

NATIONAL COMPANY LAW TRIBUNAL
INDORE SPECIAL BENCH
COURT NO. 1



ITEM No.201
CP(IB)/15(MP)2024

Proceedings under Section 7 IBC

IN THE MATTER OF:

Punjab National Bank
V/s
PK Global Power Pvt Ltd

.....Applicant

.....Respondent

Order delivered on 27/03/2025

Coram:

Shammi Khan, Hon'ble Member(J)
Sanjeev Kumar Sharma, Hon'ble Member(T)

PRESENT:

For the Applicant :
For the Respondent :

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of the order.

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

-SD-

SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Neeraj

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)



**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH AT INDORE**

CP (IB)/15(MP)2024

(An application 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 **PK GLOBAL POWER PRIVATE LIMITED**

Punjab National Bank

Having its Head Office at:
Plot No. 4, Sector 10,
Dwarka New Delhi – 110 075

Branch at:

Zonal SASTRA Centre, Zonal Office,
1st Floor, PNB Building,
Arera Hills, Bhopal (M.P.) – 462 011

...Applicant/Financial Creditor

VERSUS

PK Global Power Private Limited

(CIN: U29300MP2016PTC040932)

Having its Registered Office at:
Plot No.7/5, H Sector,
Govindpura Industrial Area,
Bhopal, Madhya Pradesh,
India, 462023

...Respondent/Corporate Debtor

Order pronounced on: 27.03.2025



CORAM:

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)
SH. SANJEEV KUMAR SHARMA, HON'BLE MEMBER
(TECHNICAL)

APPEARANCE

For the Applicant/ FC : Mr. Rohit Dubey, Adv.

For the Respondent/CD : Mr. Akshat Agarwal, Adv.

ORDER

1. The present Petition is filed on 15.03.2024 by the Applicant- **Punjab National Bank** (hereinafter referred to as “**Financial Creditor**”) against the Respondent- **PK Global Power Private Limited** (hereinafter referred to as “**Corporate Debtor**”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**IBC, 2016**”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as “**IB (AAA) Rules, 2016**”) for initiation of Corporate Insolvency Resolution Process (**CIRP**), to appoint Interim Resolution Professional (hereinafter referred to as “**IRP**”) and declare the moratorium for having defaulted payment of its outstanding dues of **Rs. 16,91,92,194.72ps.** including interest as on 31.01.2024.



2. On perusal of Part-I of the Form-1 indicates that the Financial Creditor i.e. Punjab National Bank is a body corporate constituted under the Banking Companies (Acquisition & Transfer of Undertakings) Act of 1970 which was incorporated on 19.05.1894. The registered office of the Financial Creditor is situated at: Plot No. 4, Sector-10, Dwarka New Delhi – 110075 and Branch Address at: SASTRA Centre, Zonal Office, 1st Floor, PNB Building, Arera Hills, Bhopal (M.P.) – 462 011.
3. The Petition is affirmed by Mr. Rajesh Kumar Gupta being the Chief Manager of the Financial Creditor who is authorized to sign the documents on behalf of the Financial Creditor in terms of the Board Resolution dated 04.12.2020. Copy of the same is annexed at **Annexure – A**.
4. Perusal of Part-II of the Form-1 states that the Corporate Debtor – M/s. PK Global Power Private Limited was incorporated on 13.06.2016 under CIN: U29300MP2016PTC040932, having its registered office at: Plot No.7/5, H Sector Govindpura Industrial Area, Bhopal, Madhya Pradesh, India, 462 023. The Nominal Share Capital



of the Company is Rs.3,00,00,000/- and the Paid-Up Share Capital is Rs.2,53,36,800/-.

5. Perusal of **Part-III of the Form-1** reveals that the Financial Creditor has proposed the name of **Ms. Teena Saraswat Pandey**, having Registration No. **IBBI/IPA-001/IP-P00652/2017-18/11126** (Email: teenasaraswat@yahoo.co.in) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). She has filed her written communication annexed with the Petition as Form-2 as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. A copy of Form-2 is attached as **Annexure-B** in the Petition. Her AFA is valid from 01.01.2025 to 31.12.2025 as per data available on the official website of the IBBI ibbi.gov.in.
6. Part-IV of the Form-1 reveals that total dues as claimed by the Financial Creditor is **Rs.16,91,92,194.72ps.** consisting of Rs.7,63,94,609.26ps. being principle, an amount of Rs.4,50,03,353.58ps. as interest, amount of Rs.6,38,03,353.58ps. as other debit & other charges and an



amount of Rs.1,60,92,340.12ps. being less recoveries up-to 31.01.2024. The date of default is stated to be as 27.09.2021 being date of NPA.

