



IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH (COURT-II)
KOLKATA

IA(IBC) No.454/KB/2025

And

IA (Liquidation) No. 06/KB/2025

In

CP(IBC) No. 1380/KB/2020

*An Application under Section 33(3) of the Insolvency and Bankruptcy
Code, 2016 read with Rule 11 of the NCLT Rules, 2016.*

IN THE MATTER OF:

UCO BANK

.....Financial Creditor

Versus

M/S BHUMYA TEA COMPANY PRIVATE LIMITED

.....Corporate Debtor

And

IN THE MATTER OF:

UCO BANK

.....Applicant

VERSUS

1. NORTHEAST PLANTATIONS AND COMMERCIALS PVT. LTD.
2. CA SANTANU BRAHMA (Erstwhile Resolution Professional /Chairman of
Monitoring Committee
3. PUNJAB NATIONAL BANK



IA(IBC) No. 454/KB/2025
&
IA(Liquidation) No. 06/KB/2025
In
CP(IBC) NO. 1380 OF 2020

4. INDIAN BANK

5. INFRACON PVT. LTD.

.....Respondents

And

An application under section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016.

IN THE MATTER OF:

CA SANTANU BRAHMA, Erstwhile Resolution Professional, and Member of Supervisory committee M/s Bhumya Tea Company Private Ltd. Bearing IBBI registration number IBBI/ IPA-001/IP - P01482/2018-19/12251 and having his office at AH 276 Salt Lake, Sector II, Kolkata-700091, West Bengal, process email cirp.bhumyatea@gmail.com; IBBI Regd email ID: ip.santanubrahma@gmail.com

.....Applicant

VERSUS

1. M/S NORTHEAST PLANTATION AND COMMERCIALS PVT. LTD, a company within the meaning of the Companies Act 2013, having its registered office at Royal Circle Building, 2nd Floor, near Assam State Zoo, R.G. Baruah Road, Guwahati, District Kamrup, Assam-781005; having email ID: nepcpl21@gmail.com and is represented By Mr. Rajesh Bajaj, Director.

2. UCO BANK, a Banking Company Constituted under the Banking Companies(Acquisition and Transfer of Undertaking Act) 1970, having



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its Head office at 10, BTM Sarani, Kolkata 700001, West Bengal having its flagship Corporate Branch at 2, India Exchange Place Ground Floor, Kolkata-700001; having Email ID: arbkol@ucobank.co.in

3. **PUNJAB NATIONAL BANK**, a Banking Company, having its head office at Plot No. 4, Sector 10 Dwarka New Delhi 110075, acting through its Zonal Sastra Department, United Tower, 3rd Floor Hemanta Basu Sarani, Kolkata-700001; having Email ID: zs8350@pnb.co.in/zokollaw@pnb.co.in

4. **INDIAN BANK**, a Banking Company, having its Corporate Office at 254-260, Avvai Shanmugam Salai Royapettah, Chennai-600014 acting through its Branch Office at Stressed Asset Management Branch First floor, 14 India Exchange, Kolkata - 700001; having email ID: samlkolkata@indianbank.co.in

5. **STATE BANK OF INDIA**, a Banking Company, having its office at Stressed Asset Management Branch, 8th floor, Nagaland House, 11 and 13 Shakespeare Sarani, Kolkata 700071; having email ID: sbi.04151@sbi.co.in

6. **BANK OF BARODA**, a Banking Company, having its office at Zonal SARB Branch 21A Sadananda Road, Second floor, Kolkata 700026; having email ID: armcak@bnkofbaroda.com

7. **CONSOLIDATED INFRACON PRIVATE LTD**, a Company Registered under ROC Kolkata, having its registered office At 16, Strand Road, Diamond Heritage, Room No. 1207A, 12th Floor, Kolkata 700001; having email ID: taxsolution81@yahoo.com



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8. ASSAM TEA EMPLOYEES PROVIDENT FUND ORGANISATION, having its office at Nidhi Bhawan Basistha Lal Mati, NH - 37, Guwahati - 781029; having email ID: recovery.atepfo@gmail.com

.....Respondent

Date of Pronouncement: 03.12.2025

Coram:

Mr. Labh Singh Hon'ble Member (Judicial)

Ms. Rekha Kantilal Shah, Hon'ble Member (Technical)

Counsels appeared through Video Conference:

Ms. Zeba Khan, Adv.]

