

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH**

CP No. 4676/I&BC/NCLT/MB/MAH/2017

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

Kalyan Janata Sahakari Bank Limited**Petitioner(s)/Financial Creditor**

Versus

CICIL Biochem Limited..... Respondent(s)/Corporate Debtor

Heard on: 26.09.2019

Pronounced on:01.10.2019

Coram :

Hon'ble M.K. Shrawat, Member (J)

Hon'ble Chandra Bhan Singh (T)

For the Petitioner :

Advocate Raghav Ganesh i/b PRA Law Offices.

For the Respondent :

Advocate Mathew Nedumpara a/w Precilla D'Souza.

Director Mr. Vishal Gala Present.

Per: M.K. Shrawat, Member (J)

ORDER

1. The Petitioner/Applicant viz. '**Kalyan Janata Sahakari Bank Limited**' (hereinafter as **Financial Creditor**) has furnished Form No. 1 under Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter as **Rules**) in the capacity of "**Financial Creditor**" on 18.12.2017 by invoking the provisions of Section 7 of the Insolvency and Bankruptcy Code (hereinafter as **Code**) against '**CICIL Biochem Limited**' (hereinafter as '**Corporate Debtor**'). The registered address of the Corporate Debtor is stated to be Vashi, Navi Mumbai, Maharashtra.
2. In the requisite Form, under the head "Particulars of Financial Debt" the total amount claimed to be in default is stated to be **₹9,26,59,294/-** as on 25.09.2017. **As per the records the date of NPA as per Form I is mentioned to be 30.06.2018.**

A) Brief History of the case:

3. The Financial Creditor viz. Kalyan Janata Sahakari Bank Limited has described the following Two Facilities sanctioned in the following manner and on the following dates :-

- i) Cash Credit Limit : Rs. 800 Lakhs on 30.01.2017.
- ii) Term Loan (Mortgage) : Rs. 50 Lakhs on 22.02.2017.

3.1 Another Financial Creditor viz. **Thane Bharat Sahakari Bank Limited** sanctioned financial facility of **Rupees Four Crores**. Personal Guarantees and Promissory Notes were issued by Smt. Vimala Amarshi Gala, Mr. Vishal Amarshi Gala, Mrs. Jeenal Vishal Gala i.e. Directors of the Corporate Debtor and Mr. Amit Amarshi Gala for the purpose of availing the said financial facility from the Financial Creditor. The Corporate Debtor also mortgaged certain properties in order to avail the benefits of the said financial facility as described below :-

(A) FIRST PROPERTY – Free-hold industrial plot of land admeasuring about 18400 sq. metres at Village Tilgaon, District-Palghar-421 303.

(B) SECOND PROPERTY- Flat No. D-46 admeasuring 68.96 sq. metres consisting of 4 rooms on the building “S-11” in “Amarjyoti Co-operative Housing Society Limited at Thane-400 703.

(C) THIRD PROPERTY – All that piece and parcel of land bearing Plot No. 8, CTS/Survey Nos. 94(part) admeasuring 705.41 sq. metres, situated at District Raigad. The property is owned by Mr. Amit Gala.

(D) MOVABLE PROPERTY –

- i) Hypothecation of Stock of Raw Materials, WIP and Finished Goods (For cash credit limit).
- ii) Finished Goods (For cash credit limit).
- iii) Hypothecation of entire Plant and Machinery, Equipments and all other movable assets installed at Gut No. 109 H. No. 2(P) of Village Tilgaon, Off Blulwarka Steel Company, Taluka Wada, District Palghar 421303.

4. That the Respondent/Debtor failed to regularize the loan, therefore, the Financial Creditor issued Notice dated 22.09.2018 under SARFAESI for the outstanding amount of Rs. 13,14,85,375.75 (Rupees Thirteen Crore Fourteen Lakhs Eighty-five Thousand Three Hundred Seventy-five and Seventy-five paise only) as under :-

At the Kalyan Janata Sahakari Bank Limited Branch – Thane Hariniwas

<i>Outstanding Balance (Interest charged upto 31.08.2018)</i>			
<i>A/c. No.</i>	<i>Principal</i>	<i>Interest</i>	<i>Total</i>

CC-19	7,92,89,070.02	54,95,254.00	8,47,84,324.02
OMTLN-33	44,06,000.00	2,81,296.00	46,87,296.00
Total	8,36,95,070.02	57,76,550.00	8,94,71,620.02

At Thane Bharat Sahakari Bank Limited Branch – Airoli Navi Mumbai.

