

**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, CHANDIGARH
(Exercising powers of Adjudicating Authority under
the Insolvency and Bankruptcy Code, 2016)
Court-II**

CP (IB) No. 357/Chd/Pb/2022

**Under Section 7 of the
Insolvency & Bankruptcy
Code, 2016**

In the matter of:

Giridhar Infracon Private Limited

239, F/F, R/S Masjid Moth, Near Durga Mandir,
New Delhi South Delhi-110049
PAN No: AAACW0836D

..Petitioner No.1/Financial Creditor

RCA Softtech Private Limited

363, Second Floor,
Masjid Moth, New Delhi,
South Delhi-110049
PAN No: AABCR7076B

..Petitioner No.2/Financial Creditor

Versus

Sky Infrastructure Private Limited

Shop No. 25, Unicity Business Centre,
Bhabhat Zirakpur Mohali Punjab-140603
CIN No: U45209PB2011PTC035805

.....Respondent/ Corporate Debtor

Judgment delivered on: 25.02.2025

Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)

HON'BLE MR. ASHISH VERMA, MEMBER (TECHNICAL)



Present:

For the Petitioner-Financial Creditor : Mr. Nahush Jain, Advocate

For the Respondent-Corporate Debtor : Already ex-parte vide order dated
22.02.2024

PER: HARNAM SINGH THAKUR, MEMBER (JUDICIAL)

ASHISH VERMA, MEMBER (TECHNICAL)

JUDGMENT

The present petition has been filed by **Giridhar Infracon Private Limited and RCA Softtech Private Limited** (hereinafter referred to as 'Petitioners/Financial Creditor') through their Director, Mr. Raju under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 to initiate the Corporate Insolvency Resolution Process ('CIRP') against **Sky Infrastructure Private Limited** (hereinafter referred to as 'Respondent/Corporate Debtor'). The petition is signed by Mr. Raju, Director with the affidavit verifying the contents of the application appended thereto.

2. The Corporate Debtor is stated to be incorporated on 30.12.2011. The company is having its registered address at Shop No. 25, Unicity Business Centre, Bhabhat Zirakpur Mohali Punjab-140603. Therefore, the jurisdiction lies with this Bench of the Tribunal. The master data of the corporate debtor is attached as Annexure-3 of the petition.

3. The brief facts of the petition are submitted as below:-

The Giridhar Infracon Private Limited and R C A Softtech Private Limited upon requests of Sky Infrastructures Private Limited advanced loans of an amount of Rs. 75,00,000/- and 25,00,000/-respectively to Corporate Debtor in February



2018-March 2018 at the interest of 24% per annum. As per the agreed terms, the principal amounts was to be repaid on demand but not later than 24 months from the date of disbursal, whichever earlier. Petitioners advanced a sum of Rs. 1,00,00,000/- collectively to the Company from Feb, 2018 to March 2018 in a couple of tranches through banking channels. The last tranche of Rs. 12,50,000/- was advanced on 20.03.2018. Since the advancement of loans to the Corporate Debtor, there has been continuous default in payments of interest since 2019. A lumpsum payment of Rs. 15,00,000/- on 01.01.2019 was made by the Corporate Debtor to the bank account of Giridhar Infracon Private Limited. The said payments of Rs. 15,00,000/- was duly adjusted from the interest due against the loans advanced and TDS made on this sum was accordingly deposited. Accordingly, as on 31.08.2022 as per the books of the Petitioners, an amount of Rs. 1,67,29,324/- is due and payable by the Corporate Debtor to the Petitioners.

4. It is stated in Part-IV of Form No.1 that the total amount claimed to be in default is Rs 1,67,29,324/- (Rupees One Crores Sixty Seven Lacs Twenty Nine Thousand Three Hundred Twenty Four Only) comprising of Rs. 1,00,00,000/- (Rupees One Crores Only) towards principal amount advanced as commercial loan and Rs. 67,29,324/- (Rupees Sixty Seven Lacs Twenty Nine Thousand Three Hundred Twenty Four Only) towards interest calculated 24% p.a. from the dates of disbursement till 31.08.2022. The date of default as mentioned is 19.03.2020, which is the date on which the amount of Rs. 12,50,000/- fell due i.e. 24 months from the date of disbursal was 20.03.2018. Copy of Board Resolution dated 09.09.2022 (Annexure-2), Bank statement providing the dates and amounts of disbursal made by the petitioner (Annexure 5), ledger of corporate debtor in the books of financial creditors for period February 2018 till 31.08.2022 (Annexure 6),



