



**NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH**

**IA(IB) (Liq.) No.1/CB/2024
In
CP(IB) No. 51/CTB/2020**

(An application under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 read with Regulations 39B, 39C and 39D of the Insolvency and Bankruptcy Board of India (Insolvency Resolution for Corporate Persons), Regulations, 2016)

In the matter of:

ENCORE ASSET RECONSTRUCTION COMPANY PRIVATE LIMITED

..... FINANCIAL CREDITOR

Vs.

NAYAAGARH SUGAR COMPLEX LIMITED

.....CORPORATE DEBTOR

In the matter of:

DEVENDRA UMRAO

Resolution Professional

For Nayaagarh Sugar Complex Limited (under CIRP)

Reg. Add: 94-D, Pocket F, Mayur Vihar Phase 2, Delhi – 110091

Also At: GF-14, The Corenthum

Sector-62, Noida (U.P)-201301

Email- cirp.nscl@gmail.com

.....APPLICANT

ORDER PRONOUNCED ON: 13.02.2026

CORAM: DEEP CHANDRA JOSHI, MEMBER (JUDICIAL)

BANWARI LAL MEENA, MEMBER (TECHNICAL)

FOR APPEARANCE:

FOR APPLICANT: DEVENDRA UMRAO, RP


ORDER

PER: DEEP CHANDRA JOSHI, MEMBER (JUDICIAL)

1. The present application bearing I.A. (IBC) (Liq.) No. 1/CB/2024 filed on 31.01.2024 is filed by Mr. Devendra Umrao ("**Applicant**")/

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“RP”) under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016 (“Code”) seeking initiation of liquidation process of Nayagarh Sugar Complex Limited (under CIRP) (referred to as “Corporate Debtor”).

2. The averments made by the Applicant in its application are as follows:

- i. The petition for initiation of Corporate Insolvency Resolution Process (“CIRP”) in respect of Corporate Debtor was initiated by the Financial Creditor i.e. Encore Asset Reconstruction Company Private Limited under Section 7 of the Code, 2016. This Adjudicating Authority vide order dated 22.12.2021 in CP (IB) No. 51/CTB/2020 admitted the said application and appointed Mr. Devendra Umrao as the Interim Resolution Professional (“IRP”).
- ii. In compliance with the provisions of the Code, the IRP constituted the Committee of Creditors (“CoC”). Subsequently, the 1st meeting of the CoC was held on 25.01.2022, at which the appointment of IRP as the RP of the Corporate Debtor was approved with a majority of 100% voting by the members of the CoC.
- iii. Pursuant to the appointment, the Applicant took over the management of the Corporate Debtor and proceeded with the Corporate Insolvency Resolution Process (CIRP), commencing with the collation, verification, and admission of claims. The Applicant has averted that he has further conducted various meetings of Committee of Creditors (CoC) and prepared the Information Memorandum, which necessitated a considerable duration and left a limited window for the remainder of the process.
- iv. It is further averted that the suspended board of the Corporate Debtor has failed to cooperate with the Applicant and did not share the requisite records or documents as requested.

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Consequently, an application under Section 19(2) of the Code for non-cooperation was filed and is currently pending adjudication before this Adjudicating Authority. Furthermore, the possession and custody of the factory premises, along with plant and machinery, remain with the state-owned Cooperative Sugar Industries Limited. Despite these difficulties, the Applicant is pursuing legal remedies before the Hon'ble High Court and Arbitration to secure the title of the land in the name of the Corporate Debtor.

- v. As the initial 180 days CIRP period was scheduled to expire on 20.06.2022, the Applicant convened the third meeting of the CoC on 14.06.2022 to apprise the members about the timeline. In the said meeting, the CoC passed a resolution with a 100% voting share to seek an extension of the CIRP for 90 days. Following this approval, the Applicant filed an application for extension under Section 12(1) of the Code, which was subsequently listed for hearing on 21.06.2022.
- vi. This Adjudicating Authority, after hearing the facts and circumstances, allowed the application for extension and, vide its order dated 21.06.2022, extended the CIRP period by an additional 90 days from 20.06.2022 to 18.09.2022. Consequently, the revised deadline for the completion of the CIRP of the Corporate Debtor was 18.09.2022.
- vii. On perusal of the records of the Corporate Debtor during the CIRP, it was revealed that the company did not hold legal title to its primary assets, including land, plant, and machinery, in its own name. These assets remained vested in the name and custody of the Co-operative Sugar Industries Limited, Nayagarh, a state-owned body. Despite the Corporate Debtor having made full payment through a one-time settlement (OTS) to the Cooperative Sugar Industries Limited, the title has not yet been transferred in favour of the Corporate Debtor.