Outstanding Balance (Interest charged upto 31.08.2018)			
A/c. No.	Principal	Interest	Total
CC-14	3,88,91,236.88	31,22,518.85	4,20,13,755.73
		Total :	13,14,85,375.75

5. That on 30.11.2018 the outstanding debt in default was Rs. 9,26,59,294.02 (Rupees Nine Crores Twenty-six Lakhs Fifty-nine Thousand Two Hundred Ninety-four and Two Paise only) detailed as under :-

Term Loan : Rs. 48,38,845.00

WC : Rs. 8,78,20,449.02

Rs. 9,26,59,294.02

6. That the **Economic Offence Wing** (EOW) was investigating the offence allegedly committed by receiving huge amount from Investors in the name of PONGI SCHEME. The EOW on 05.05.2017 issued Notices and freezed the Bank Account of the Respondent/Debtor.
7. That the Financial Creditor had renewed the Credit Facilities but even after regular follow up for recovery of the debt, the Respondent/debtor remained defaulter of non-payment. The defaulter had not regularized the Loan Accounts. A ‘recall-notice’and a notice under section 13(2) of the SARFAESI Act was issued wherein described the facilities granted by the Banks as under :-

	Name of the Bank	Type of Loan	Sanc. Limit Rs.	Rate of Interest
1	Kalyan Janata Sahakari Bank	Cash Credit	8,00,00,000.00	12.10%
2		Term Loan Mortgage	50,00,000.00	12.10%
3	Thane Bharat Sahakari Bank Limited	Cash Credit	4,00,00,000.00	12.10%
4		Term Loan Mortgage	1,50,00,000.00	12.10%
		Total :-	14,00,00,000.00	

LC : Sub-limit within CC Limit Rs. 4,00,00,000.00

8. Against the Cash Credit Facility of Rupees Eight Crores Kalyan Janata Sahakari Bank Limited a **Promissory Note dated 30.01.2017** was issued by the Corporate

debtor, which is a clear evidence of acceptance of debt. The documents which were signed and executed by the Corporate debtor while availing the Loan facilities in favour of Kalyan Janata Sahakari Bank Limited are listed below :-

(A) At the Kalyan Janata Sahakari Bank Limited :-

(i) For Cash Credit facility of Rs. 8,00,00,000/- (CC-19).

Promissory Note dated 30.01.2017 for Rs. 8,00,00,000/-.

1. Cash Credit Agreement dated 30.01.2017 for Rs. 8,00,00,000/-.
2. Letter of Declaration for Hypothecation of Stocks dated 30.01.2017.
3. Letter of Lien and Set-off dated 30.01.2017.
4. Irrevocable Power of Attorney dated 30.01.2017.
5. Letter of Guarantee dated 30.01.2017 for Rs. 8,00,00,000/-.
6. Continuing Security Letter dated 30.01.2017.
7. Undertaking as per points Nos. 10 & 13 of the general terms and conditions of the sanction letter dated 30.1.2017.
8. Agreement of Hypothecation of Plant and Machinery, stocks and Book Debts dated 30.01.2017.
9. Letter of continuing security dated 31.03.2018.
10. Letter of Acknowledgement of Debts dated 31.03.2018.

(ii) For LC limit of Rs. 4,00,00,000/-

1. Promissory Note dated 10.03.2017.
2. Letter of Lien and Set-off dated 10.03.2017.
3. Letter of Guarantee dated 10.03.2017.
4. Undertaking/Agreement to secure BG/LC dated 10.03.2017.

(iii) For Term Loan (Mortgage) of Rs.50,00,000/-

1. Promissory Note dated 30.01.2017 for Rs. 50,00,000/-.
2. Loan Agreement (Karar Patra) dated 30.01.2017 for Rs. 50,00,000/-.
3. Letter of Lien and Set-off dated 30.01.2017.
4. Letter of Guarantee dated 30.01.2017 for Rs. 50,00,000/-.

