



NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.201
CP(IB)/16(MP)2024

Order under Section 7 IBC

IN THE MATTER OF:

Punjab National Bank

V/s

M/s Shree Uttam Food Products (India) Pvt Ltd

.....Applicant

.....Respondent

Coram:

Hon'ble Shri Brajendra Mani Tripathi, Member (J)

Hon'ble Shri Man Mohan Gupta Member (T)

PRONOUNCEMENT OF ORDER
Delivered on 05/12/2025

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

MAN MOHAN GUPTA
MEMBER (TECHNICAL)

Sd/-

BRAJENDRA MANI TRIPATHI
MEMBER (JUDICIAL)



THE NATIONAL COMPANY LAW TRIBUNAL
BENCH AT INDORE
CP(IB) No. 16 of 2024

[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]

Punjab National Bank

Head Office at:

Plot No.4, Sector 10, Dwarka,
New Delhi 110075

Branch Office at:

Circle SASTRA Branch, 20 Sneh Nagar,
Sapna Sangeeta Road,
Dist. Indore (M.P)-452001

... Applicant

Versus

M/s Shree Uttam Food Products Private Limited

[CIN: U15400MP2012PTC029466]

Flat No. 1, Bansi Plaza,
581, M.G. Road
Indore, (M.P) – 452001

... Respondent

C O R A M:

HON'BLE SH. BRAJENDRA MANI TRIPATHI, MEMBER (J)
HON'BLE SH. MAN MOHAN GUPTA, MEMBER (T)

Order Pronounced on 05.12.2025



Appearance:

For the Applicant : Ms. Shraddha Chaudhari, Adv a.w.

Ms. Himani Chauhan, Adv

For the Respondent : Mr. P. M. Chaudhari, Sr. Adv. a.w.

Mr. Anand Prabhawalkar, Adv

Ms. Yashi Maheshwari, Adv

ORDER

1. This Company Petition has been filed by Punjab National Bank (“Financial Creditor”), seeking to initiate Corporate Insolvency Resolution Process (CIRP) against M/s Shree Uttam Food Products Private Limited (“Corporate Debtor”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for having committed a default in payment of its outstanding debts amounting Rs.23,91,36,802/- as on 31st January, 2024 and penal interest. The date of default is stated to be 04.01.2020.
2. Perusal of Part-I of the Form-1 indicates that the Financial Creditor is a Bank/ Financial Institution. The Head office of the Financial Creditor is situated at Plot No. 4, Sector 10, Dwarka, New Delhi-110075. This petition has been filed through Chief Manager Shri Rajesh Kumar Thakur, who has been authorised by Power of Attorney dated 27.12.2011(Annexure-A3).



3. Perusal of Part-II of the Form-1 indicates that the Corporate Debtor is one M/s Shree Uttam Food Products (India) Private Limited having CIN No. U15400MP2012PTC029466. The registered office of the Corporate Debtor is situated at Flat No. 1 Bansi Plaza 581 MG Road, Indore, Madhya Pradesh – 462001.

4. Perusal of Part-III of the Form-1 indicates that the applicant has nominated Mr. Kuldeep Tank, Insolvency Professional, having Registration No. IBBI/IPA-001/IP 02776/2022-2023/14255 to act as Interim Resolution Professional (“IRP”). The proposed IRP has given written communication Form-2 dated 24.01.2024 as per the requirement of Rule 9(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (Annexure-A2) being AFA valid up to 06.02.2024. On perusal of IBBI website it was found that the AFA of the proposed IRP is valid up to 30.06.2026.

5. Perusal of Part-IV and Part-V of the Form-1 revealed that the Financial Creditor has placed the facts through this petition in the following manner:-
 - i. The Corporate Debtor is a corporate entity engaged in the operation of integrated cold chain facilities cum fruits and vegetables processing unit for value addition and natural preservation of fruits and vegetables and manufacturing/ processing of frozen, freeze dried and mechanically dried fruits and vegetables.



