

IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CUTTACK

CP (IB) No. 35/CB/2023

In the Matter of:

Section 7 (1) of the Insolvency and Bankruptcy Code, 2016 read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

-And-

In the Matter of:

INDUSIND BANK LIMITED, at 2401 Gen Thimmayya Road Contonment
Pune Maharashtra- 411 001;

... Petitioner/ Financial Creditor

-Versus-

GRAND AUTO UDYOG PRIVATE LIMITED, Link Road, PO- Arunodaya
Market, Cuttack, Orissa – 753 012

...Respondent/Corporate Debtor

Coram:

Shri P. Mohan Raj : Member (Judicial)
Shri Kaushalendra Kumar Singh : Member (Technical)

Appearances (through video conferencing)

For the Petitioner : Mr. S.K Acharya, Adv for
Ms. Preety Choudhary, Adv.
For the Respondent : Ex-parte

Order pronounced on: 06.03 .2024

ORDER

1. This petition is filed on 02.05.2023, by Mr. Rohit Swaroop as Assistant Vice President for **Indusind Private Limited (Financial Creditor)** under Section 7 of the Insolvency and Bankruptcy (Application to Adjudicating

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Authority) Rules, 2016 (AA Rules) to initiate Corporate Insolvency Resolution Process (CIRP) against **Grand Auto Udyog Private Limited (Corporate Debtor)**. The default amount stated by the financial creditor is Rs 21, 36, 32, 909.67/- as a principal and interest of Rs. 2,78,71,372.28 in total amount due of Rs. 24,15,04,281.95. The date of default as stated by the financial creditor is 31.03.2023

2. The Corporate debtor is a public limited company incorporated under the provisions of the Companies Act, 1956, having **CIN No. U50402OR2011PTC013389**, its registered address is at Plot No. 9 Link Road, PO- Arunodaya Market, Cuttack, Orissa – 753 012.

3. **The averments made in the petition are as follows:**

The Financial debt was granted to the corporate debtor vide an agreement dated 17.06.2016 by the financial creditor/Petitioner. The cash credit/overdraft facility of Rs.17,00,00,000/- and bank guarantee of Rs 1,00,00,000/- was granted to the corporate debtor. Then by sanctioned letter dated 30.05.2017 cash credit/Overdraft facility was revised to Rs.16,46,00,000/- The cash credit was again revised to Rs.18,50,00,000/- by sanction letter dated 23.02.2018 and Bank guarantee was reduced to Rs.75,00,000/- The working capital term loan of Rs.3,72,00,000/- was granted towards Emergency Credit Line Guarantee Scheme. When the corporate debtor committed default, the account of the corporate debtor was declared as NPA on 28.03.2022. The Financial creditor sent notice on 06.06.2022 under Section 13(2) under the SARFAESI Act claiming unpaid loan amount of Rs.22,36,20,980/- as on 31.05.2022. When the respondent not responded to the notice, the petitioner filed this petition for initiation of CIRP against the respondent/corporate debtor.

4. After taken the petition on file notices were sent to the respondent through speed post and e-mail. The notices were served, despite of service of notice respondent not turned up hence on 05.02.2024 the respondent was set exparte.

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5. We heard the counsel for the petitioner and perused the material available on record. The corporate debtor on 14.06.2016 availed cash credit/over draft facility from the petitioner bank with credit limit of Rs.17,00,00,000/- A Bank Guarantee of Rs. 1,00,00,000/- was granted to Corporate debtor by sanction letter dated 14.06.2016. The copy of the master General Terms agreement dated 17.06.2016 executed by the corporate debtor in favour of financial creditor is filed along with Multi Facility Loan agreement dated 17.06.2016. The Hypothecation deed dated 17.06.2016 is filed . The supplementary Multi Facility agreement dated 09.03.2018, and supplementary deed of Hypothecation dated 09.03.2018 executed by the corporate debtor are also filed. The charge was created for the loan availed, the registration certificate of charge issued by ROC-Cuttack and modification of charge certificate issued by ROC- Cuttack are also produced. The account of respondent was declared as NPA on 28.03.2022, this petition is filed on 02.05.2023 within the period of limitation. On the petitioner side proved the existence of debt and default, the twin main ingredients to admit the petition, further the petition is filed within limitation and the default amount also meets the threshold limit.
6. The petitioner/financial creditor has proposed the name of **Mr. Sushanta Kumar Choudhary** Having Registration No. **IBBI/IPA-003/IP-N00292/2020-2021/13238** to appoint as Interim Resolution professional. The proposed IRP has given his written consent the same filed with the petition.
7. In these circumstances we inclined to allow the petition accordingly the petition is admitted and ordered as follows:
- (i) The Corporate Debtor Grand Auto Udyog Private Limited is admitted in the Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016.
- (ii) The moratorium under section 14 of the Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of section 14(1) of the Code.

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(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.*

(iii) 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 Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of Corporate Debtor under section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

(iv) As approved by the Financial Creditor, we appoint **Mr. Sushanta Kumar Choudhary**, having registration No. **IBBI/IPA-003/IP-N00292/2020-2021/13238**, having contact address-Ambika Devi Apartment, 1st Floor, 64, Hemchandra, Naskar Road, Beliaghata, Trikone Park kolkata. to act as an Interim Resolution Professional (IRP) of the corporate debtor to carry out the functions as per the Code, subject to his possessing a valid Authorisation for Assignment (AFA) in terms of 7A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations 2016. He shall conduct the Corporate Insolvency Resolution Process as per the provisions of Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

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(v) The IRP so appointed shall make a public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.

(vi) The supply of essential goods or services to the corporate debtor, 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.

(vii) The IRP shall perform all his functions as contemplated, *inter-alia*, by sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under section 19 of the Code extending every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or co-operate the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

(viii) The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' and manage the operations of the Corporate Debtor as a going concern as a part of obligation imposed by section 20 of the Insolvency & Bankruptcy Code, 2016.

(ix) The Financial Creditor is directed to pay an advance of Rs.2,00,000/- (Rupees Two Lakh Only) to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.

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(x) The Registry is directed to communicate a copy of this order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and to the concerned Registrar of Companies, of IBBI after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.

(xi) The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST, State Trade Tax, and Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/employee's associations so that they are informed of the initiating of CIRP against the Corporate Debtor timely.

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

8. Interim Resolution Professional shall file 1st Progress Report within six weeks from the date of this order.

9. Thus, the corporate debtor Grand Auto Udyog Private Limited **CP (IB) No.35/CB/2023 is admitted** into CIRP.

11. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

12. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.



Kaushalendra Kumar Singh
Member (Technical)



P. Mohan Raj
Member (Judicial)

Signed on this, the 06th day of March, 2024.

Supriya P.S.