(iv) Likewise, Loan Facility of Rupees Four Crores by Thane Bharat Sahakari Bank Limited were secured by the following documents :-

(B) At Thane Bharat Sahakari Bank Limited :-

For Cash Credit facility of Rs. 4,00,00,000/-

1. Demand Promissory Note dated 09.03.2017 for Rs. 4,00,00,000/-.
2. Undertaking dated 09.03.2017 for Rs. 4,00,00,000/-.
3. Guarantee Agreement dated 09.03.2017 for Rs. 4,00,00,000/-.
4. Letter of Continuing Security dated 09.03.2017 for Rs. 4,00,00,000/-.
5. Power of Attorney for Book Debts dated 09.03.2017.
6. Letter of Pledge in respect of loan/overdraft against FDR dated 09.03.2017.
7. Letter of Application appropriation for advance against deposit dated 09.03.2017.
8. Letter of Lien & Set Off dated 09.03.2017 for Rs. 4,00,00,000/-.
9. Take Delivery letter.
10. Letter of Lien & Access dated 09.03.2017 for Rs. 4,00,00,000/-.
11. Deed of Hypothecation dated 09.03.2017 for Rs. 4,00,00,000/-.

Submissions by the Corporate debtor

9. From the side of the Respondent/debtor the Learned Counsel Mr. Mathew Nedumpara appeared and placed reliance on the Reply filed. It is pleaded that the NCLT is not a Court but a Tribunal, hence do not have jurisdiction to decide the impugned Petition filed under section 7 of the I&B Code. It has been pleaded that the Petitioner is a Co-operative Society, therefore, governed by Co-operative Laws thus not covered under Insolvency Code, therefore, the Petitioner is illegally approached for recovery of the outstanding debt under Insolvency Code. The Financial Creditor has civil grievance of recovery of outstanding debt, therefore, entitled to file a Civil Suit in a Civil Court, if any, but not entitled to approach a Tribunal. The Learned Counsel has also challenged the Constitutional Validity of the creation of Insolvency Code as well as existence of NCLT Benches. Further placed reliance on the Reply filed. Only relevant portions are reproduced below :-

- “ (1) *At the outset, it is fundamental principal of law that if a Court or Tribunal is not invested of the jurisdiction to embark upon an enquiry relating to a controversy which has been placed before for its determination then such a court or tribunal by an erroneous determination or decision as to its order, jurisdiction cannot enter jurisdiction upon it when law has provided none upon it (Anismic V Foreign Compensation Commissioner, A.R. Antulay, Kiran Singh, Ujjain Bhai and Nawab Khan).*
- (2) *On the contrary a court of record of plenary having unlimited jurisdiction, can even by an erroneous decision on to its own jurisdiction bind the parties to the lis. This is one of the fundamental difference between a Court and a Tribunal. All Courts are tribunal but not all Tribunals are court. This Hon’ble Forum (NCLT) despite the great financial status involved in the causes which are brought before it for its determination, is still a tribunal of limited jurisdiction which is competent duty bound to adjudicate only upon the controversies which undoubtedly falls within its domain. The pertinent question therefore is, what is the cause of action upon it when one of the parties before it as a humble applicant as in the instant case, disputes the very competence, may jurisdiction of this Hon’ble Forum to embark upon an enquiry as to the correctness or otherwise of the case which the other parties to the lis, namely the Kalyan Janata Sahakari Bank Limited, in the instant case ? Could this Tribunal adjudicate the challenge as to its own very jurisdiction if the answer is in the affirmative, will not amount to a court or tribunal of limited jurisdiction or adjudicating a challenge as to its own jurisdiction and investing jurisdiction upon it by an erroneous decision which this Tribunal is barred by law.*
- (4) *The jurisdiction under Article 226 of the constitution is certainly open to the Corporate Debtor to seek a writ of certiorari or a certiorarified prohibition because the prerogative writ of certiorari is undoubtedly available to quash a court or tribunal of inferior jurisdiction from exercising a power which is not invested upon it by law. A writ of prohibition will to restrain and prohibit such a Tribunal from embarking upon an enquiry which the law has not empowered.*