- ii. It is stated that the respondent has submitted loan application form dated 15.12.2013 for financial assistance to the Applicant/Financial Creditor for the purpose of financing the Corporate Debtor's project for implementation of integrated cold chain facilities cum F&V processing unit at village Bamniya, Tehsil Petlawad, District Jhabhua at Madhya Pradesh.
- iii. The Applicant/ Financial Creditor sanctioned Term Loan of Rs. 1500 Lakhs and CC Limits to the tune of Rs. 500 Lakhs, vide Sanction letter dated 29.01.2014(Annexure-V).
- iv. The Applicant/ Corporate Debtor and its guarantors have executed following documents to secure the said credit limits:
- Letter of Acceptance dated 30.01.2014 (Annexure-A6).
 - The Board Resolution Regulation dated 30.01.2014 (Annexure-A7) along with the Letter of Undertaking dated 30.01.2014(Annexure-A8).
 - Agreement for Term Loan dated 04.03.2014 (Annexure-A9) for the repayment of Rs. 1500 Lakhs with interest 12%p.a.
 - Agreement of Hypothecation of goods and book debts to secure cash credit dated 04.03.2014 (Annexure-A10) for repayment of Rs. 500 Lakhs with interest at rate of 1.25% over/ below prevailing base rate.



- Hypothecation of goods to secure a demand cash credit/ working capital dated 04.03.2014 (Annexure-A11) for repayment of Rs. 500 Lakhs with interest at rate of 2% over/ below prevailing base rate.
 - Hypothecation of moveable assets forming part of fixed/ block assets dated 04.03.2014 (Annexure-A12) executed by Defendant No.1 for repayment of Rs. 2000 Lakhs with interest at rate of 02% over/ below prevailing base rate.
 - The Agreement of guarantee dated 04.03.2014 executed by guarantors of the Respondent/ Corporate Debtor (Annexure-A13).
 - Text to consent clause executed by the borrowers dated 04.03.2014 (Annexure-A15 and Annexure-A16).
- v. Further, a Term Loan (II) of Rs. 213 Lakhs and CC(ad-hoc) of Rs. 38 Lakhs was extended to the Respondent vide sanction letter dated 23.09.2019 (Annexure-A18).
- vi. The following documents were executed by Respondent to secure the extended credit facilities:
- Hypothecation of assets for repayment of Rs. 213 Lakhs with interest @12%p.a.(Annexure-A19).
 - Hypothecation goods to secure the cash credit/ working capital (ad-hoc) and securing repayment of Rs. 38 Lakhs with interest @2% over/ below prevailing base rate. (Annexure-A20).



- Restricting Agreement (Debtor Creditor Agreement) (Annexure-A21).
- vii. The Respondent/ Corporate Debtor has also deposited the title deeds of properties belongings to its guarantors to create mortgage of their immovable properties over the said assets. The Applicant has annexed the relevant sale deeds as Annexure-A22.
- viii. The Respondent/ Corporate Debtor failed to pay the dues on the respective due dates of the various facilities. In view of the persistent default, the account of the Borrower has become irregular and on dated 04.01.2020 finally classified as a Non-Performing Asset "NPA" in the books of the Bank in terms of the guidelines issued by the Reserve Bank of India from time to time.
- ix. The Applicant issued notice under section 13(2) of the SARFAESI Act to the Respondent on 07.01.2020 (Annexure-A27). However, the respondent failed to adhere to the demands made by the applicant.
- x. Consequently, The Financial Creditor on 31.01.2022 initiated recovery proceedings by filing Original Application No. 118 of 2022 before the Debt Recovery Tribunal, Jabalpur under the provisions of the Recovery of Debts and Bankruptcy Act, 1993.



The said Original Application is pending before Debt Recovery Tribunal, Jabalpur.

- xi. On account of default in repayment the applicant filed the present application before the Adjudicating Authority under section 7 of the IB Code for recovery of a default amount of Rs. 23,91,36,802/- on 30.01.2024.

Reply Submitted by Respondent:

6. The Respondent submitted reply on 25.11.2024 stating that the present application is barred by limitation. There are three different dates of default and three different amounts of Debt in default. It was additionally submitted that the Statement of Account is not supported by valid certificate(s) as required to prove the default.
7. The Respondent has submitted that Applicant has produced photocopy of the General Power of Attorney which has been executed before the date of promulgation of IB Code, 2016. After the reverse merger cum amalgamation of the Oriental Bank of Commerce into Punjab National Bank, the said General Power of Attorney ought to have been ratified in due consonance to the settled practice and procedure of IB Code, 2016 and thus the General Power of Attorney is not valid. The Affidavit in support of the petition is also overwritten/ tampered and forged. It was further submitted that the affidavit was sworn before an Oath commissioner which is not admissible in evidence as per the



provision of Order XIX of the CPC and lacks the essential ingredients of a valid affidavit.

