunity for the Bank to identify incipient stress accounts and provide means to MSME's also to apply before its inability to pay debts or the accumulated losses of the enterprise equals to half or more of its entire net worth. The Framework does not, under any circumstances whatsoever, give it a mandatory character. The nature of the Framework is all the more glaring since even the enterprises have been given an opportunity to voluntarily initiate the procedure under the Framework by applying for it. Hence the failure of the Banks to abide by the terms of the Framework cannot be condemned as fatal. The terms of the Framework do not convey a meaning that it was intended to transform that procedure into a dominant desideratum.

(Emphasis Supplied)

The same was upheld by the Hon'ble High Court of Bombay in its judgment dated 12.01.2024 in the case **of A. Navinchandra Steels Pvt Ltd vs Union Of India, Writ Petition No. 4620 of 2022.**

Thus, in the case in hand, Respondent/Corporate Debtor cannot take shelter under the provisions of MSME Act to avoid insolvency proceedings under Section 7 of the Act.

- iii. The third issue for consideration is whether any relationship exists between the Petitioner/Financial Creditor and the machinery suppliers since the loan amount was disbursed directly to them. In the Compliance Affidavit dated 12.02.2024 filed vide diary no. 01250/10 by the Petitioner/Financial Creditor, it is mentioned that as per the Loan Agreement, the loan was disbursed through cheques to the vendors from which the Corporate Debtor purchased the machinery, after adjusting collateral money, processing fees, and other charges as mentioned in Clause 2.6 of the Loan Agreement:

“Clause 2.6 Mode of Disbursement:

2.6.1. INTEC may disburse the Loan directly to the Borrower or may make payment to the Asset Provider or any other person, as may be directed by the Borrower, in such manner as may be determined by INTEC.

2.6.2. INTEC may deduct from sums to be lent to the Borrower any monies then remaining due and payable by the Borrower to INTEC. The sums so deducted or adjusted shall be deemed to be disbursements made by INTEC.

2.6.3. In the event, payments are directly made to the asset provider or any other person as directed by the borrower, all such payment shall be deemed to be disbursement under this agreement.”

However, the tax invoices (Annexure-2) raised by the machine suppliers mention the name of the Corporate Debtor as its client/customer/consignee, which further clarifies the hypothecation right with the Petitioner Company. One of the

suppliers, Dairy Tech India, issued a disbursement letter dated 08.08.2014 (marked as Annexure-4 to the Compliance Affidavit dated 12.02.2024) to the Petitioner/Financial Creditor on behalf of its client (Corporate Debtor) stating that they would first disburse 100% of the loan payment to the supplier company, and thereafter they would dispatch the machinery.

Thus, it can be safely concluded that there is no relationship between the Petitioner/Financial Creditor and the machine suppliers, as there is no privity of contract between them.

- iv. The next issue is whether there was a debt disbursed to the Corporate Debtor and it defaulted in the payment of the same.

It is evident from the Loan cum Hypothecation Agreements dated 31.07.2014 that an agreement was entered into between the parties, stipulating the terms and conditions of the entire transaction. Further, the sanction letter dated 22.07.2014 is also duly signed by both parties. The tax invoices issued by the machinery providers under the said agreement also mention the name of the Corporate Debtor as their client, even if the amount was directly granted to the machinery providers by the Petitioner/Financial Creditor. Due consideration of the said tax invoices, along with a reading of clause 2.6 of the said agreement mentioned above, establishes that debt was disbursed to the Corporate Debtor.

Moreover, the Corporate Debtor, in its balance sheet for the accounting year 2021-2022 has acknowledged its debt liability towards Petitioner/Financial Creditor. Further, the record of the Information Utility (Annexure-C of the written submissions) placed on record is a cogent and convincing evidence of the default of the Corporate Debtor in payment of the debt.

- v. Another issue for consideration is whether the order passed by the Hon'ble High Court of Punjab and Haryana in CWP-27614-2019 for recovery proceedings only is binding upon this Adjudicating Authority.

It is pertinent to note that CM-8256-CWP-2023 was preferred by the Petitioner/Financial Creditor seeking clarification of the order passed by the Hon'ble High Court where status quo was issued only against the PNB. The Hon'ble High Court, in its order dated 26.05.2023 passed in CM-8256-CWP-2023, clarified that the interim order dated 26.09.2019 shall not be construed in any manner as a benefit granted to the petitioner (Corporate Debtor in the present case) for stalling the recovery by Respondent No.4 (Petitioner/Financial Creditor) in accordance with law.

