



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. I  
KOLKATA**

**C.P. (IB) NO. 15/KB/2025**

**An Application under Section 7(1) of the Insolvency and Bankruptcy  
Code, 2016**

**IN THE MATTER OF:**

**M/s. Bisco Metal & Power Private Limited**

**... Financial Creditor**

**Versus**

**M/s. Sova Stores & Spares Private Limited**

**... Corporate Debtor**

**Date of Pronouncement of Order: 29<sup>th</sup> April, 2025**

**Coram:**

**Smt. Bidisha Banerjee, Member (Judicial)**

**Shri. Cmde Siddharth Mishra, Member (Technical)**

**Appearance:**

**For the Financial Creditor: Ms. Urmila Chakraborty, Adv.  
Ms. Ranjana Seal, Adv.**

**For the Corporate Debtor: Ms. Rashmi Singhee, Adv.  
Ms. Divya Baid, Adv.**

**ORDER**

**Per: Bidisha Banerjee, Member (Judicial)**

- 1. The Court congregated through hybrid mode.**
- 2. The Ld. Counsels of both the parties were heard.**

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3. The instant Application has been filed by **M/S. Bisco Metal & Power Private Limited**, hereinafter referred to as the '**Financial Creditor/FC**' against **Sova Stores and Spares Private Limited**, hereinafter referred to as the '**Corporate Debtor/ CD**' under Section 7 of the Insolvency and Bankruptcy Code, 2016, for brevity, '**I&B Code**' to initiate Corporate Insolvency Resolution Process, '**CIRP**' in short against M/s. Sova Stores & Spares Private Limited.

**FACTS OF THE CASE**

4. The CD i.e Sova Stores & Spares Private Limited has been sanctioned an unsecured loan of Rs. 3.50 crore by FC i.e Bisco Metal & Power Private Limited.
5. The FC had disbursed the Sum of Rs. 3,41,50,000/-on various dates and monthly receipts dated 01-08-2022, 01-09-2022, 01-10-2022, 01-11-2022, 01-12-2022, 02-01-2023, 01-02-2023, 01-03-2023, 01-04-2023, 02-05-2023, 01-06-2023 were issued by the CD confirming the disbursement by the FC to the CD.
6. The FC had intimated the CD that outstanding debt of Rs. 1,31,69,380/- along with interest @18% p.a has fallen due on 01-01-2024 and requested them to make such payment immediately.
7. The FC issued a number of letter to repay the due amount. The CD vide letter dated 10.05.2024 and 10.08.2024 requested for extension of time. After this default, the FC issued demand notice on **10.12.2024**. The instant petition under Section 7 has been filed on 09.01.2025.

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**SUBMISSIONS OF THE LD.COUNSEL ON BEHALF OF THE FINANCIAL CREDITOR**

**8.** It is submitted that the CD approached the FC for a business loan of Rs. 3.50 Crore vide letter dated 06.06.2022. A copy of business loan request via letter dated 06.06.2022 and offer letter dated 25.06.2022 is annexed collectively to the petition and marked as **Annexure C**.

**9.** That the FC and CD entered into a loan Agreement dated 01.07.2022 for loan up to Rs. 3.50 Crore in the form of Unsecured Loan @18% p.a. A copy of the said Loan Agreement dated 01.07.2022 is annexed to the petition as **Annexure D**.

**10.** It is submitted that the sanctioned loan of Rs. 3.50 crore was to be disbursed at the request of CD and transactions would be confirmed by CD issuing proper receipts on monthly basis against disbursement made in previous month. The terms and conditions of the said Loan agreement were duly accepted and agreed to by the Corporate Debtor. A copy of Loan Receipt letter dated 01-08-2022, 01-09-2022, 01-10-2022, 01-11-2022, 01-12-2022, 02-01-2023, 01-02-2023, 01-03-2023, 01-04-2023, 02-05-2023, 01-06-2023 are annexed as **Annexure E**.