Mr. S.K. Ray, Adv.]

Ms. Muskan Saha, Adv.] For Financial Creditor

Ms. Ashmita Lohia, Adv.]

Ms. Utkarshika Adv.]

Mr. Shaunak Mitra, Adv.]

Mr. Dripto Majumdar, Adv.] For RP

Mr. Chandan Mohata, Adv.]

Mr. Joy Saha Ld. Sr. Advocate] For State Bank of India

Mr. Anirban Pramanick Adv]

Ms. Subhasree Dey, Adv.]

Mr. Punarbasu Nath, Adv,]



Ms. Mamta Binani, Adv.]
Mr. Shilendra Tiwaria, Adv.] For R-3 in IA
Mr. Devesh Kr. Bhutra, Adv.]

Ms. Urmila Chakraborty, Adv.]
Mr. Sumit Biswas, Adv.] For North East Plantations
Ms. Rajashree Bhowmick, Adv.]

Mr. Prasenjit Pal, Adv.] For respondents no 1 and 2
Mr. Ajit Keshari, Adv.]

ORDER

Per: Labh Singh Member (Judicial)

IA(Liquidation) No. 06/KB/2025

1. The present application has been filed by the Financial Creditor i.e., UCO Bank, to initiate liquidation process under IBC Code 2016, with respect to Bhumya Tea Company Private Limited and to appoint a liquidator for the Corporate Debtor with a further prayer that this Tribunal pass an order under Section 74 of the IBC Code to penalize respondent no.1.

1.1 Briefly stated the facts of the case are that the CIRP process was initiated against the Corporate Debtor vide



order dated 5th April 2022 passed by this Tribunal in CP No. 1380/KB/2020. Shri Santanu Brahma was appointed as Interim Resolution Professional (IRP) who later on confirmed as Resolution Professional (RP) of the Corporate Debtor.

1.2 It has further been submitted that in pursuance to publication of expression of interest (EOI), respondent no. 1 being the sole Resolution Applicant submitted its resolution plan in accordance with provision of IBC Code 2016 and Regulation applicable thereon. After discussion, the respondent no. 1 was requested to submit its best updated and final plan for consideration of the CoC. Accordingly, updated and final resolution plan was submitted by respondent no. 1 on 26.11.2022. The said resolution plan was put to vote in 10th CoC meeting, and after considering the 'feasibility and viability' of the Resolution Plan, the Plan was approved by the CoC with 90% vote. Resolution Professional filed an application for approval of the resolution plan and resolution plan was approved by this Tribunal vide Order dated 28th August 2023.

1.3 It has further been submitted that in terms of the resolution plan, the respondent no. 1 was under an obligation to pay an upfront payment to the creditors of the corporate debtor on or before 28th September 2023. However, respondent no.1 did not pay the sum as per



approved resolution plan; and accordingly, respondent no. 1 filed an application being I.A No. 1638 of 2023 praying for extension of time to pay upfront payment as per approved plan. This Tribunal allowed the application to pay the remaining sum in terms of the approved resolution plain within a period of 30 working days. Respondent No. 1 paid an amount of Rs. 8,00,00,000/- (Rupees Eight Crores) as per approved resolution plan during the first extension period.

1.4 Thereafter, respondent no. 1 again filed an application being IA No 1798 of 2024 for extension of another 90 days and to make payment of Rs. 13,35,00,000/- (Rupees Thirteen Crore Thirty-Five Lakhs) along with CIRP costs. This Tribunal, vide order dated 28th August 2024, allowed respondent no. 1 to pay remaining sum as per approved resolution plan with a period of 20 working days as approved by the CoC on or before 16th September 2024. However, respondent no. 1 failed to make payment as per resolution plan despite multiple extension allowed by the CoC. Respondent No. 1 did not fulfil its commitment made before the CoC in relation to submission of post-dated cheques in the name of Darjeeling Organic Tea Estates Private Limited.

1.5 Thus, due to non-compliance of approved resolution plan by Respondent No. 1, CoC on 14th January 2025 deliberated upon



filing of an application before this Tribunal for seeking direction on re-issue of Form G and re-initiate of CIRP process. However, aggrieved by the decision of the CoC, the applicant decided to initiate liquidation process of Bhumya Tea Company Limited in terms of provision of Section 33(3) of IBC, 2016. Respondent No. 1 has paid an amount of Rs. 7.15 Crore and balance amount of Rs. 13.35 Crore is yet outstanding.