Audited financial statements of corporate debtor for the period 2020-21 (Annexure 7), Form 26AS for the period 2017-18 and 2018-19 of the petitioners (Annexure 8) and notice dated 21.09.2022 alongwith proof of delivery (Annexure 9) are attached with the main petition. The copy of the bank statement of RCA Softtech Private Limited was filed vide Dairy No. 02517/05 dated 3.10.2024.

5. The notice of this petition was issued to the respondent corporate debtor to show cause as to why this petition be not admitted. The Affidavit of Service was filed vide Diary No. 02517/01 dated 27.02.2023. Vide order dated 10.04.2023 of this Adjudicating Authority, it was stated by the Ld. counsel for the petitioner that the respondent has been served through email as well as through substituted service by publication of notice in two Newspapers namely, "Financial Express" (English) and "Jansatta" (Hindi) dated 10.02.2023. However, none appeared on behalf of the respondent-corporate debtor nor any reply was filed. Vide order dated 14.06.2023 of this Adjudicating Authority, last opportunity was given to the respondent-corporate debtor to appear before this bench and file reply. Vide order dated 30.08.2023, it was directed that in the interest of justice and fair play, let e-notice be given to the respondent-corporate Debtor by the Court Officer clearly mentioning that if the respondent-corporate debtor fails to appear on the next date of hearing, then he will be substituted *ex parte* and the matter will be proceeded further. During the course of proceedings, it was recorded vide order dated 06.10.2023 that there is no report from the Registry that e-notice has been served upon the respondent-corporate debtor as mentioned in the order. It is mentioned that e-notice be given to the respondent by Court Officer but it should have been Registry instead of Court Officer. Therefore, the Registry was directed to issue e-notice to the respondent-corporate debtor. It is made clear that if the respondent



fails to appear on the next date of hearing, then *ex parte* proceedings will be taken. Further, vide order dated 22.02.2024, it was recorded that, “*vide order dated 06.10.2023, e-notice was issued to the respondent-corporate debtor. The report of the Registry dated 12.10.2023, indicates the same. But even today, none appeared on behalf of the respondent-corporate debtor despite substituted mode i.e. by way of publication in two daily newspapers naming ‘Financial Express’ (English) and ‘Jansatta’ (Hindi), both dated 10.02.2023 having wide circulation in the area. It seems that respondent-corporate debtor is not interested in defending the present petition, therefore, respondent-corporate debtor is proceeded against ex parte*”.

6. The short written submissions are filed by the petitioner vide Diary No.02517/4 dated 05.04.2024 wherein it is stated that the total amount of Rs. 1,67,29,324/- including interest is the total amount in default. As per the understanding between the parties, the amounts advanced to the Corporate Debtor were to bear a simple interest of 24% p.a. and were to be repaid on demand but not later than 24 months from the date of disbursal, whichever is earlier. Therefore, the default occurred on expiry of the aforesaid term of 24 months from each date of disbursal. The table showcasing the due dates are produced as below:-

Due Date Table:

Name of FC	Date of Disbursal	Due Date	Amount
RCA Softtech Private Limited	8-Feb-18	8-Feb-20	25,00,000 /-
Giridhar Infracon Private Limited	23-Feb-18	23-Feb-20	25,00,000 /-
Giridhar Infracon Private Limited	27-Feb-18	27-Feb-20	25,00,000 /-
Giridhar Infracon Private Limited	17-Mar-18	16-Mar-20	12,50,000 /-
Giridhar Infracon Private Limited	20-Mar-18	19-Mar-20	12,50,000 /-
TOTAL			1,00,00,000 /-



Further, it is submitted that the commercial Loan advanced to the Corporate Debtor is within the period of limitation as provided under the provisions of Limitation Act, 1963 since the Corporate Debtor has admitted its liability towards the Applicants/ Financial Creditors in its financial statements for the period 2020-2021. The reliance is placed on the judgment passed by the Hon'ble Supreme Court in the matter of ***Dena Bank (now bank of Baroda) versus C. Shivakumar Reddy and Mr. (Civil Appeal No.1650 of 2020)***, inter alia, wherein it was held that Financial Statement and Balance Sheet constitute acknowledgement of liability which extend the limitation of 3 years. The relevant para is as follows:

Para 141.