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- viii.** To secure the title of the land and plant & machinery, the Corporate Debtor filed a writ petition in 2012 before the Hon'ble High Court of Orissa against the Government of Odisha and other concerned bodies, which remains pending for final adjudication. In the interim, another petition was filed in 2020 seeking protection of the Corporate Debtor's building, tools, and machinery. In that matter, the Hon'ble High Court passed an interim order on 20.12.2020, directing the District Collector to deploy police protection at the factory premises to ensure the security of the assets.
- ix.** Thus, the applicant averted that a substantial portion of the CIRP period elapsed due to the non-cooperation of the suspended board of corporate debtors and the complexities arising from the pending title litigations. Consequently, in the fourth meeting of the CoC held on 13.09.2022, the Applicant proposed a further 60-day extension of the CIRP to facilitate a meaningful resolution. The CoC unanimously passed a resolution with a 100% voting share for the said extension, which was subsequently allowed by this Adjudicating Authority vide its order dated 18.10.2022, extending the revised expiry date to 16.11.2022.
- x.** The applicant further submits that due to the paucity of time and the pendency of various actions in the CIRP required to achieve the primary objectives of the Code, the Applicant moved an application having I.A. No. 313/CB/2022 for the exclusion of 243 days lost during the pending adjudication of I.A. No. 114/CB/2022. This Adjudicating Authority, vide its detailed order dated 17.01.2023, allowed the said exclusion, thereby extending the CIRP period up to 17.07.2023.
- xi.** In the seventh meeting of the CoC held on 10.07.2023, the members discussed the status of pending litigations and the requirement for a further 90 days extension to take all necessary

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steps for resolution of corporate debtor. While IFCI Limited (17.78% voting share) assented to the extension, the lead member, UCO Bank (77.03% voting share), and other members of CoC neither assented nor dissented to, repeatedly seeking further time for voting. Despite multiple follow-ups, including personal visits to the bank's branch and numerous reminder emails issued between August 2023 and January 2024, no such final voting assent was given by the members of CoC and the repeated requests of the applicant went in vain.

xii. It is also pertinent to mention that while the CoC approved all the CIRP costs to date, but not a single contribution was made by the members of the CoC. This want of contribution made it difficult for the Applicant to reimburse payments to the professionals and other service providers engaged during the course of the CIRP. Despite continuous follow-ups and reminders sent via emails dated 14.12.2023 and 26.12.2023, no action was taken by the CoC to settle these dues.


xiii. The CIRP period for the Corporate Debtor expired on 17.07.2023 without any resolution plan being submitted to this Adjudicating Authority. Since the CoC neither approved a further extension of the CIRP nor passed a resolution for the liquidation of the Corporate Debtor, the Applicant is under a statutory obligation to seek the commencement of the liquidation process.

xiv. Given that the maximum period permitted for the CIRP has elapsed and no viable resolution plan has been received, the Applicant is constrained to file the present application under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016, for the initiation of the liquidation process of the Corporate Debtor.

3. We have heard the learned counsel appearing on behalf of the Applicant and have perused the documents available on record. It is

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observed that the Corporate Debtor was admitted into the Corporate Insolvency Resolution Process (CIRP) vide order dated **22.12.2021**. Despite the exclusion of **243 days** and multiple extensions granted by this Tribunal, the CIRP period eventually expired on **17.07.2023** without the submission of any Resolution Plan under Section 30(6) of the Code.


4. This Tribunal notes the protracted inertia of the Committee of Creditors (CoC). The lead Financial Creditor, **UCO Bank**, holding a **77.03% voting share**, failed to exercise its voting rights to either assent or dissent to a further extension of the CIRP, despite exhaustive reminders and personal visitations by the Resolution Professional. Such negligence on the part of the CoC has significantly hampered the primary objective of the Code, which is the timely resolution of the Corporate Debtor. Furthermore, the CoC's failure to contribute toward the approved CIRP costs has created an untenable situation, obstructing the Applicant from discharging his statutory duties and settling professional dues.

5. It is further evidenced from the records that the Corporate Debtor lacks legal title over its primary assets, including the land, plant, and machinery at the Nayaagarh site, which remain vested with Cooperative Sugar Industries Limited. While the Applicant has been diligent in pursuing writ jurisdiction and arbitration to secure these titles, the statutory timeline for CIRP has elapsed without these rights being successfully transferred in favour of the Corporate Debtor.