1.6 It has further been submitted that as per Section 33(3), if resolution plan approved by the Adjudicating Authority is contravened by the concerned corporate debtor or any person other than the corporate debtor whose interests are prejudicially affected by such contravention may make an application to the Adjudicating Authority for a liquidation order. Respondent No. 1 has defaulted on multiple counts to make payments as proposed in the Resolution Plan. Respondent No. 1 has frustrated the entire exercise of the CIRP process, and the assets of the corporate debtor are depleting with the passage of time.

1.7 Therefore, the applicant has prayed that the Corporate Debtor be liquidated, and a Liquidator be appointed by this Tribunal to save the assets of the Corporate Debtor from further deterioration.



deferred amount of Rs.1335 as per approved resolution plan has not been paid till the filing of the application. This act on the part of respondent no. 1, the Resolution Applicant, would amount to blatant violation of the Resolution Plan and would attract penal provisions as contemplated under Section 74 of IBC, 2016.

4. Insofar as argument of Learned Counsel appearing for State Bank of Indian and Learned Counsel for Financial Creditor that the Resolution Applicant should be permitted to re-issue Form 'G' and continue with CIRP process is concerned, it is evident from record of the present case that Resolution Professional has received only one Resolution Plan from Northeast Plantations & Commercial Private Limited, the Successful Resolution Applicant, on 18 August 2022 which was approved with 99.9% voting by the CoC members. The said resolution plan failed due to non-implementation as the Resolution Applicant has failed to deposit balance amount as per scheduled time of the plan and further granted by the CoC and approved by this Tribunal.
5. It is settled proposition of law that the moment the Resolution Applicant has failed to pay the Resolution Plan amount, the Monitoring Committee is required to immediately move an Application for Liquidation of the Corporate Debtor and the Monitoring Committee has no powers to negotiate or



to grant time to the Successful Resolution Applicant for payment of the Resolution Plan amount.

6. The facts of the instant case are similar to facts before Hon'ble Apex Court in case of *Kridhan Infrastructure Pvt. Ltd. & Anr. Vs. Venkatesan Sankaranarayan & Anr.*, ([2021](#)) [ibclaw.in 36 SC](#) where Hon'ble Apex Court held that:

“11. The appellant has been unable to raise the funds. The fact of the matter, as it emerges from Mr Vishwanathan’s submissions, is that the appellant will be unable to raise funds from the Term Lenders who are insisting that the status of the Company should change from a company under liquidation to an active status. The order of liquidation has not been set aside. Ultimately, what the request of the appellant reduces itself to, is that it would raise funds on a mortgage of the assets of the Company and unless the Company is brought out of liquidation, it would not be in a position to raise the funds. This is unacceptable. At this stage, the order of liquidation has only been stayed, but a final view was, thus, to be taken by this Court. Sufficient opportunities were granted to the appellant earlier during the pendency of the proceedings both before the NCLT and NCLAT. The orders of the NCLT and NCLAT make it abundantly clear that despite the grant of sufficient time, the appellant has not been



able to comply with the terms of the Resolution Plan.

Since 9 October 2020, despite the passage of almost five months, the appellant has not been able to deposit an amount of Rs 50 crores. Time is a crucial facet of the scheme under the IBC. To allow such proceedings to lapse into an indefinite delay will plainly defeat the object of the statute. A good faith effort to resolve a corporate insolvency is a preferred course. However a resolution applicant must be fair in its dealings as well. The appellant has failed to abide by its obligations. In that view of the matter, we see no reason or justification to entertain the Civil Appeal any further. The consequence envisaged under the order of this Court shall accordingly ensue in terms of the forfeiture the amount of Rs 20 crores. As a consequence of this order, the management shall revert to the liquidator for taking steps in accordance with law. The Civil Appeal is accordingly dismissed.”

7. Hon’ble Apex Court in case of **State Bank of India Vs. The Consortium of Mr. Murari Lal Jalan & Another’s** 2024 SCC OnLine SC 3187, while taking serious note of wilful contravention of terms of resolution plan by Corporate Debtor, Officer, Creditors or any other person on whom the plan is binding held that:




“178. Furthermore, Section 74(3) of the IBC, 2016 provides for the punishment for contravention of the resolution plan and reads as follows:

“(3) Where the corporate debtor, any of its officers or creditors or any person on whom the approved resolution plan is binding under [section 31](#), knowingly and wilfully contravenes any of the terms of such resolution plan or abets such contravention, such corporate debtor, officer, creditor or person shall be punishable with imprisonment of not less than one year, but may extend to five years, or with fine which shall not be less than one lakh rupees, but may extend to one crore rupees, or with both.”