7. It is stated that the Corporate Debtor availed the following Credit Facilities from the Financial Creditor through Sanction Letters dated 21.12.2016, 22.05.2020 and 20.06.2020. The said facilities are hereby mentioned:-

Sr. No.	Particulars	Amount
1.	C.C. 1257008700001380	4,00,00,000/ -
2.	NFB: Bank Guarantee	8,25,00,000/ -
3.	Term Loan (1)718400IB00000759	1,96,00,000/ -
4.	Term Loan (2)718400IL00000722	1,10,91,000/ -
5.	Term Loan (3)718400PD00000127	40,00,000/-
	Total	15,71,91,000/ -

The copy of said sanction letters dated 21.12.2016, 22.05.2020 and 20.06.2020 as well as other loan security documents are annexed at “**Annexure C**” & “**Annexure F**” to the petition.


8. However, after availing of the aforesaid Credit Facilities, the Corporate Debtor failed to maintain financial discipline as per



the terms and conditions of the loan agreement due to which the loan accounts became irregular and committed default in servicing interest and re-payment of instalments. Consequently, the said accounts of the Corporate Debtor were classified as NPA on 29.09.2021 as per the Reserve Bank of India (RBI) guidelines. Thereafter, the Financial Creditor served Demand Notice dated 18.10.2021 U/s 13(2) of the SARFAESI Act, 2002 upon the Corporate Debtor and Guarantors to repay the outstanding dues which is annexed with Petition as **Annexure-H**.

9. Realizations of all the outstanding dues and total amount in Default:

- i. Principal Outstanding of Rs.7,63,94,609.26 (Rupees Seven Crores Sixty-Three Lakhs Ninety-Four Thousand Six Hundred Nine and Twenty-Six Paise only).
- ii. Interest Outstanding (unapplied + un-serviced) of Rs.4,50,86,572.00 (Rupees Four Crores Fifty Lakhs Eighty-Six Thousand Five Hundred Seventy-Two Only).
- iii. Other debits and other charges of Rs.6,38,03,353.58 (Rupees Six Crores Thirty-Eight Lakhs Three Thousand Three Hundred Fifty-Three and Fifty-Eight Paise only).

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- iv. Less recoveries of Rs.1,60,92,340.12 (Rupees One Crore Sixty Lakhs Ninety-Two Thousand Three Hundred Forty and Twelve Paise only)

The Financial Creditor has also placed on record a copy of Computation Sheet as well as Statement of Accounts along-with Certificate as per provisions of Bankers' Books Evidence Act, 1891 of the Corporate Debtor which are annexed as **Annexure-D** and **Annexure-G** in the Petition.

- 10.** The Financial Creditor has also filed **Form-D** as being a record of debt and default issued by National E-Governance Services Limited ("**NeSL**") in which the date of default is reentered as 27.09.2021 with status "**Deemed to be Authenticated**". A copy of the same is annexed as **Annexure-I** in the Petition.

- 11.** The Financial Creditor has relied upon the following documents:-

- A copy of Authority letter to submit Petition on behalf of financial creditor.
- Written Communication of the Proposed Interim Resolution Professional in Form 2.
- Loan sanction documents in 21.12.2016, 12.05.2020 and 20.06. 2020.



- Statement showing total amounts of debt granted and Outstanding as on 31.01.2024.
- ROC Charge Forms, Charge Certificate & Search Report with annexure.
- Copy of the Financial Contract.
- Copies of Bank Statement in accordance with the Banker Books Evidence Act 1891.
- Legal Notice/Final Recall Notice.
- Record of Default as available with THE INFORMATION UTILITY.
- Sanction notes and Agreements etc.
- Certificate of IBBI and AFA.
- Vakalatnama/Power of authority in favour of Advocate.
- Service of Proof.