Section 18 of the Limitation Act cannot also be construed with pedantic rigidity in relation to proceedings under the IBC. This Court sees no reason why an offer of One Time Settlement of a live claim, made within the period of limitation, should not also be construed as acknowledgment to attract Section 18 of the Limitation Act. In Gaurav Hargovindbhai Dave (supra) cited by Mr. Shivshankar, this Court had no occasion to consider any proposal for one time settlement. Be that as it may, the Balance Sheets and Financial Statements of the Corporate Debtor for 2016-2017, as observed above, constitute acknowledgement of liability which extended the limitation by three years, apart from the fact that a Certificate of Recovery was issued in favour of the Appellant Bank in May 2017. The NCLT rightly admitted the application by its order dated 21st March, 2019.

Para 142.

To sum up, in our considered opinion an application under Section 7 of the IBC would not be barred by limitation, on the ground that it had been filed beyond a period of three years from the date of declaration of the loan account of the Corporate Debtor as NPA, if there were an acknowledgement of the debt by the Corporate Debtor before expiry of the period of limitation of three years, in which case the period of limitation would get extended by a further period of three years.

Further, it is submitted that the interest that became due on the loan was accounted for in the books of accounts and TDS thereon was also deducted and paid to Government's Account and is also reflected in Form 26AS but was not paid



to the Petitioner. A recall cum demand notice dated 21.09.2022 was issued through emails Whats App and courier to the Corporate Debtor, its Directors and Majority shareholder Mr. Sanjeev Kumar Bindal calling upon them to pay the outstanding loan along with the interest to the Petitioner. However, no payment was made, thus a default has occurred. As there is a debt and default after the outstanding loan along with interest has become due for payment on issuing of recall cum demand notice, a prayer has been made in the instant petition for initiation of CIRP against the Corporate Debtor.

7. We have heard the learned counsels for the petitioner and have also perused the record carefully.

8. The first issue for consideration is whether the present application is filed within limitation. It can be seen from the records that the date of default is 19.03.2020 i.e. the date on which the amount of Rs. 12,50,000/- fell due i.e. 24 months from the date of disbursal was 20.03.2018. The present petition is filed vide diary No. 02517 dated 02.11.2022 and was re-filed on 02.12.2022. Therefore, it is well within the period of limitation of three years.

9. It is contended in the petition that the loan amounts were disbursed at the different dates and as per the understanding between the parties. The amounts advanced to the Corporate Debtor were to bear a simple interest of 24% p.a. and were to be repaid on demand but not later than 24 months from the date of disbursal, whichever is earlier. Therefore, the default occurred on expiry of the aforesaid term of 24 months from each date of disbursal.

It is seen from the records that there was no agreement between the parties, however, the amounts disbursed towards the corporate debtor on 17.03.2018 and



20.03.2018 for Rs. 12,50,000 and on 23.02.2018 and 27.02.2018 for Rs. 25,00,000 are very well evident from the Statement of the Bank Account of Giridhar Infracon Private Limited. The relevant part is produced as below:-