(Emphasis Supplied)

179. The Code comes down heavily on any knowing and willful contravention of the terms of the Resolution Plan, committed by any person, on whom the approved Resolution Plan has been made binding under [Section 31](#) of the IBC, 2016. A punishment of minimum one year which may extend up to five years or minimum fine of one Lakh which may be up to one Crore rupees, or both, has been prescribed for such a contravention. In light of such strict consequence provided for the contravention of the resolution plan envisaged under the scheme of the Code itself, there is good reason for us to ensure that the successful



resolution applicants abide by their commitments made under the Resolution Plan. Therefore, it is suggested that the authorities including the NCLT and NCLAT must not aid the Successful Resolution Applicants in circumventing the strict mandates of the law by acceding to their requests to relax the terms of the plan itself.”

8. It is evident from the facts of this case and law laid down by Hon'ble Apex Court thereon that there is a blatant violation of the Resolution Plan by the Corporate Debtor in terms of Section 33(3) of IBC, 2016 and thus by operation of law and in terms of Section 33(4) of IBC, 2016 once this Adjudicating Authority is satisfied that the Corporate Debtor has contravened the provisions of the Resolution Plan, it shall pass an order of Liquidation as referred to in sub-clause (i), (ii) and (iii) of clause (b) of sub-section (1) of Section 33 of IBC, 2016. Thus, it is required to be noted that the mandate of provision of IBC, 2016 never contemplates for accepting any modification to the Resolution Plan.
9. The successful Resolution Applicants have contravened the Resolution Plan and the same is also brought to our knowledge by the Chairman of the Monitoring Committee in terms of Section 33(3) of IBC, 2016. Upon failure of implementation of resolution plan, re-issuance of Form G and



continuation of CIRP process can be only on good cause and exceptional circumstances. In the instant case, there is nothing on record that any other resolution applicant has shown interest upon issuance of Form 'G' by the Resolution Applicant.

10. Insofar as validity and invocation of performance bank guarantee is concerned, Hon'ble Supreme Court in case of Ansal Engineering Projects Ltd. Vs. Tehri Hydro Development Corpn. Ltd., [1996] 5 SCC 450, that:

"4. It is settled law that bank guarantee is an independent and distinct contract between the bank and the beneficiary and is not qualified by the underlying transaction and the validity of the primary contract between the person at whose instance the bank guarantee was given and the beneficiary..."

5. It is equally settled law that in terms of the bank guarantee the beneficiary is entitled to invoke the bank guarantee and seek encashment of the amount specified in the bank guarantee. It does not depend upon the result of the decision in the dispute between the parties, in case of the breach. The underlying object is that an irrevocable commitment either in the form of bank guarantee or letters of credit solemnly given by the bank must be honoured. The court exercising its power cannot



interfere with enforcement of bank guarantee/letters of credit except only in cases where fraud or special equity is prima facie made out in the case as triable issue by strong evidence so as to prevent irretrievable injustice to the parties...”

11. Thus, upon expiration of validity of bank guarantee as well as claim period of bank guarantee, the claim of such expired bank guarantees by the bank/COC during the CIRP is not in consonance with the law. As post expiration, the Non-Fund based facility which was extended by the Bank is no more a contingent liability for the Corporate Debtor.
12. It is pertinent to refer to provision of Regulation 36B(4A) of the 2016 Regulations which was inserted by Notification No. IBBI/2019-20/GN/REG040 dated 24.01.2019 and the same is reproduced hereinbelow:

“(4A) The request for resolution plans shall require the resolution applicant, in case its resolution plan is approved under sub-section (4) of section 30, to provide a performance security within the time specified therein and such performance security shall stand forfeited if the resolution applicant of such plan, after its approval by the Adjudicating Authority, fails to implement or contributes to the failure of



implementation of that plan in accordance with the terms of the plan and its implementation schedule.