**11.** That the FC vide its letter dated 02.01.2024 on completion of agreement period informed the CD about the balance outstanding amount. On failure to pay the amount, the FC vide letter dated 15.02.2024 and 05.04.2024 demanded repayment of loan amount with interest and penal charges. A copy of said letters dated 02.01.2024, 15.02.2024 and 05.04.2024 are annexed as **Annexure F**.

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**12.** That the CD vide letter dated 10.05.2024 requested the FC to extend time by 3 Months to repay the loan. A copy of letter dated 10.05.2024 is annexed as **Annexure G.**

**13.** Corporate Debtor vide letter dated 10.08.2024 again requested the Financial Creditor to extend time by another 2 Months to repay the loan. A copy of letter dated 10.08.2024 is annexed as **Annexure H.**

**14.** The FC vide letter dated 20.10.2024 requested again for repayment of loan along with Interest and Penal Charges. A copy of letter dated 20.10.2024 is annexed as **Annexure I.**

**15.** The FC issued a demand notice demanding unpaid financial debt due from Corporate Debtor vide letter dated 10.12.2024. The repayment is still due. A copy of letter dated 10.12.2024 is annexed as **Annexure J.**

**SUBMISSIONS OF THE LD. COUNSEL ON BEHALF OF THE CORPORATE DEBTOR**

**16.** That the loan availed by the CD was deployed and/or invested in its business activities and due to economic recession and losses in investment made the said loan could not be repaid.

**17.** That the condition of economy deteriorated for past several years, which has halted and hampered the progress of the business of CD and companies with whom the CD had done business. Unfortunately the CD has not been able to meet its commitments and liabilities.

**18.** That the CD has repaid loan worth Rs.2,09,80,620/-out of Rs.3,41,50,000/- which shows there was intention to repay, however

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because of factors beyond its control it could not meet all its liabilities. A copy of the Working Tabular is marked as **Annexure "A"**.

**19.** That there has not been any intentional default on the part of the CD and alleged payment couldn't be made by reason of deterioration of the business of the CD. A Copy of the letter asking for time to repay the due amount is already annexed by the financial Creditors is annexed and marked as **Annexure "B"**.

**20.** We have heard the Ld. Counsels and perused the documents on record.

**ANALYSIS AND FINDINGS**

**21.** We find that a loan agreement was entered into between the FC and the CD wherein the FC has disbursed an amount of 3.5 crores for business purpose with the condition that repayment of the said amount has to be complete within 31.12.2023 with an interest rate of 18% p.a along with the principal amount and a late fee @3% p.a on overdue amount which is to be effective from 01.01.2024. Reference can be drawn from '**Annexure D**'.

**22.** The terms and conditions of the loan agreement was duly accepted by the CD and the fact that the amount was duly acknowledged is evident from copy of Loan Receipt letter dated 01-08-2022, 01-09-2022, 01-10-2022, 01-11-2022, 01-12-2022, 02-01-2023, 01-02-2023, 01-03-2023, 01-04-2023, 02-05-2023, 01-06-2023 as evident from **Annexure E**.

**23.** It is evident from Annexure F that the FC vide its letter dated 02.01.2024, 15.02.2024 and 05.04.2024 informed the CD regarding repayment of loan amount with interest.

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**24.** We find that on two occasions the CD had requested for extension of time for repayment of the loan amount. Firstly on 10.05.2024 for 3 months extension of time and a failure on which another letter was issued on 10.08.2024 by the CD seeking extension of time by another 2 months. Reference is made to **Annexure G and H**. Thus the CD has in fact admitted its inability to repay the debt in no uncertain terms. The admission is unequivocal.

**25.** It is evident that the CD has failed to repay the loan amount even after expiry of the time requested for extension and hence the FC has again requested for repayment of the loan amount vide its letter dated 20.10.2024.

**26.** On failure on the part of the CD to repay the loan amount, a demand notice dated 10.12.2024 was also served by the FC.

**27.** At this juncture, we would like to refer to the decision of the Hon'ble Supreme Court of India in **Innoventive Industries Ltd. v. ICICI Bank reported in (2018) 1 SCC 407** wherein the Hon'ble Apex Court has observed that the moment the "debt" is due and "default" on part of the corporate debtor is satisfied, the application must be admitted. The Hon'ble Apex Court has held 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*

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is satisfied that a default has occurred, the application must be admitted unless it is incomplete, ...”

