



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

CP (IB) No. 53/KB/2024

A petition under section 7 of the Insolvency and Bankruptcy Code, 2016, and Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

In the matter of:

Small Industries Development Bank of India

...Financial Creditor

Versus

J. Khetsidas Machine Tool Works Private Limited
[CIN: U29100JH2014PTC001916]

...Corporate Debtor

Date of Hearing: 22.01.2025

Date of pronouncement: 31.01.2025

Appearances (through video conferencing):

For the Financial Creditor : Mr. A. Singhi, Advocate
: Ms. R. Basu, Advocate
: Ms. P. Pan, Advocate
: Mr. A. Shwa, Advocate

For the Corporate Debtor : Mr. Sreyash Kr. Singh, Advocate

Coram:

Smt. Bidisha Banerjee : **Member (Judicial)**
Shri Sameer Kakar : **Member (Technical)**

ORDER

Per Bidisha Banerjee, Member (Judicial)

1. This Court convened through hybrid mode.
2. This is a Company Petition filed under section 7 of the Insolvency and Bankruptcy Code, 2016 by Small Industries Development Bank of India,



represented by **Shri Ram Kumar**, authorized *vide* a Letter of Authorization dated 10.08.2023¹ seeking to initiate Corporate Insolvency Resolution Process (“CIRP”) against **J. Khetsidas Machine Tool Works Private Limited (“Corporate Debtor”)**.

3. It is submitted that Part –I of this petition contains particulars of the Financial Creditor. Part-II of this petition contains particulars of the Corporate Debtor.
4. Part –IV of the Petition contains details financial debt for an amount of Rs.4,94,01,445.67/- (Rupees Four Crore Ninety Four Lakh One Thousand Four Hundred Forty Five and Sixty Seven Paisa only) as on 10.12.2023.
5. The Corporate Debtor was incorporated on 25 January 2014, having CIN: U29100JH2014PTC001916, under the Companies Act, 1956. Its registered office is at Manjhiladhi Gadi Srirampur, Giridih, Jharkhand-815301. Therefore, this Bench has jurisdiction to deal with this petition.
6. The present petition was filed on 13 February 2024 before this Adjudicating Authority on the ground that the Corporate Debtor has defaulted to make a payment of a sum of Rs.4,94,01,445.67/- (Rupees Four Crore Ninety Four Lakh One Thousand Four Hundred Forty Five and Sixty Seven Paisa only) as on 10.12.2023

Brief facts of the case:

7. The Financial Creditor i.e., Small Industries Development Bank of India (for brevity "SIDBI") had granted various credit facilities to the Corporate Debtor from time to time. A table evidencing the same is reproduced below:

Nature of facility	Amount Sanctioned (in Rs.)	Particulars of the facility
Term Loan	300,00,000/-	Vide letter of Intent dated 17.12.20219

¹ Annexure A of the Petition



Working Capital Loan (EGCLGS-TWARIT)	60,00,000/-	Vide sanction letter dated 17.06.2020
Funded Interest Term Loan (FITL)	11,00,813/-	Due to restructuring of assistance in view of Covid-19 pandemic
Total	3,71,00,813/-	

8. The Corporate Debtor had given security by executing various security documents against the said credit facilities but the Corporate Debtor had defaulted in repaying the same and as a result of failure to pay the outstanding dues, the account of the Corporate Debtor was classified as a Non-Performing Asset (for brevity 'NPA') on 16.03.2021.
9. The Financial Creditor has issued a Recall cum Demand Notice under Section 38 of the SIDBI Act on 12.05.2021². A Letter for Invocation of Guarantee was issued on 13.10.2022. Also a demand notice under Section 13(2) of the SARFAESI Act, 2002 was issued on 16.03.2023.
10. The Corporate Debtor vide an email dated 29.07.2023³ had proposed for a One Time Settlement offer for Rs.1,25,00,000 (Rupees One Crore Twenty Five Lakh Only) but the same was rejected by the Financial Creditor vide a letter dated 18.08.2023.⁴
11. Notice was issued by this Tribunal on 26.08.2024. Despite opportunity, no reply was filed by the Respondent.
12. On 18.09.2024, the Corporate Debtor had submitted before this Adjudicating Authority that talks of settlement were underway between the parties, however on 05.12.2024 it was informed that talks of settlement have failed between the parties.

² Annexure-R of the Petition

³ Annexure-Y of the Petition

⁴ Annexure-Z of the Petition



13. The Master Ledger for accounts of the Corporate Debtor showing amount and interest due as on 10.12.2023 has also been annexed to the application and has been marked as **Annexure-F**.

Analysis

14. Heard the Ld. Counsel appearing for both the parties and perused the records.

15. The Corporate Debtor had initially submitted that talks of settlement were going on between the parties but on 05.12.2024 it was informed by the Financial Creditor that talks of settlement did not fructify. Therefore, this Adjudicating Authority had directed them to file an affidavit to such effect. A physical copy of the Affidavit recording the statement has been filed on 21.01.2025. Despite entering appearance through a Counsel in the present matter, no reply has been filed by the Corporate Debtor till date to refute or contradict the statements of the Financial Creditor.


16. From the submission made by the parties and the documents on record, we are satisfied that the two elements i.e., debt and default essential for admitting the application stands established. (a) the email dated 29.07.2023 by the corporate Debtor in our view is testimony of admission by the Corporate Debtor that there exists a debt of over Rs.1 Crore and which is in default. (b) the Applicant has attached record of default with IU at page no. 83 which is in DISPUTED status. Therefore, we find that the present petition filed by the Financial Creditor is complete in all respects, it is filed within limitation, the threshold is met and accordingly the petition deserves to be **admitted**.

17. In the light of the enumerations above on facts, record and law, we order as follows: -

- a. The application bearing **CP (IB) No. 53/KB/2024** filed by Small Industries Development Bank of India, 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 J. Khetsidas Machine Tool Works Private Limited, the Corporate Debtor, is hereby **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, as the case may be.
- 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.
- e. **Mr. Subodh Kumar Agarwal**, registration number IBBI/IPA-001/IP-P00087/2017-2018/10183, **email:** subodhka@gmail.com, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the 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 Code.
- f. During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, 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. There shall be no future opportunities in this regard.
- g. The Interim Resolution Professional is expected to take full charge of the Corporate Debtor, its assets and its documents without any delay whatsoever. He is also free to take police assistance in this regard, and this



Court hereby directs the concerned Police Authorities 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 with regard to 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 Three Lakhs 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, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order.
 - k. Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, 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.
18. **CP (IB) No. 53/KB/2024** to come up on **06.03.2025** for filing the periodical report.
19. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

(Sameer Kakar)
Member (Technical)

(Bidisha Banerjee)
Member (Judicial)

This order is pronounced on the 31st day of January, 2025.

(FA_LRA)