Explanation I. - For the purposes of this sub-regulation, "performance security" shall mean security of such nature, value, duration and source, as may be specified in the request for resolution plans with the approval of the committee, having regard to the nature of resolution plan and business of the corporate debtor.

Explanation II. - A performance security may be specified in absolute terms such as guarantee from a bank for Rs. X for Y years or in relation to one or more variables such as the term of the resolution plan, amount payable to creditors under the resolution plan, etc."

13. Thus, Regulation 36B(4A) provides that the performance security shall stand forfeited if the resolution applicant fails to implement or contributes to the failure of implementation of the plan, in accordance with the terms of the Resolution Plan and its implementation Schedule. Therefore, the PBG had to be kept alive until the complete implementation of the Resolution Plan as per Regulation 36B(4A) as well.
14. This is also what is provided under Clause 77 of the RFRP that in case of non-compliance of Resolution Plan, the



Resolution Professional acting on the instruction of the CoC has right for forfeiture the Performance Bank Guarantee. Therefore, Resolution Professional was required to keep Performance Bank Guarantee alive and which was returned to be returned to the SRA only upon 100% completion of the implementation of the Resolution Plan.

15. In compliance of Regulation 36B(4A) of the CIRP Regulations, the Successful Resolution Applicant deposited the Performance Bank Guarantee of Rs. 2,15,00,000/- (Rupees Two Crore and Fifteen Lakh only) being Bank Guarantee No. 1071555BG0090 dated 17 January 2023 issued by the Assam Cooperative Apex Bank Limited. The Performance Bank Guarantee was valid for 15 months from the date of its issuance and hence, it was to be invoked on or before 16.7.2024.
16. We have noted from the email dated 29.01.2025 and reminder email dated 14.02.2025, that though Resolution Professional issued notice to Assam Co-Operative Apex Bank Limited for invocation of Performance Bank Guarantee since SRA has failed to implement the Resolution Plan. However, the Manager of the Assam Co-Operative Apex Bank Limited, vide reply email dated 28.02.2025 to email dated 14/02/2025 relating to invocation of performance Bank Guarantee replied that as per clause no 2. (under NOTWITHSTANDING anything



contained herein) of the performance Bank Guarantee no 1071555BG0090, the validity of the Bank Guarantee has already expired. Moreover, it is an admitted fact on the part of the Resolution Professional in the instant application that the validity of the Performance Bank Guarantee had expired.

17. Section 25(1) clause (e) of the IBC Code, 2016 casts a duty on Resolution Professional to maintain an updated list of claims. The said provision of IBC Code 2016 is reproduced verbatim as under:

“Section 25: Duties of resolution professional.

(1) It shall be the duty of the resolution professional to preserve and protect the assets of the corporate debtor, including the continued business operations of the corporate debtor.

(2) For the purposes of sub-section (1), the resolution professional shall undertake the following actions, namely:–

(a) to (d) xxxxx

(e) maintain an updated list of claims;”

18. Further, Regulation 10 of the IBBI (CIRP) Regulations, 2016 empower the Resolution Professional to call for such other evidence or clarification as he deems fit from a creditor for substantiating the whole or part of its claim.



Regulation 14(2) empowers the Resolution Professional to revise the amounts of claims admitted as soon as may be practicable or when he comes across additional information warranting such revision. The relevant provision of Regulation 14 of IBBI(CIRP) Regulation 2016 is produced as under:

“Regulation 14: Determination of amount of claim.

(1) Where the amount claimed by a creditor is not precise due to any contingency or other reason, the interim resolution professional or the resolution professional, as the case may be, shall make the best estimate of the amount of the claim based on the information available with him.

(2) The interim resolution professional or the resolution professional, as the case may be, shall revise the amounts of claims admitted, including the estimates of claims made under sub-regulation (1), as soon as may be practicable, when he comes across additional information warranting such revision”.

19. Further as per Regulation 12A, a duty is also upon the creditors to update their claims as and when the claim is satisfied, partly or fully, from any source in any manner, after the insolvency commencement date. The relevant portion is reproduced hereunder: -



“12A. Updation of claim. A creditor shall update its claim as and when the claim is satisfied, partly or fully, from any source in any manner, after the insolvency commencement date.”