12. The Financial Creditor has further relied and attached the following documents with the said Petition as **Annexure-F**:

S.NO.	DOCUMENTS NAME
1	Certificate of Incorporation of Company 13.06.2016
2	Sanction Letter 12.05.2020
3	Sanction Letter 14.05.2020
4	Acknowledge 22.05.2020
5	Demand Promissory note 22.05.2020
6	Master Agreement 22.05.2020
7	Hypothecation of Goods & Book Debts to Secure CC 22.05.2020
8	Supplementary Agreement 18.05.2020
9	General Counter Indemnity 22.05.2020



10	Undertaking From the Borrower 22.05.2020
11	Letter of Continuity
12	Format of Authorization 22.05.2020
13	Authority For Insurance
14	Undertaking 22.05.2020
15	Agreement Guarantee 22.05.2020
16	Agreement Guarantee 22.05.2020
17	Agreement Guarantee 22.05.2020
18	Agreement Guarantee 22.05.2020
19	Undertaking 22.05.2020
20	Loan Application 01.06.2020
21	Sanction Letter 22.06.2020
22	Acknowledge 24.06.2020
23	D.P. Note 24.06.2020
24	Agreement For WCTL 24.06.2020
25	Master Agreement 24.06.2020
26	Undertaking 24.06.2020
27	Undertaking 24.06.2020
28	Authority For Insurance
29	Letter of Continuity
30	Agreement Guarantee 24.06.2020
31	Agreement Guarantee 24.06.2020
32	Undertaking 24.06.2020
33	Sale Deed
34	Extended The Mortgage 26.06.2020
35	Registration Certificate 07.07.2020
36	Undertaking / Declaration 22.05.2020
37	Undertaking / Declaration 24.06.2020
38	Property Declaration Form 22.05.2020
39	Affidavits 07.09.2021
40	Balance Confirmation 21.12.2019
41	Recall Notice 31.05.2021
42	Notice Under Section 13 (2) 18.10.2021



13. It is noted that advance notice and copy of the Petition in terms of Rule 4(3) of IB (AAA) Rules, 2016 was already served on 15.03.2024 through e-mode upon the Corporate Debtor as per proof of email service filed along-with Petition on 20.02.2024. However, despite advance notice by the Financial Creditor & Service of the Petition none has appeared on behalf of the Corporate Debtor on 15.03.2024.

14. Therefore, a formal notice in the Petition was also issued on 04.04.2024 to the Corporate Debtor who was directed to file a reply within two weeks. The Corporate Debtor was served on 17.04.2024, through e-mode and registered post, on 20.04.2024 as per the Service Report Affidavit filed on 22.05.2024. On 22.07.2024 Corporate Debtor appeared and sought some time to file a reply. Time to file a reply along with Vakalatnama as well as the Board Resolution of the Corporate Debtor within the next seven days without fail was ordered.

15. Thereafter, on various dates i.e. 02.09.2024, 27.11.2024, 21.01.2025, 03.03.2025, the matter was listed but neither any reply was filed by the Corporate Debtor nor any Vakalatnama who represented the Corporate Debtor on



various dates despite the multiple adjournments/dates. Therefore, vide order dated 25.03.2025, the right to file the reply of the Corporate Debtor was closed. Further, the Corporate Debtor was proceeded **Ex-parte**.

16. We heard the oral submissions of Ld. Counsel for the Financial Creditor, ex-parte against the Corporate Debtor and perused the material available on record. The Observations of the Tribunal are followed as under: -

- (i) On perusal of the records, it is found that the Corporate Debtor had availed various credit facilities from the Financial Creditor, including Cash Credit limits, Term Loans, and bank guarantees amounting to Rs.15,71,91,000/-.
- (ii) The loan amount was duly disbursed to the Corporate Debtor as reflects from the A/c Statements annexed with the Petition. However, the Corporate Debtor defaulted in servicing the interest as well as in repayment of instalments as reflects from the A/c Statement annexed as **Annexure- C & G**.
- (iii) Therefore, loan accounts were rightly classified as NPA on 27.09.2021 and recalled by Financial Creditor vide Demand Notice dated 18.10.2021 U/s 13(2) of the SARFAESI Act, 2002 which was served to the Corporate Debtor and Guarantors to repay the



outstanding dues but no payment was made which is annexed with Petition as **Annexure-H**.

- (iv) The outstanding liability as of 31.01.2024 amounts to Rs.16,91,92,194.72ps. which include principal, interest, and charges.
- (v) The Financial Creditor has also filed **Form-D** as being a record of debt and default issued by National E-Governance Services Limited ("**NeSL**") in which the date of default is reordered as 27.09.2021 with status "**Deemed to be Authenticated**". A copy of the same is annexed as **Annexure-I** in the Petition.