- (5) *A suit will undoubtedly lie in a competent civil court for a declaration that the Tribunal is a coram non judice so too the proceeding before it are null and void. Both mandatory and prohibitory injunction too will lie both perpetual and ad-interim a Tribunal from proceeding any further in further of the above case which is instituted before it.*
- (7) *The Bank with whom the (purported) Corporate Debtor entered into certain contract for the financing of its business after committing gross breach thereof, nay, after causing huge losses and injuries to the instant (purported) Corporate Debtor, invoked section 13(2) of the SARFAESI Act, a mechanism whereunder if a borrower is at fault (contrary to the instant case where the borrower is not at all at fault, but the Banker is guilty of gross breach of contract and culpable negligence and malicious and tortuous action) the Bank or the financial Institution, nay the creditor could act as a Tribunal in substitution of the civil court could take possession of the secured asset and recover the amounts which are admittedly due to it by liquidating such asset.*
- (9) *Even though (purported) Corporate Debtor company has an unblemished track record of more than a decade of banking with the Financial Creditor Bank and its successive managers, has been forced to face the daunting tasks and difficulties under the hands of the Bank officials, who is yet to come out of the shackles of red-tapism and bureaucracy, violated the agreements, undertaking and promise, bothering the least about the disastrous consequences which such breach of contract, negligence and tortuous acts could cause on the Company. The relationship between the (purported) Corporate Debtor company and the bank is a chronicle of gross breach of contract, nay, gross indifference to the interests of the Purported Guarantor/Petitioner Company and even to the interests of the bank, under the lacklustre leadership and attitude of the Bank officials. The Financial Creditor did not at all release the credit facilities as promised, which was required for putting the (purported) Corporate Debtor's business on track, for building good will and confidence building measures, as also the requirements of working capital. The industry being one engaged in the business of oil trading, is one which required smooth flow of working capital and trustworthiness as its very lifeblood. The Financial Creditor not only did not release the funds which it had agreed release, nay, duty bound to release, but caused inordinate delay even in the releasing of whatever was agreed upon and whatsoever was eventually released which, the (purported) Corporate Debtor begs to submit at the cost of repetition fell far short of its commitment. At the hands of the Financial Creditor and its managers, the account of the company which was well serviced and smooth running for more than a decade of relations, turned to be a matter of hindrance for the proprietor in conducting the business at every stage. The track record of the aforesaid company is a narrative of immaculate conduct of business, which is in a 100% technology driven business. Even after decades of business with trust and confidence, while banking with the Financial Creditor, what was left now amounted to hurdles, total opacity, customer unfriendly behaviours, delays. Omissions and commissions, amounting to fraud. Some of the samples as given infra can throw some light into the continuous hurdles as experienced, which ultimately led the company into the present fiasco. The agreement between the company and the Financial Creditors consists of various reciprocal promises and the sequence of assurances thereof to be performed by the parties thereto. Thus both the parties are bound by the terms and conditions of the agreements. The Financial Creditor being a lead banker for the (purported)*

Corporate Debtor, so far as the trading in oil business. So also the (purported) Corporate Debtor company were solely relying on the advises of the Financial Creditor for the said purposes as the (purported) Corporate Debtor trusted the Bank absolutely as they are master professionally in Banking and is duty bound to advise the company, being their customer dependent upon them for Banking from time to time. Even though the company has paid huge amounts to the Financial Creditor towards repayment of principal and interest, the account of the Financial Creditor kept on mounting the dues and interest together with penal interest, without any rhyme or reason against every cannon of ethical banking.

- (17) *The purported Financial Creditor after committing gross breach of contract being guilty of culpable negligence, malicious and hostile action as aforesaid classified the account of the (purported) Corporate Debtor as NPA, that too behind its back. The Company's account was not liable to be classified as NPA for it is entitled to the protection of MSME Act. From time to time since 2002 the Reserve Bank of India issued a number of guidelines, instructions, directives to Banks in the matters relating to lending to MSME sector. To enable the Banks to have current instructions at one place a Master Circular No. RPCD.MSME & NSC.BC. No. 5/06.02.31/2013-14 dated 01.07.2013, consolidating instructions issued upto 03.06.2013 was issued. Many a times, Bank Managers do not even bother to respond to their loan queries. They often pretend ignorance about the government loan schemes designed for MSMEs. Such complaints are a dime a dozen. To Bridge this mistrust the MSME lending system the RBI and the Government of India resolved to be revamped. Transparency in lending norms, clear cut methods to evaluate and monitor MSMEs' financial condition, guidance to them in loan application, care to nurse them in their sickness and a resolve to never let them die are some steps taken up urgently by the Ministry of Micro Small & Medium Enterprises, Government of India and towards this end they issued a Notification S.O. 1432€ dated 29.05.2015. This notification lays down the frame work for Revival and Rehabilitation of Micro, Small and Medium Enterprises. The (purported) Corporate Debtor shall rely on the Notification S.O. 1432(E) dated 29.05.2015 when produced.*
- (19) *'Pendete lite nihil innovetur', is a fundamental principle of law, lest there could be no finality of litigation, the violation of the said principle is certain to lead to multiplicity of proceedings. However, the purported Financial Creditor with the malicious intention to defeat the due process of law and to frustrate the legal proceedings as aforesaid, which the (purported) Corporate Debtor has instituted for the enforcement of its rights, invoked the jurisdiction of the National Company Law Tribunal, Mumbai.*
- (26) *The instant case is not a case where the debt is admitted even in part. Here it is absolutely denied. The Banks claim was disputed, even before the Insolvency Code of 2016 was enacted. This Hon'ble Forum under the Insolvency Code is not invested of the jurisdiction to determine the inter se lis between the purported Corporate Debtor and the bank in so far as the very claim of the Bank which is the foundation of the very application of the purported Financial Creditor bank as against the instant applicant. That jurisdiction fall within the exclusive domain of the Civil Court. The (purported) Corporate Debtor by instituting a Civil suit as aforesaid placed the controversy to be adjudicated by the Civil Court. The Civil Court being a court of record of plenary jurisdiction in*

