

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

**C.P (IB) No. 409/KB/2021**

*A Petition under section 7 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:*

**State Bank of India**

*...Financial Creditor*

*Versus*

**Hardrock Attachments Private Limited** (CIN: U50103JH2008PTC013126), a Company incorporated under the Companies Act, 1956 having its registered office at 17, Circuit House Area, [East] Near S.B.I. Bistupur, Jamshedpur – 831001..

*...Corporate Debtor*

**Date of Hearing: 01 December 2022**

**Date of pronouncing the order : 02 December 2022**

**Coram:**

***Shri Rohit Kapoor***

***: Member (Judicial)***

***Shri Balraj Joshi***

***: Member (Technical)***

**Appearances (through Video Conferencing/physical)**

- |                                   |                          |
|-----------------------------------|--------------------------|
| 1. Mr. Soumya Roy Advocate        | } For Financial Creditor |
| 2. Mr. Santosh Mahato, Advocate   | }                        |
| 3. Mr. Subhrojyoti Util, Advocate | }                        |

- |                                     |                        |
|-------------------------------------|------------------------|
| 1. Ms. Manju Bhuteria, Advocate     | } For Corporate Debtor |
| 2. Mr. Urmila Chakraborty, Advocate | }                      |
| 3. Mr. Arnab Dutta, Advocate        | }                      |
| 4. Ms. Labani Dey, Advocate         |                        |

**ORDER**

***Per Rohit Kapoor, Member (Judicial)***

1. The Court convened *via* hybrid mode.
2. This is a Company Petition filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by Mr. Dilip Kumar Pathak, Chief Manager, State Bank of India (*'Financial Creditor'*), duly authorised *vide* Letter of Authority dated 16 June, 2017<sup>1</sup> for initiation of Corporate Insolvency Resolution Process (*'CIRP'*) against Hardrock Attachments Private Limited (*'Corporate Debtor'*).
3. The present Petition was filed on 05 December, 2021 before this Adjudicating Authority on the ground that the Financial Creditor has disbursed a sum of Rs.34,76,00,000/- (Rupees Thirty Four Crore Seventy Six Lakh only) to the Corporate Debtor under various facilities (*'facilities'*). However, the Corporate Debtor has defaulted in payment of the principle amount including interest i.e., Rs.64,55,80,125.70 (Rupees Sixty Four Crore Fifty Five Lakh Eighty Thousand One Hundred Twenty Five and Seventy Paise only) as on 31 October, 2021, to the Financial Creditor. The date of default is stated to be **28 December, 2013**.
4. It is submitted in the Petition, Part – II that the authorised share capital of the Corporate Debtor is Rs.5,00,00,000/- (Rupees Five Crores only) with paid up Capital as Rs.4,81,90,000/- (Rupees Four Crore Eighty-One Lakh Ninety Thousand only).

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<sup>1</sup>Annexure – B of the Petition.

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5. *Vide* order dated 18 May 2022, this Adjudicating Authority had rejected the Company Petition on the ground of limitation.
6. The order of 18 May 2022 was appealed by the Financial Creditor before the Hon'ble NCLAT who was pleased to set aside the order dated 18 May 2022 by this Adjudicating Authority *vide* its detailed judgment dated 31 October 2022. The Hon'ble NCLAT in its judgment at paragraph 31 directed this Adjudicating Authority to pass an order of admission and all consequential orders within a period of one month from the date of copy of the order is produced.
7. The operative portion of paragraphs 30 and 31 of the judgment of the Hon'ble NCLAT is reproduced hereunder:

***“30. In view of the foregoing discussion we allow this appeal and set aside the impugned order dated 18.05.2022.***

***31. We direct the Adjudicating Authority to pass an order of the admission and all consequential orders within the period of one month from the date of copy of the order is produced.”***

8. In view of the above direction of the Hon'ble NCLAT, **C.P (IB) No. 409/KB/2021** is hereby admitted.
9. In the light of the above facts and circumstances, it is, hereby ordered as follows:-
  - a. The application bearing **CP (IB) No. 409/KB/2021** filed State 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

*Hardrock Attachments Private 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, 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. Daulat Ram Jain**, registration number IBBI/IPA-001/IP-P00945/2017-2018/11565, email id. [daulatjain@rediffmail.com](mailto:daulatjain@rediffmail.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 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, email and WhatsApp immediately, and in any case, not later than two days from the date of this Order.

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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.

**10. CP (IB) No. 409/KB/2021** to come up on **05 January 2023** for filing the periodical report.

**11.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**Balraj Joshi**  
**Member (Technical)**

**Rohit Kapoor**  
**Member (Judicial)**

The Order is pronounced on 2<sup>nd</sup> day of December, 2022

GGRB\_LRA