8. The Respondent has stated that the Financial Creditor has auctioned three of the mortgage properties under the provisions of SARFAESI Act, 2002.

9. The Respondent has further submitted that Applicant/ Financial Creditor has relentlessly charged interest in the main operative account. The Applicant/ Financial Creditor has claimed the amount to be in default till 31.01.2024 which is in sheer defiance of law as one cannot claim interest after declaring the account of borrower as NPA.

Rejoinder Submitted by Applicant:

10. The Applicant submitted Rejoinder dated 27.11.2024 stating that the date of NPA is 04.01.2020, whereas the Original Application was filed on 30.01.2022 by the Applicant before the DRT, Jabalpur, which is still pending adjudication. Additionally, the Hon'ble Supreme Court of India vide order dated 10th January 2022 has excluded the period from 15th March 2020 till 28th February 2022, towards counting the limitation period. In the present case, the date of default is 4.01.2020 and the application under section 7 was filed on 9.03.2024, therefore the instant application is well covered under the limitation period. It was further submitted that there is no bar in the NCLT rules that



an affidavit cannot be sworn before an oath commissioner and this cannot be a justifiable ground for dismissal of present petition. The deponent Mr. Rajesh Kumar Thakur has further submitted that he has signed the entire application in its capacity of authorised officer of the Applicant/ Financial Creditor.

11. It is stated and submitted that a notification dated 04th March 2020 was Published in Gazette of India by Government of India while exercising power under section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), with regards to the Amalgamation of Oriental Bank of Commerce and United Bank of India into Punjab National Bank, pursuant to Punjab National Bank Scheme, 2020. The scheme in clause 4(8) provides as under:-

“(8) Unless otherwise expressly provided in this scheme, all contracts, deeds, bonds, agreements, power of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect, immediately before the commencement of this Scheme and to which Transferor Bank I or Transferor Bank 2 is a party or which are in favour of the Transferor Bank 1 or the Transferor Bank 2, shall be of full force and effect against or in favour of the Transferee Bank, and may be enforced or acted upon as fully and effectively as if in the place of the Transferor Bank 1 or the Transferor



Bank 2. the Transferee Bank had been a party thereto or as if they had been issued in favour of the Transferee Bank thereto and it shall not be necessary to obtain the consent of any third party or other person who is a party to any of the aforesaid instruments or arrangements to give effect to the provision of this sub-paragraph."

12. The contentions of the Corporate Debtor qua the auction proceeds receivables, the Applicant has stated that the account statements of Corporate Debtor reflects all such adjustment entries and is duly accompanied by the relevant certificate under the Bankers Book of Evidence Act as per due process.

The respondent has place reliance in the case of **M/s Innovative Industries Limited V/s ICICI Bank** and Others, Hon'ble Supreme Court of India has held that: -

“where the adjudicating authority is to be satisfied that a default has occurred, that 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 is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority.”



Therefore, Applicant has reiterated that the amount in default exceeds threshold limit prescribed under Section 4 of the IBC. the Applicant has placed on record the documents necessary to substantiate the occurrence of default. Accordingly, the present application deemed to be admitted, as it is procedurally complete.

Analysis and Observation:

13. We have heard the counsel appearing for both the parties and have perused the records.

14. The following issues emerge for consideration:

First Issue: Whether the present application is within the Limitation period to initiate the CIRP against the Corporate Debtor.

Second Issue: Whether the present application is within the minimum default amount of Rs. 1,00,00,000/- as provided under section 4 of the code or not.

Third Issue: Whether the photocopy of the General Power of Attorney is admissible in evidence.

15. **First Issue: Limitation Period**

- i. In view of the default account classified as Non-Performing Assets (NPA) by the Applicant/Financial Creditor on 04.01.2020. As per part IV of form 1, the date of NPA is taken as the Date of default i.e. 04.01.2020. Subsequently, the Applicant initiated recovery proceedings before the Debt Recovery Tribunal, Jabalpur by filing Original Application No. 118 of 2022, which is still pending adjudication.