6. This Tribunal takes judicial notice of the Applicant's submissions regarding the contumacious non-cooperation of the suspended Board of Directors. The pendency of the application filed under Section 19(2) of the Code further corroborates that the Resolution Professional was consistently denied access to essential records and documentation, thereby severally impeding the collation of information necessary to invite a viable resolution proposal.

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7. Regarding the preservation of assets, it is noted that while an interim order dated **20.12.2020** was passed by the Hon'ble High Court of Orissa directing police protection at the factory premises, the resolution of the company as a going concern has become a functional impossibility. Given the complexity of the title litigation and the categorical refusal of the CoC to fund further proceedings, there are no liquid assets available to maintain the Corporate Debtor as a going resolution.

8. In view of the facts and circumstances where the maximum permissible period for CIRP has expired and no resolution plan has been received; this Adjudicating Authority is of the considered view that the Corporate Debtor is a fit case for liquidation under the mandate of Section 33(1)(a) of the Code. As such, the application for liquidation deserves to be allowed.

9. In view of the facts and circumstances and documents available on record, we pass the following order:


i. The Corporate Debtor, **NAYAAGARH SUGAR COMPLEX LIMITED**, shall be put into liquidation in terms of the provisions of Section 33(1)(a) of the Code read with the Regulations made thereunder, which shall be effective from the date of this order. **Accordingly, we allow IA (IB)(Liq.) No. 1/CB/2024.**

ii. The Moratorium declared under Section 14 of the Code shall cease to have effect from the date of this order of liquidation. However, **a fresh moratorium is hereby declared under Section 33(5) of the Code**, whereby no suit or other legal proceeding shall be instituted by or against the Corporate Debtor, subject to the provisions of Section 52 of the Code.

iii. In accordance with Section 34(1) of the Code, we hereby appoint the Applicant, **Mr. Devendra Umrao**, holding registration no. **IBBI/IPA-003/IP-N00223/2019-2020/12640**, to act as the Liquidator of the Corporate Debtor **subject to his written consent and holding valid Authorization for Assignment**

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(AFA). The Liquidator so appointed shall complete the liquidation process of the Corporate Debtor as per the provisions of the Code read with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.

- iv. In case the applicant is unwilling or incapacitated to act as the Liquidator, the same shall be brought to the notice of this Adjudicating Authority immediately upon receipt of this Order and a separate application shall be filed by the applicant requesting the replacement of Liquidator for the Corporate Debtor.
- v. All the powers of the Board of Directors and Key Managerial Persons of the Corporate Debtor, as the case may be, shall hereafter cease to exist and the same shall henceforth vest with the Liquidator so appointed.
- vi. The personnel of the Corporate Debtor, including the suspended Board of Directors, are directed to extend all necessary cooperation to the Liquidator as required by him in managing the liquidation process.
- vii. Once the liquidation process is initiated, subject to Section 52 of the Code, no suit or other legal proceeding shall be instituted by or against the Corporate Debtor. The Liquidator has the liberty to institute a suit and other legal proceedings on behalf of the Corporate Debtor with the prior approval of this Adjudicating Authority, as provided in sub-section (5) of Section 33 of the Code.
- viii. This liquidation order shall be deemed to be notice of discharge to the officers, employees, and workmen of the Corporate Debtor except to the extent that the business of the Corporate Debtor continued during the liquidation process by the Liquidator.
- ix. This Adjudicating Authority directs the Liquidator to issue a public announcement stating that the Corporate Debtor is in

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liquidation. The Liquidator will also serve a copy of this order to the various Government Departments such as Income Tax, GST, VAT, etc., who are likely to have any claim upon the Corporate Debtor so that the authorities concerned are informed of the liquidation order timely. The Liquidator will also provide a copy of this order to the trade unions/employee associations of the Corporate Debtor so that the workman/employees can also be informed of this liquidation order through their association.

- x. The Registry is directed to communicate this order to the concerned Registrar of the Companies, the registered office of the Corporate Debtor, the Resolution Professional, and the Liquidator by speed post as well as e-mail within one week from the date of this order, after completion of all the formalities.

10. Accordingly, **IA (IB)(Liq.) No. 1/CB/2024** is **ALLOWED** and **DISPOSED OF.**

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BANWARI LAL MEENA
MEMBER (TECHNICAL)

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DEEP CHANDRA JOSHI
MEMBER (JUDICIAL)