The relevant part of the said order reads as below:

“In such circumstances, after going through the interim order passed by the co-ordinate Bench, we are of the considered opinion that the relief as such was primarily against the bank. Therefore, we clarify the said order dated 26.09.2019 that the

interim order shall not be construed in any manner as a benefit granted to the petitioner for stalling the recovery by respondent No.4 in accordance with law.

Accordingly, application stands allowed.”

Thus, the petition preferred by the Petitioner/Financial Creditor under Section 7 of the Code before this Adjudicating Authority is maintainable as the status quo was ordered against PNB only, not against the Petitioner/Financial Creditor.

10. In view of the above-mentioned discussion, we find that the Petitioner/Financial Creditor has been able to establish the debt and default of the debt of Rs. 54,48,035.19/- (Rupees Fifty Four Lacs Forty Eight Thousand and Thirty Five only) by the Corporate Debtor beyond doubt.
11. In the given facts and circumstances, the present application is complete and is, therefore, admitted in terms of Section 7(5) of the IBC, and accordingly, the Moratorium is declared in terms of Section 14 of the Code. As a necessary consequence of the Moratorium in terms of Section 14(1) (a), (b), (c) & (d), the following prohibitions are imposed, which must be followed:
 - 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.
- e. It is further directed that the supply of essential goods or services to the corporate debtor, as may be specified, shall not be terminated, suspended, or interrupted during the moratorium period. The provisions of Section 14(3) shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.
- f. The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan

under sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33, as the case may be.

12. As proposed by the Petitioner, this Bench appoints Mr. Anurag Nirbhaya, as IRP having Registration IBBI/IPA-001/IP-P00870/2017-2018/11468 , Email: anurag@canirbhaya.com, Mobile No. 9810382513, whose antecedents of the proposed IRP have been verified by the Legal Research Associate of this Adjudicating Authority, with the following directions:-

- i. The term of appointment of Mr. Anurag Nirbhaya, shall be in accordance with the provisions of Section 16(5) of the Code;
- ii. In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the

Corporate Debtor, etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of the inventory of assets of the Corporate Debtor;

- iii. The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government, and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and morals;
- iv. The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;
- v. It is hereby directed that the Corporate Debtor, its Directors, personnel, and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor

as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;

- vi. The Suspended Board Of Directors is directed to give complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act. In case the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. The statutory auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and

Assurance Standards Board ICAI. The IRP/Resolution Professional is directed to take possession of the Books of Account in physical form or the computer systems storing the electronic records at the earliest. In case of any non-cooperation by the Suspended Board of Directors or the statutory auditors, he may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order for retrieval of relevant information from the systems of the corporate debtor, the IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances. The Interim Resolution Professional is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.

- vii. The Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with requests for information/documents

available with those authorities/ institutions/ others pertaining to the corporate debtor which would be relevant in the CIR proceedings. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the Resolution Professional to enable him to conduct the CIR Proceedings as per law.

viii. The Interim Resolution Professional shall, after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor, constitute a Committee of Creditors and shall file a report, certifying the constitution of the Committee, to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene the first meeting of the Committee within seven days of filing the report of the constitution of the Committee; and

ix. The Interim Resolution Professional is directed to send a regular progress report to this Tribunal every fortnight.

13. The Petitioner/Financial Creditor is directed to deposit Rs. 2,00,000/- (Two Lakhs) only with the IRP to meet the immediate expenses in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. .

The amount, however, will be subject to adjustment by the Committee of Creditors as to be duly accounted for by IRP and shall be paid back to the Petitioner.

14. A copy of this Order shall immediately be communicated to the Petitioner ARC, the Corporate Debtor Company, and the IRP named above, by the Court Officer/Registry of this Tribunal.
15. The petition is **admitted** for CIRP of the Corporate Debtor and is **disposed of** accordingly.

Sd/-

(L.N. Gupta)
Member (Technical)

Sd/-

(Harnam Singh Thakur)
Member (Judicial)

May 31 , 2024
ASG