20. Therefore, it is clear that Resolution Professional is empowered to get the claims with respect to expired bank guarantees adjusted. Learned Counsel appearing for Resolution Professional stated that performance security has already been recovered.
21. In view of the contravention of the Resolution Plan by the Corporate Debtor and its Directors, we hereby order **Liquidation** of the Corporate Debtor. Keeping in mind the resolution plan blatantly violated as provisions of Section 33(4) of IBC, 2016 and has not been implemented and has been discussed supra, this Tribunal is left with no other option but to order for liquidation of the Corporate Debtor as from this day.
22. As per the section 34(1) of the IBC, 2016 the Applicant/RP, **Mr. Santanu Brahma** the Erstwhile, Resolution Professional having IBBI registration number **IBBI/ IPA-001/IP - P01482/2018-19/12251** and having his office at AH276 salt Lake, sector II, Kolkata-700091 West Bengal, process **Email ID: santanubrahma@gmail.com** is appointed as **Liquidator** of the Corporate Debtor **M/s Bhumya Tea Company Private Limited.**



23. All the powers of the Board of Directors, key managerial persons, the partners of the Corporate Debtor, hereinafter cease to exist. All these powers henceforth vest with the Liquidator.
24. The personnel(s) of the Corporate Debtor are directed to extend all co-operations to the Liquidator as required by him in managing the liquidation process of the Corporate Debtor.
25. That once liquidation process initiated, by virtue of section 52 of the Code, no suit or other legal proceedings shall be instituted by or against the Corporate Debtor save and except the liberty to the liquidator to institute suite or other legal proceeding on behalf of the Corporate Debtor with prior approval of this Adjudicating Authority as mentioned in section 33(5) of the IBC, 2016.
26. The Liquidator is at liberty to seek any directions, if need be, from this Adjudicating Authority during the Liquidation process.
27. The Liquidator shall take necessary legal action to recover the trade receivables and other credits such as loans and advances from the parties which are reflected in the latest Balance Sheet of the Corporate Debtor, if any. This direction is hereby given in concurrence of the jurisdiction prescribed under section 33(5) of the Code.



28. This Liquidation order shall be deemed to be notice of discharge to the officers, employees and workmen of the Corporate Debtor/Resolution Applicant except to the extent of the business of the Corporate Debtor continued during the Liquidation process by the Liquidator.
29. The Liquidator is directed take steps under Regulation 2B of the IBBI (Liquidation Process) Regulations, 2016 for exploring the possibility of inviting a Scheme under Section 230 of the Companies Act, 2013 and also for sale of the Corporate Debtor as a going concern as stipulated under Regulation 32(e) and (f) of the IBBI (Liquidation Process) Regulations, 2016.
30. It is also directed to the Liquidator to take into consideration the liquidation value of Corporate Debtor as per the valuation report. It is also directed to the CoC to contribute to the liquidation cost if any short fall occurs from the liquidation value of Corporate Debtor.
31. The Registry is directed to upload this order on the official website within maximum two working days from the date of this order. The authenticated copy of this order be also sent by the registry to the Operational Creditor, Corporate Debtor/Resolution Applicant, Registrar of the Company, Resolution Professional cum Liquidator by speed-post within one week from this order.



32. Additionally, the Successful Resolution Applicant and its officers responsible, if any, be proceeded against for contravention of the approved resolution plan in terms of section 74(3) read with section 236 of the Insolvency & Bankruptcy Code, 2016.
33. For compliance of provision of Section 74(3) read with Section 236 of IBC Code 2016, the Registry of this Tribunal is directed to forward a copy of this order to the Insolvency & Bankruptcy Board of India (IBBI) and the Secretary, Ministry of Corporate Affairs, who are the agencies authorized in terms of section 236(2) of the Insolvency & Bankruptcy Code, 2016 to initiate appropriate complaint before the Special Court as envisaged under section 236(1) of the Insolvency & Bankruptcy Code, 2016.
34. Accordingly, the present I.A.(Liquidation) No.06/KB/2025 in CP (IB) No. 1380/KB/2020 is allowed and stands disposed of.
35. Let the certified copy of the order may be issued, if applied for, upon compliance of all requisite formalities.

IA(IBC) No.454/KB/2025

1. The present application has been filed by the applicant /Erstwhile R.P Mr. Santanu Brahma with a prayer to pass an order with regard to CIRP of the Corporate Debtor taking



into consideration the failure of Respondent No.1 in adhering to resolution plan.