Kotak		Kotak Mahindra Bank			
GIRIDHAR INFRACON PRIVATE LIMITED		Period	: 01-03-2018 To 03-04-2018		
		Cust.Roln.No	: 98631081		
		Account No	: 1011638794		
		Currency	: INR		
229 F F R S Masjid Moth Near Ganga Mandir Near Durga Temple NEW DELHI-110049 DELHI,INDIA		Branch	: New Delhi - Lajpat		
		Nominee Registered	: N		
Date	Narration	Chq/Ref No	Withdrawal (Dr)	Deposit(Cr)	Balance
	Bl/				55,055.94(Cr)
01-03-2018	Chq: AdhocStamt 01-DEC-17 to 31- DEC-17 CPSP	TBMS	118.00		55,937.94(Cr)
02-03-2018	Chq: Weekly Bal Alerts charges for JAN 18 (Value Date: 01-MAR-18)	TBMS	23.60		55,914.34(Cr)
15-03-2018	BY CLG INST 660496:PNB AT NEW DELHI			9,652,500.00	9,708,414.34(Cr)
15-03-2018	SV/EEP TRANSFER TO (811889777)		9,650,000.00	X	58,414.34(Cr)
16-03-2018	RTGS-KKBKR52018031600766736- SAB FININVEST LLP	63/000081863669	7,420,000.00	✓	7,361,585.66(Dr)
16-03-2018	Sweep Trf From: 8118897677			7,420,000.00	X 58,414.34(Cr)
17-03-2018	RTGS-KKBKR52018031700899020- SKY INFRASTRUCTUR	64/000081987500	1,250,000.00	✓	1,191,585.66(Dr)
17-03-2018	Sweep Trf From: 8118897677			1,250,000.00	X 58,414.34(Cr)
18-03-2018	CASH DEPOSIT @:198			250,000.00	308,414.34(Cr)
20-03-2018	RTGS-KKBKR52018032000813152- SKY INFRASTRUCTUR	65/000082184123	1,250,000.00		941,585.66(Dr)



37


	Corporation Bank	
Account Holder Name :	M/S GIRIDHAR INFRACON PVT LTD	PAGE:
Account Number :	510101000662088	
Customer Address :	OLD NAME MS WIDNER REALTYS P LTD 101 D 15 SECTOR 7 ROHINI NEW DELHI NEWDELHI - 110085 - 497001 DELHI , INDIA	Home Branch : CORPORATION BANK, LAJPAT NAGAR, I-91, LAJPAT NAGAR-II, NEW DELHI-110024 Home Branch Address: NEW DELHI-110024 INDIA
Phone :	+91(11)9810147151	Branch Phone : 01129811011
Email Id :	oaranika@gmail.com	IFSC/RTGS/NE : CORP000730
Nomination :	Not Registered	MICR Code : 110017061
CTF ID :	1009087515	

Statement of Transactions in Account No. 510101000662088
Period : 01-02-2018 to 27-02-2018

DATE	TRANSACTION DETAILS	CHQ. NO.	VALUE DATE	WITHDRAWAL AMT	DEPOSIT AMT	BALANCE
						52,690
12-Feb-2018	By Inst: 660494 ON PUNJAB NATIONAL BANK		12-Feb-2018		1,86,61,500.00	1,87,14,190
12-Feb-2018	REJECT:660494:INSUFFICIENT FUNDS		12-Feb-2018	1,86,61,500.00		52,690
12-Feb-2018	Outward Return charges		12-Feb-2018	60.00		51,890
12-Feb-2018	GOODS AND SERVICE TAX		12-Feb-2018	10.80		51,815
21-Feb-2018	By Inst: 660494 ON PUNJAB NATIONAL BANK		21-Feb-2018		1,86,61,500.00	1,87,73,115
23-Feb-2018	Charges for RTGS REF :COR PR22018022300638432		23-Feb-2018	59.00		1,87,67,615
23-Feb-2018	RTGS TO SAS FINEST LLP :CORPR22018022300638432	833460	23-Feb-2018	1,20,00,000.00		67,67,615
23-Feb-2018	SELF	833462	23-Feb-2018	6,35,000.00		61,32,615
23-Feb-2018	Charges for RTGS REF :COR PR22018022300638486		23-Feb-2018	59.00		60,77,615
23-Feb-2018	RTGS TO SKY INFRASTRUCTURE :CORPR22018022300638686	833461	23-Feb-2018	25,00,000.00		35,77,615
27-Feb-2018	Charges for RTGS REF :COR PR22018022700682283		27-Feb-2018	64.90		35,71,115
27-Feb-2018	RTGS TO SKY INFRASTRUCTURE :CORPR22018022700682283	833463	27-Feb-2018	25,00,000.00		10,71,115
Page Total:				3,72,96,753.70	3,73,23,000.00	10,94,115

The above statement of accounts clearly show that the amounts were disbursed in favour of the Corporate debtor by the Financial Creditor no.1 i.e. Giridhar Infracon Private Limited. Further, the statement of account showing the amount for Rs. 25,00,000 disbursed on 09.02.2018 in favour of Corporate debtor by the Financial Creditor no.2 i.e. RCA Softech Private Limited is produced as below:-