17. It has been observed by the Hon'ble NCLAT in **Company Appeal (AT) (Insolvency) No. 1589 of 2023 Milind Kashiram Jadhav Suspended Director of Jabalpur MSW Pvt. Ltd Vs State Bank of India (2024) ibclaw.in 273 NCLAT** that the NPA classification date is to be treated as the 'date of default' within the ambit of the Code. The relevant paragraphs are reproduced hereunder for ready reference: -

"74. The loan accounts of the Corporate Debtor were officially classified as Non-Performing Assets (NPA) on September 27, 2019, following 90 days of non-payment, thereby triggering a default event. Despite subsequent partial payments made by the borrower,



the NPA status and default persisted, indicating a continuous state of default. Consistent with established judicial precedents and the specific circumstances of the case, the date of NPA classification serves as the valid "Date of Default" for initiating insolvency proceedings. Even after the NPA classification, the borrower remained in default. Consequently, September 27, 2019, the date of NPA classification, stands as the "date of default" under the Insolvency and Bankruptcy Code (IBC), superseding any subsequent events, such as the loan recall notice issued on August 18, 2020.....”

- 18.** It can be seen from the judgment of the Hon’ble **Supreme Court** in the matter of **M. Suresh Kumar Reddy Vs Canara Bank & Ors. (Civil Appeal No. 7121 OF 2022** decided 11 May, 2023) stating that in the matter of Section 7, the only thing which is to be seen while ordering in Section 7 matters is whether there is debt and default.
- 19.** Further, the Hon’ble **Supreme Court** in the case of **Innoventive Industries Limited v. ICICI Bank Limited**, where it has discussed extensively the scope of the Adjudicating authority under section 7 of the IBC is limited to



assessing the records provided by the financial creditor to satisfy itself that the default has occurred:-

28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor – it need not be a debt owed to the financial creditor. Under Section 7(2), an application is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), 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. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.

30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is “due” i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.

20. In view of above, the present Petition is complete in terms of Section 7 (5) of the Code. The Financial Creditor is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. The outstanding financial debt is of more than rupees one crore which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present Petition. Moreover, the said default is not covered under the period exempted under Section 10A of IBC, 2016.



21. Hence, the Petition filed under section 7(2) of the Insolvency and Bankruptcy Code for initiation of corporate insolvency resolution process against the Corporate Debtor deserves to be admitted.

22. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under:-

(i) The Respondent/Corporate Debtor **PK Global Power Private Limited** is **admitted** in Corporate Insolvency Resolution Process (**CIRP**) under section 7 of the IBC, 2016.

(ii) As a consequence, thereof, an Interim Resolution Professional (**IRP**) is appointed, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the IBC, 2016.

a. *The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or 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 assets 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 under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*
 - d. *The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*
 - e. *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a Corporate Debtor.*
- (iii) The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.



- (iv) However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period. The corporate debtor to provide effective assistance to the IRP as and when he takes charge of the assets and management of the corporate debtor.
- (v) As proposed by the Financial Creditor, we appoint **Ms. Teena Saraswat Pandey** having Registration No. IBBI/IPA--001/IP-P00652/2017-18/11126, having address: 387F, 114 Scheme Part-1, Behind Diksha Boys Hostel, Sant Nagar, Indore, Madhya Pradesh, 452010 (**e-mail:** teenasaraswat@yahoo.co.in) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). She shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.
- (vi) The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.



- (vii) The IRP shall perform all his functions as contemplated, *inter-alia*, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or cooperate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- (viii) The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- (ix) 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 obligation imposed by section 20 of the Code.



- (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) We direct the financial creditor to pay IRP a sum of **Rs.2,00,000/- (Rupees Two Lakh Only)** in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims etc. till the CoC decides about his fees/expenses.
- (xii) The Registry is directed to communicate this order to the financial creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.
- (xiii) The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST (centre),



State Trade Tax, Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/employees associations so that they are informed of the initiation of CIRP against the Corporate Debtor timely.

(xiv) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

23. Accordingly, this Application **CP(IB)/15/MP/2024** is hereby **admitted**. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

-SD-

SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

-SD-

SHAMMI KHAN
MEMBER (JUDICIAL)