- 1.1 Briefly stated the facts of the case are that CIRP process in the present case was initiated against the Corporate Debtor vide order dated 5th April 2022 by this Tribunal in CP (IB) No. 1380/KB/2020. The Applicant was appointed as IRP and later on confirmed to be Resolution Professional by the CoC in its meeting held on 23/05/2022.
- 1.2 It has further been submitted that the applicant carried out statutory duties in terms of the provision of the Insolvency and Bankruptcy Code, 2016 read with Regulations framed thereunder. Thereafter, the CoC, in its 10th meeting held on 03/12/2022, approved Resolution Plan of Respondent No.1 for an amount of Rs. 2050 lacs plus actual CIRP cost with 99.9% votes which subsequently approved by the Tribunal vide order dated 28/08/2023.
- 1.3 It has further been submitted that in terms of approved resolution plan, an upfront of Rs. 715 Lacs plus actual CIRP cost was to be paid by the Successful Resolution Applicant within 30 days and balance amount of Rs. 1335 Lacs within one year. The SRA paid upfront amount by 30th November 2023 having been allowed by the Tribunal with concurrence of erstwhile members of CoC. The balance amount of Rs. 1335 lakhs was to be paid by the Successful Resolution Applicant



by due date i.e. 27th August 2024. However, despite several extensions considered and granted by the CoC, the deferred amount of Rs.1335 as per approved resolution plan has not been paid till date.

1.4 It has further been submitted that as per approved resolution plan, the Supervisory Committee was constituted on 13th December 2023 comprising of applicant as Chairman, UCO Bank/Respondent No.2 and Respondent No.1. The Committee held Six meetings on different dates i.e on 10/10/2023, 30/10/2023, 30/01/2024, 04/05/2024, 14/08/2024 and 20/09/2024. The applicant as Chairman of Supervisory Committee convened five meetings of the erstwhile Members of the CoC on different dates and apprised them about the prevailing situations and obtained needful advice as required.

1.5 It has further been submitted that Respondent No.1 has failed to fulfil its obligation and jeopardised the successful implementation of the resolution plan, causing operational and financial distress to the stakeholders. The Respondent No.1 was required to infuse funds and operationalize the Corporate Debtor within strict timeline; however, despite repeated reminders, respondent no.1 failed to comply the timelines causing undue delay in resolution process. Due to failure on the part of respondent no. 1 to



implement resolution plan, the Financial Creditor, Operational Creditor, employees and other stakeholders have suffered undue hardship. Therefore, this Tribunal is empowered to take appropriate action against such non-compliance.

1.6 It has further been stated that with regard to invocation of Performance Bank Guarantee given by the Respondent No.1, the same is required to be invoked in case of non-compliance. The said Bank Guarantee has expired before it could be invoked due to repeated extensions sought by Respondent No.1. The protection granted under Performance Bank Guarantee cannot be nullified merely passage of time arising from the Respondent's delay tactics.

1.7 It has further been stated that Jamguti Tea Estate has been attached by the ATEPFO/ Respondent No.8 without any information to the Supervisory Committee. The said Tea estate ought to be released from said attachment and be handed over to the Applicant. Furthermore, ATEPFO had claimed an amount of Rs. 313.31 Lacs during the CIRP and this amount along with PF dues of Rs. 24.31 lacs for the period April 22 to June 22, had already been paid in entirety. The attachment has been carried out despite the fact that ATEPFO was fully aware about the existence of the



Supervisory Committee. The ATEPFO was required to consult Supervisory Committee before taking possession of the estate and such action of ATEPFO is unjustified and in violation of due process.

2. A Therefore, the present application has been filed by the applicant deserved to be partly allow keeping in mind that the Corporate Debtor will be liquidated through this common order as the SRA failed to implement the Resolution Plan according to the schedule timelines. Hence, we pass the following orders:

- I. We direct the Assam Tea Employees Provident Fund Organization (ATEPFO) / Respondent No. 8 to handover the possession of the Jamguri Tea Estate to the appointed liquidator under this Order herein.

- II. We direct the ATEPFO to liaise with the appointed Liquidator of the Corporate Debtor to quantify the arrear in Provident fund dues to workmen and employees.

3. Therefore, in view of the above, the present IA No. 454/KB/2025 is partly allowed and disposed of.
4. Let the certified copy of the order may be issued, if applied for, upon compliance of all requisite formalities.



(Rekha Kantilal Shah)
Member (Technical)

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Order signed on the 3rd day of December 2025