कार्पोरेशन बँक
Corporation Bank

1

Accountholder Name : M/S RCA SOFTTECH PRIVATE LIMITED
 Account Number : 510101000663750
 Customer Address : P 39 IIND FLOOR NEAR BLOCK SOUTH EXTENSION NEW DELHI NEW DELHI NEWDELHI - 110049 - 497001 DELHI , INDIA
 Phone : +91(11)9810147151
 Email Id : NA
 Nomination : Not Registered
 CIF ID : 1000087748

PAGE 1

Home Branch : CORPORATION BANK, LAFAYETTE I-71, LAFAYETTE NEW DELHI-110024
 Home Branch Address : NEW DELHI-110024 NA NEW DELHI - 110024 INDIA
 Branch Phone : 01125011011
 IFSC/RIGS/NE : CLR0000923
 NER Code : 110017061

Statement of Transactions in Account No. 510101000663750
 Period : 01-02-2018 to 27-02-2018

DATE	TRANSACTION DETAILS	CHQ. NO.	VALUE DATE	WITHDRAWAL AMT	DEPOSIT AMT	BALANCE
03-Feb-2018	RTGS fr BABA DEEP:UTIBK02 33353799		03-Feb-2018		7,00,000.00	14,00,000.00
03-Feb-2018	RTGS fr GOBIND SHU:UTIBK0 233354095		03-Feb-2018		12,00,000.00	26,00,000.00
09-Feb-2018	SELF	904622	06-Feb-2018	1,00,000.00		25,00,000.00
09-Feb-2018	Charges for RTGS REF :COR FR22018020800650626		09-Feb-2018	59.00		25,00,000.00
10-Feb-2018	RTGS TO SKY INFRASTRUCTRE S:CORFR22018020800650626	904623	08-Feb-2018	25,00,000.00		0.00
12-Feb-2018	RTGS fr GOBIND SHU:UTIBK0 242352000		12-Feb-2018		10,00,000.00	10,00,000.00

12/2/18

Thus, the statement of account shows that the amount for Rs. 25,00,000 was disbursed on 09.02.2018 in favour of Corporate Debtor by the Financial Creditor i.e. RCA Softtech Private Limited. Further, the Balance Sheet of Corporate Debtor i.e. Sky Infrastructure Private Limited for the year ended 31.03.2021 shows that the liability outstanding in favour of the financial creditors in the head- Detail of loan from others. The relevant extracts are produced as below:-



Anex-3

Detail Of Loan from others

Particulars	Amount
Abishkesh Bansal S/O Ram Pal CO Sahil	1000000.00
Anil Goel	2400000.00
Arizona International - Hydra Crane Purchaser	590000.00
Ashwini Kumar C/o Vishal Gupta	-500000.00
Babita Goyal	100000.00
Divya Goel	-4700000.00
Euro Sales	2000000.00
GIRIDHAR INFRACON PVT LTD	6489174.43
Jotpreet Singh Sodi Co Vishal Gupta	100000.00
MITANSHU GARG	3040000.00
Mukesh Gupta(Kethal)	-860000.00
MUKUL BANSAL SO SAHIL BANSAL	1000000.00
Narendra Kumar	840000.00

Oncar Kedia & Associates	1700000.00
Pardeep C/o Jindal Ji	511812.00
Parhlad Rai (Kethal Group)	-1370000.00
Polytech (Behal)	1925000.00
Rajinder Kumar	-200000.00
Raj Kumar Singla - Tile Outlet	800000.00
Rajvinder Goyal	1240000.00
Ranjit Singh Samar Singh	630000.00
RCA Softech Private Limited	2733085.81
Renna Singhal(Ladwa)	-275000.00
Renu Singhal(Ladwa)	-137500.00
Riya Singhal	-137500.00
R.K Mittal	1200000.00

Therefore, it is clearly evident from the above Balance sheet of the corporate debtor that the loan is outstanding towards the financial creditors.