- ii. The Hon'ble Supreme Court, in its Suo Moto Writ Petition (C) No. 3 of 2020, extended the period of limitation in view of the COVID-19 pandemic, and directed the period from 15.03.2020 to 28.02.2022 to be excluded while computing limitation, since, the present application is filed on 09.03.2024, is well within limitation and financial creditor is entitled to make claims against the Corporate Debtor.

16. **Second Issue: Threshold Limit**

- i. On perusal of the records and documents filed by the Applicant along with the petition, it is observed that the Applicant / Financial Creditor has placed on record its bank account statement evidencing the disbursement of funds from its bank to the Corporate Debtor. The Respondent/ Corporate Debtor has also acknowledged the debt of amounting Rs. 8,88,17,451.25 on 26.09.2019 (Annexure A26). However, the Respondent has raised objections with regards to the different amount in default and the interest compounded on principal amount.
- ii. it is pertinent to note that while considering an application under Section 7 of the IBC, this Adjudicating Authority is required only to ascertain the existence of a "debt" and "default." Any dispute with regard to the quantum of debt is immaterial. The only consideration is whether the amount in default exceeds the minimum threshold prescribed under



Section 4(1) of the IBC. In **Suzlon Synthetics Ltd. v. Stressed Asset Stabilization Fund, (2022) ibclaw.in 904 NCLAT**, the Hon'ble NCLAT held that the exact amount of financial debt is immaterial so long as the amount admitted by the Corporate Debtor exceeds the minimum amount stipulated under Section 4(1) of the IBC. The relevant para of the order reads thus:-

"11. We reproduce paragraph 56 of the Impugned Order hereunder, wherein, as claimed by the Appellant, the Adjudicating Authority has given views on the claim of Respondent No. 1:-

"56. Further, the Applicant claims that as on 1st June 2019, a sum of Rs. 10,82,94,94,335/- is due and payable by the Corporate Debtor. However, the Corporate Debtor has only admitted to its liability to the tune of Rs. 88,75,000/-. In this regard, we would like to mention that even without delving into the calculation of the amount stipulated by the Applicant, it is evident from the admission of the Corporate Debtor that a financial debt under section 5 (8) of the Code is due to the Financial Creditor. The exact amount of such financial debt, in the instant case, becomes immaterial as long as the amount admitted by the Corporate Debtor itself is more than the minimum amount stipulated under Section 4(1) of the Code, i.e., Rupees one lakh, at the relevant time."

12. A perusal of the above-stated paragraph 56 of the impugned order makes it clear that the Adjudicating Authority has only recorded the claim of the Applicant and has only unambiguously stated that it is not delving into the calculation



of the amount stipulated by the Applicant in Section 7 application, and further the exact amount of financial debt is immaterial as long as the amount admitted by the corporate debtor is more than the minimum amount stipulated under Section 4(1) of the IBC Le. Rs. 1 Lakh at the relevant time of filing Section 7 application.

14. In the light of detailed provisions in Chapter IV (Proof of Claims) in the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process For Corporate Person) Regulations, 2016 as explained in the aforementioned paragraphs, the invitation, submission and verification of claims of operational and financial creditors, workmen and employees and other creditors is quite clear. In so far as the facts included in the Section 7 application in Form 1 application is concerned, the financial creditor has to provide information about the debt which is due and payable and also the date and record of default. There is no requirement in the adjudication of Section 7 application to calculate and fix the exact amount of debt in default of repayment. It is only to be seen whether the amount in default is more than the minimum or threshold value that is prescribed in Section 4 (1) of the IBC."

- iii. It is also pertinent to refer to the judgments of the Hon'ble Supreme Court **in Innoventive Industries Ltd. v. ICICI Bank (2018) 1 SCC 407** and **Asset Reconstruction Company (India) Limited v. Tulip Star Hotels Limited (2022) 5 S.C.R. 1112**, wherein the Hon'ble Supreme Court



held that any dispute with regard to the quantum of debt is immaterial.

- iv. It can be seen from Section 7(5) of IBC, 2016, that the Adjudicating Authority has a limited role at the stage of admission of an application filed by a financial creditor. The authority must either admit the application under Section 7(5)(a) if satisfied that: (i) a default has occurred; (ii) the application is complete; and (iii) no disciplinary proceeding is pending against the proposed resolution professional or reject the application under Section 7(5)(b) if satisfied that: (i) default has not occurred; OR (ii) the application is incomplete; OR (iii) disciplinary proceeding is pending against the proposed resolution professional. Therefore, at this juncture, we are not delving into the exact figures of loan amount. It is clear from the bank statement filed by the FC that the disbursed amount is far more than the threshold as prescribed in IBC.