**28.** Reference is also made to the decision in ***Indus Biotech Private Limited v. Kotak India Venture (Offshore) Fund*** reported in **(2021) 6 SCC 436**: it was held 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...”*


**29.** We find that in the instant case, there is an existence of financial debt and the application has been filed within the limitation period. In view of the discussions extracted above, we admit Section 7 application bearing Company Petition (IB) No. 309/KB/2020 and order the initiation of Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor by the following Orders:

**30.** Accordingly, we order the initiation of Corporate Insolvency Resolution Process (CIRP) in respect of the Corporate Debtor by the following orders:

- i. The Application filed by M/s Bisco Metal and Power Limited (Financial Creditor), under Section 7 of the Insolvency & Bankruptcy Code, 2016, is hereby, **admitted** for initiating the Corporate Insolvency Resolution Process in respect of M/s Sova Stores and Spares Private Limited (Corporate Debtor).

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ii. As a consequence of this Application being admitted in terms of Section 7 of the I&B Code, moratorium as envisaged under the provisions of Section 14(1) of the Code, shall follow in relation to the Respondent/(CD) 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. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016, prohibits the following, as:

a) The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment decreor 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 asset 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 underthe Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

[Explanation.--For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time beingin force, a license, permit, registration, quota, concession, clearances or asimilar grant or right given by the Central Government, State Government,local authority, sectoral regulator or

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any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;]


iv. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.

v. The provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

vi. The Applicant has proposed the name of Tripti Agarwal [Registration no: IBBI/IPA-001/IP-P02809/2023-24/14316, phone no. 9674322724 as the “IRP”. We have perused that there is a written communication, annexed as Annexure B, to the Application 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 her that there are no disciplinary proceedings pending against her with ICAI Institute of Insolvency Professionals. In addition, further necessary disclosures have been made by “Tripti Agarwal” as per the requirement of the IBBI Regulations. Accordingly, she satisfies the requirement of the Section 7(3)(b) of the code. Hence, we appoint Tripti Agarwal 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

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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.

vii. In pursuance of Section 13 (2) of the Code, we direct the IRP or the RP, as the case shall cause a public announcement immediately with regard to the admission of this application under Section 7 of the Code and call for the submission of claims under Section 15 of the Code. The public announcement referred to in Clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016, shall be made immediately. 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.

viii. During the CIRP period, the management of affairs 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.

ix. 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.

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x. 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.

xi. The Financial Creditors shall be liable to pay to IRP a sum of Rs. 3,00,000-/- (Rupees Three Lakh Only) as payment of his fees as advance, as per Regulation 33(3) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, which amount shall be adjusted at the time of final payment. The expenses relating to the CIRP are subject to the approval of the Committee of Creditors (CoC).

xii. In terms of sections 7(5) and 7(7) of the Code, the Registry of this Adjudicating Authority is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the Interim Resolution Professional by Speed Post and through email immediately, and in any case, not later than two days from the date of this Order.

xiii. Additionally, the Registry of this Adjudicating Authority shall serve a copy of this Order upon the Insolvency and Bankruptcy Board of India (IBBI) for their record and also upon the Registrar of Companies (ROC), West Bengal, Kolkata 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.

xiv. The Resolution Professional shall conduct CIRP in time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.

xv. The IRP/RP shall be liable to submit the periodical report including the minutes of the CoC of the Corporate Debtor, with regard to the

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progress of the CIRP in respect of the Corporate Debtor to this Adjudicating Authority time to time.

xvi. The order of moratorium shall cease to have effect as per Section 14(4) of the I&B Code.

**31.** The certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

**32.** Post the matter on 09.06.2025 for filing the Periodical Progress Report by the IRP/RP.

**Cmde Siddharth Mishra  
Member (Technical)**

**Bidisha Banerjee  
Member (Judicial)**

**This Order is signed on this, the 29<sup>th</sup> Day of April, 2025**

Oindrila, K. (LRA)