Moreover, it is pertinent to note that the Corporate Debtor had been depositing the TDS deducted against interest payments which is evident from Form 26AS



submitted by the financial creditors i.e. Giridhar Infracon Private Limited and RCA Softtech Private Limited for the financial years 2018-19 and 2019-2020. The relevant extracts of the Form 26AS submitted by Giridhar Infracon Private Limited are produced as below:-

For the year 2018-19

Name of Deductor					TAN of Deductor	Total Amount Paid / Credited	Total Tax Deducted	Total TDS Deposited
SKY INFRASTRUCTURES PRIVATE LIMITED					PTLS20203B	49623.00	4962.00	4962.00
Sr. No.	Section 1	Transaction Date	Status of Booking*	Date of Booking	Remarks**	Amount Paid / Credited	Tax Deducted **	TDS Deposited
1	194A	31-Mar-2018	F	17-May-2018	-	49623.00	4962.00	4962.00

For the year 2019-20

Name of Deductor					TAN of Deductor	Total Amount Paid / Credited	Total Tax Deducted	Total TDS Deposited
SKY INFRASTRUCTURES PRIVATE LIMITED					PTLS20203B	628348.00	62835.00	62835.00
Sr. No.	Section 1	Transaction Date	Status of Booking*	Date of Booking	Remarks**	Amount Paid / Credited	Tax Deducted **	TDS Deposited
1	194A	31-Mar-2019	F	15-Oct-2019	-	628348.00	62835.00	62835.00

The relevant extracts of the Form 26AS submitted by RCA Softtech Private Limited are produced as below:-

For the year 2018-19

Name of Deductor					TAN of Deductor	Total Amount Paid / Credited	Total Tax Deducted	Total TDS Deposited
SKY INFRASTRUCTURES PRIVATE LIMITED					PTLS20203B	31438.00	3144.00	3144.00
Sr. No.	Section 1	Transaction Date	Status of Booking*	Date of Booking	Remarks**	Amount Paid / Credited	Tax Deducted **	TDS Deposited
1	194A	31-Mar-2018	F	17-May-2018	-	31438.00	3144.00	3144.00

For the year 2019-20

Name of Deductor					TAN of Deductor	Total Amount Paid / Credited	Total Tax Deducted	Total TDS Deposited
SKY INFRASTRUCTURES PRIVATE LIMITED					PTLS20203B	227544.00	22754.00	22754.00
Sr. No.	Section 1	Transaction Date	Status of Booking*	Date of Booking	Remarks**	Amount Paid / Credited	Tax Deducted **	TDS Deposited
1	194A	31-Mar-2019	F	15-Oct-2019	-	227544.00	22754.00	22754.00

Thus, it is clear from the above Forms 26AS submitted that the corporate debtor is depositing the TDS towards the outstanding liability. Moreover, the entries in the Financial Statement and Balance Sheet constitute an acknowledgement of the liability of debt.



10. The last issue for consideration is whether there is a default in payment or not. It is observed from the record that in the present case, the default is evidenced by Board Resolution dated 09.09.2022 (Annexure-2), consent of B.S Goyal along with Registration Certificate (Annexure 4), Bank statement providing the dates and amounts of disbursement of the petitioner (Annexure 5), ledger of corporate debtor in the books of financial creditors for period February 2018 till 31.08.2022 (Annexure 6), Audited financial statements of corporate debtor for the period 2020-21 (Annexure 7), Form 26AS for the period 2017-18 and 2018-19 of the petitioners (Annexure 8) and notice dated 21.09.2022 along with proof of delivery (Annexure 9). As per the financial records, it is evident that an amount of Rs 1,67,29,324/- (Rupees One Crores Sixty Seven Lacs Twenty Nine Thousand Three Hundred Twenty Four Only) comprising of Rs. 1,00,00,000/- (Rupees One Crores Only) towards principal amount advanced as commercial loan and Rs. 67,29,324/- (Rupees Sixty Seven Lacs Twenty Nine Thousand Three Hundred Twenty Four Only) towards interest calculated 24% p.a. from dates of disbursement till 31.08.2022 is still pending for payment, and no payments for these outstanding amount has been made even after a recall cum demand notice dated 21.09.2022 was issued , which amounts to default by corporate debtor. Thereafter, the payment was not made by the corporate debtor despite the repeated requests by the Financial Creditors.