17. Third Issue: Validity of General Power of Attorney

- i. It is pertinent to note that as per the clause 4(8) of the Amalgamation Scheme of Oriental Bank of India and Punjab National Bank provides all the contracts, deeds, agreements., power of attorney in force prior to the commencement of the Amalgamation Scheme shall remain valid and enforceable against and in favour of the Transferee Bank i.e., Applicant/Financial Creditor. Accordingly, the General Power



of Attorney stands valid. Since the photocopy of the same has been duly signed and stamped by the applicant, it appears clearly that it has been compared and verified with the original. Thus, we consider it admissible as evidence.

18. Therefore, the present application is defect-free and complies with the requirements of section 7 of the IB code. The consent of the insolvency professional has been obtained to act as IRP who is eligible to be appointed as an IRP as no disciplinary proceedings are pending against him. Hence, we pass the following directions:

Order

- i.** Corporate Debtor M/s Uttam Food Products Private Limited is admitted in the Corporate Insolvency Resolution Process under Section 7 of Insolvency and Bankruptcy Code, 2016.
- ii.** We appoint Mr. Kuldeep Tank, registration no. IBBI/IPA0-001/IP 02776/2022-2023/14255 under section 13(1)(c) of the IB Code as IRP.

Name of IRP : Mr. Kuldeep Tank

IBBI Reg No. : IBBI/IPA0-001/IP 02776/2022-2023/14255

E-mail : cakuldeeptank@gmail.com

- iii.** That the Moratorium under Section 14 of the Code shall come to effect from the date of the order till the completion of 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 Corporate Debtor under Section 33, as the case may be.

- iv.** The Adjudicating Authority hereby prohibits the institution of suits or continuation of pending suit or proceedings against the Corporate Debtor including the execution of any judgment, decree or order in any Court of law and further prohibits a Tribunals, Arbitration Panels or other Authority(s), transferring, encumbering, alienating or disposing (of by the Corporate Debtor) any of Corporate Debtor assets or any legal right or beneficial interest therein; 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 SARFAESI Act, 2002 the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.
- v.** The IRP so appointed shall make the Public announcement of the Corporate Insolvency Resolution Process (CIRP) be made immediately as specified under Section 13 of the Code and by calling for submissions of the claim under Section 15 of the Code.
- vi.** The IRP shall after collation of all the claims received against the Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors (hereinafter referred as 'CoC") and shall file a report certifying the CoC 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 CoC within seven days of filing the report of CoC.

- vii.** The IRP shall perform all his functions as contemplated, inter-alia, by Sections 17,18,20 &21 of the Code. It is further made clear that all personnel connected with the Corporate Debtor, its Promoter, or any other person associated with management of the Corporate Debtor are under legal obligation as per Section 19 of the Code to extend every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter, or any other person required to assist or co-operate with IRP, do not assist or co-operate, the IRP is at liberty to make the appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- viii.** The IRP shall be under a duty to protect and preserve the value of the property of the Corporate Debtor Company and manage the operations of the Corporate Debtor Company as a going concern as a part of the obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.
- ix.** We direct the Applicant to deposit a sum of Rs. 1,00,000/- with the Interim Resolution Professional, to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulation,



2016. The needful shall be done within one week from the date of receipt this of order by the Financial Creditor.

- x.** The Registry is directed to communicate this order to the Petitioner-Financial Creditor, Corporate Debtor, and the Interim Resolution Professional and the concerned Registrar of Companies, after completion of necessary formalities, within three working days and upload the same on the website immediately after pronouncement of the order.
- xi.** The commencement of the Corporate Insolvency Resolution Process (CIRP) shall be effective from the date of this order.
- xii.** Copy of the order shall be communicated to the Applicant, Corporate Debtor as well as to the IRP appointed herein, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records and also to RoC for updating the Master Data. RoC shall send compliance report to the Registrar, NCLT.
- xiii.** Accordingly, **CP(IB) 16 of 2024** stands allowed.

Sd/-

**MAN MOHAN GUPTA
(MEMBER TECHNICAL)**

Vanshika-LRA

Sd/-

**BRAJENDRA MANI TRIPATHI
(MEMBER JUDICIAL)**