open to decide its own jurisdiction, so too the contours of the jurisdiction of this court unlike this Hon'ble Tribunal which despite the huge stake in financial terms of the controversies before it is still a tribunal of limited jurisdiction, even lacking inherent jurisdiction.

(27) *Therefore, in the light of the above, this Hon'ble Tribunal be pleased to dismiss the above Company Petition with compensatory costs.*

Findings

10. On hearing the arguments of the Respondent, this Bench is of the view that the Constitutional Validity of the Insolvency Code, 2016 has wrongly been challenged before this Forum. It is beyond the jurisdiction of this Forum to address this Issue, hence stands dismissed.

10.1 The issue of substantial validity stood resolved by the Hon'ble Supreme Court in the case of **Innoventive Industries Limited V/s ICICI Bank &Anr. (Civil Appeal No. 8337-8338/2017)** where in detail the provisions of the Insolvency Code have been discussed and thereupon on approving the substantial validity it was observed that :-

*“ 28. ...**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 the receipt of the 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 ...” (emphasis supplied)*

The Supreme Court also went on to observe that :-

*“ 30. On the other hand, as we have seen, **in the case of a corporate debtor who commits 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.**”*

The Supreme Court also went on to observe that :-

*“ 27. **The scheme of the Code is to ensure that when a default takes place, in the sense that a debt becomes due and is not paid, the insolvency resolution process begins.** Default is defined in Section 3(12) in very wide terms as meaning non-payment of a debt once it becomes due and payable, which includes non-payment of even part thereof*

or an instalment amount. For the meaning of “debt”, we have to go to Section 3(11), which in turn tells us that a debt means a liability of obligation in respect of a “claim” and for the meaning of “claim”, we have to go back to section 3(6) which defines “claim” to mean a right to payment even if it is disputed. The Code gets triggered the moment default is of rupees one lakh or more (Section 4). The corporate insolvency resolution process may be triggered by the corporate debtor itself or a financial creditor or operational creditor. A distinction is made by the Code between debts owed to financial creditors and operational creditors. A financial creditor has been defined under Section 5(7) as a person to whom a financial debt is owed and a financial debt is defined in Section 5(8) to mean a debt which is disbursed against consideration for the time value of money...” Emphasis Supplied).

10.2 As far as the question raised about the jurisdiction of the Tribunal to decide an Issue of the recovery of debt being in nature of Civil dispute hence out of the jurisdiction of the Tribunal being not a Court, this Bench is of the view that this Tribunal is constituted not for the purpose of recovery of debt but as per the preamble, for reorganisation of financially stressed Corporate Debtor and restructuring of debt-in-default by maximization of value of assets. The very basis of this argument that the Insolvency Proceedings are recovery proceedings is baseless and against the preamble of Insolvency and Bankruptcy Code, 2016, therefore rejected.

10.3 As far as the argument that all Courts are Tribunals but all Tribunals are not Courts, this Bench is of the view that the law in this regard is very well settled and that as per the precedence a distinction has been drawn. However, the distinction so drawn is not in any way overlapping the jurisdiction of this Tribunal because the Insolvency Proceedings are governed by an independent as well as self contained Code viz. Insolvency and Bankruptcy Code, 2016. May or may not be a ‘Court’ in strict sense, as held in the past in few Judgements of respected higher forum, but Tribunals are also held as a specialized court for deciding technical issues/ cases specifically designated and assigned by an enactment of Code / Act by Hon’ble Parliament. This argument has no legal sanctity hence dismissed

10.4 In one of the contentions it is pleaded that it is open to a Corporate debtor to exercise the option of Writ under Article 226 of the Constitution, which means the questions raised by the Learned Counsel are within the Writ Jurisdiction not enshrined to this Tribunal. It has also been pleaded that once the SARFAESI Notice has been issued the Bank should not have invoked simultaneously the

Insolvency Proceedings. The answer to this question is inbuilt in the Insolvency Code itself. That the SARFAESI Proceeding stood abated, hence remedy available to the Corporate Debtor is with this Code.