11. In view of the above facts and circumstances, the present petition, being complete and having established the default in payment of the Financial Debt for the default amount being above the threshold limit, is admitted in terms of Section 7(5) of the IBC to start CIRP against the Corporate Debtor, Sky Infrastructure Private Limited. In Part-III of Form No. 1, Mr. Bhim Sain Goyal, Insolvency



Professional having IBBI registration number IBBI/IPA-002/IP-N00726/2018-2019/12216, has been proposed by the petitioner to be appointed as Interim Resolution Professional (hereinafter referred as “IRP”). The Form No.2 dated 19.09.2022 along with the certificate of IBBI issued in favour of the proposed Interim Resolution Professional i.e. Mr. Bhim Sain Goyal is attached with the main petition. The Law Research Associate Ms. Tamanna Bansal of this Tribunal has checked the credentials of Mr. Bhim Sain Goyal and there is nothing adverse against him. The AFA Certification is valid upto 31.12.2025.

12. In terms of Section 14 of the Code, we also order moratorium as below:

(i) Moratorium under section 14 (1) for prohibiting all of the following, namely:

(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing off 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 (54 of 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.




(ii) It is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;

(iii) The provisions of sub-section of section 14(1) shall not apply to such transactions, agreements or other arrangement, as may be notified by the Central Government in consultation with any financial sector regulator or any other authority; and also to a surety in a contract of guarantee to a corporate debtor.

(iv) The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances, as may be specified.


(v) The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or



passes an order for liquidation of the corporate debtor under Section 33 as the case may be.

13. In view of the above, we appoint Mr. Bhim Sain Goyal, Registration No. IBBI/IPA-002/IP-N00726/2018-19/12216, Email: bsgoyal1@gmail.com, Mobile No. 9811081491, the Interim Resolution Professional with the following directions:-

- i.) The term of appointment of Mr. Bhim Sain Goyal shall be in accordance with the provisions of Section 16(5) of the Code;
- ii.) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor, etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of the inventory of assets of the Corporate Debtor;
- iii.) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government, and in accordance with the Code of Conduct




governing his profession and as an Insolvency Professional with high standards of ethics and morals;

- iv.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;
- v.) The IRP shall after collation of all the claims received against the Corporate Debtor and the determination of the financial position of the Corporate Debtor and to constitute a Committee of Creditors (hereinafter referred as “COC”) and shall file a report certifying the constitution of the COC to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene the first meeting of the COC within seven days of filing the report of the constitution of the COC.
- vi.) The COC in its first meeting shall appoint a Resolution Professional (hereinafter referred as “RP”) as per the provision of section 22(2) and file an application before this Tribunal for confirmation of the appointment of the RP.
- vii.) The IRP/RP shall prepare the Audited Financial Statements as on date of the CIRP and shall submit before the CoC for consideration.




- viii.) The IRP/RP shall also ensure that all the assets appearing in the Financial Statements on the CIRP date have been considered in the valuation report and to all creditors notice under Regulation 6A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 is issued.
- ix.) It is hereby directed that the Corporate Debtor, its Directors, personnel, and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;
- x.) The Suspended Board of Directors is directed to give complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act. In case the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the



same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. The statutory auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI. The IRP/Resolution Professional is directed to take possession of the Books of Account in physical form or the computer systems storing the electronic records at the earliest. In case of any non-cooperation by the Suspended Board of Directors or the statutory auditors, he may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order. For retrieval of relevant information from the systems of the corporate debtor, the IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances. The Interim Resolution Professional is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.

- xi.) The Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with



requests for information/documents available with those authorities/institutions/others pertaining to the corporate debtor which would be relevant in the CIR proceedings. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the Resolution Professional to enable him to conduct the CIR Proceedings as per law.

- xii.) The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying the constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene the first meeting of the Committee within seven days of filing the report of the constitution of the Committee; and
- xiii.) The Interim Resolution Professional is directed to send a regular progress report to this Tribunal every fortnight.

14. The Financial Creditor is directed to deposit a sum of ₹1,00,000/- (Rupees One Lakh Only) with the Interim Resolution Professional, to meet out the expense to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The amount, however, is subject to adjustment by the Committee of Creditors as accounted for by the Interim Resolution Professional on the conclusion of CIRP.



15. A copy of the order shall be communicated to both parties. The learned counsel for the petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send a copy of this order to the Interim Resolution Professional at his email address forthwith.

16. The petition is admitted accordingly.

Sd/-

(Ashish Verma)
Member (Technical)

February 25, 2025

Tamanna

Sd/-

(Harnam Singh Thakur)
Member (Judicial)