- 10.5 Rest of the Arguments such as action of the Bank alleged to be malafide are baseless, uncorroborated and not sustainable in the eyes of law, hence dismissed. Certain maxims quoted in the Written Submissions are misplaced, not applicable on the present facts and circumstances of the case. It is worth as well as necessary to place on record and to be noted that the Responded or the respected Representative has not uttered a whisper about the merits of the case. The respondent had not challenged the Debt in question nor the default committed in repayment of the loan amount. During the course of hearing opportunity was granted to address the Court on merits or to contest the Debt in question or whether repayment had been made but the Ld. Counsel has preferred to raise only irrelevant legal question which are otherwise out of the jurisdiction of NCLT to decide.
11. On perusal of the arguments of both the sides at length and the documents and evidences placed on record, this Bench finds that as far as the discussion on merits of the debt amount is concerned, already discussed in detail in the above paras. To corroborate the sanctioning of loan, disbursement of loan, execution of documents, securities obtained from the debtor etc. are the evidences on record to corroborate the existence of '**Debt**'. The Demand Notice, SARFAESI Notice, Recall Notice, Declaration of NPA etc. are the evidences confirming the existence of '**Default**'. Ongoing through the facts and submissions of the petitioner and upon considering the same, it is concluded that the Financial Creditor has established that the loan was duly sanctioned and duly disbursed to the Corporate Debtor but undisputedly there had been default in payment of Debt on the part of the Corporate Debtor.
12. Considering the above facts, this Bench come to a conclusion that the nature of Debt is a "Financial Debt" as defined under section 5 (8) of the Code. It has also been established that admittedly there is a "Default" as defined under section 3 (12) of the Code on the part of the Debtor.
13. As a consequence, keeping the admitted facts in mind, it is found that the Petitioner has not received the outstanding Debt from the Respondent and that the formalities as prescribed under the Code have been completed by the Petitioner, we are of the conscientious view that this Petition deserves '**Admission**'.

14. Further that, we have also perused the Form-2 i.e. a 'Written Consent' of the proposed 'Interim Resolution Professional' submitted along with this application/petition by the Financial Creditor and there is nothing on record which proves that any disciplinary action is pending against the said proposed Interim Resolution Professional.
15. Hence, after perusal of the provisions of the Code as also facts and circumstances of this case along with the submissions of the petitioner, it is hereby held that this Petition/Application is **Admitted**.
16. The Financial Creditor has proposed the name of Insolvency Professional. The IRP proposed by the Financial Creditor, **Mr. ARUN KAPOOR**, G-601, Army Co-operative Housing Society, Sector-9, Nerul (East), Navi Mumbai-400706, having registration No. IBBI/IPA-003/IP-N00030/2017-18/10230 is hereby appointed as Interim Resolution Professional to conduct the Insolvency Resolution Process.
17. Having admitted the Petition/Application, the provisions of **Moratorium** as prescribed under **Section 14 of the Code** shall be operative henceforth with effect from the date of order shall be applicable by prohibiting institution of any Suit before a Court of Law, transferring/encumbering any of the assets of the Debtor etc. However, the supply of essential goods or services to the "Corporate Debtor" shall not be terminated during Moratorium period. It shall be effective till completion of the Insolvency Resolution Process or until the approval of the Resolution Plan prescribed under Section 31 of the Code.
18. That as prescribed under **Section 13 of the Code** on declaration of Moratorium the next step of **Public Announcement** of the Initiation of Corporate Insolvency Resolution Process shall be carried out by the IRP immediately on appointment, as per the provisions of the Code.
19. That the Interim Resolution Professional shall perform the duties as assigned under **Section 18** and **Section 15** of the Code and inform the progress of the Resolution Plan and the compliance of the directions of this Order within 30 days to this Bench. A liberty is granted to intimate even at an early date, if need be.

20. The Petition is hereby “**Admitted**”. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of the Order.

Ordered Accordingly.

Sd/-
CHANDRA BHAN SINGH
Member (Technical)

Sd/-
M.K. SHRAWAT
Member (Judicial)

01.10.2019
Aah