



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT NO. I
KOLKATA**

Company Petition (IB) No. 199/KB/2024

An application under Section 10 of the Insolvency and Bankruptcy Code, 2016 read with Regulation 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

IN THE MATTER OF:

PARASHAR COKE PRIVATE LIMITED

... Corporate Applicant/ Corporate Debtor.

Date of Pronouncement: September 26, 2025.

CORAM:

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)

CMDE. SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)

APPEARANCES:

For the Corporate Applicant:

Mr. A. K. Srivastava, Adv.

Mr. Akash Sharma, Adv.

ORDER

Per Cmde. Siddharth Mishra, Member (Technical):

1. The Court congregated through a hybrid mode.
2. Parashar Coke Private, hereinafter referred to as "Corporate Applicant/ Corporate Debtor" has preferred this application under Section 10 of the Insolvency and Bankruptcy Code, 2016, "I&B Code" in short, seeking initiation of the Corporate Insolvency Resolution Process, for brevity "CIR Process".
3. The total amount claimed to be in default is Rs. 77,87,85,592/-, along with interest and the date of default is claimed as 30.05.2022.

Facts in a nutshell:

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4. With a desire to erect a green field coke oven plant for manufacturing of low ash metallurgical coke, the corporate applicant applied to the Bank of Baroda to issue a Term Loan for an amount of Rs. 74 Crore, which was sanctioned on 12.06.2015, and formalised through a Term Loan Agreement executed on 23.09.2015. The Commercial Operation Date (COD) initially set for 01.04.2017, which was revised to 01.01.2018, and successfully completed the project on 31.12.2017.

5. Post COD, the corporate applicant in January 2017 asked for a working capital limit of Rs. 67 Crore (fund-based) and Rs. 30 Crore (non-fund based), with interchange ability up to Rs. 67 Crore to the bank. Over a long silence, the bank approved a reduced working capital of Rs. 31 Crore, which hampered the unit's operational capability and its capacity to service the loan, and consequently, the entire project incurred substantial losses.

6. The bank invoked Section 13(2) of the SARFAESI Act, 2002 on 21.07.2018 demanding an amount of Rs. 77,87,85,592.50/- by 30.06.2018. On 03.03.2023, the bank issued a possession notice under Section 13(4) of the SARFAESI Act.

7. The Board of Directors of the corporate applicant considering the default and continues inoperability of the business, passed a resolution on 14.08.2023, resolved and approved for preferring an application under Section 10 of the I&B Code, before this Adjudicating Authority. Subsequently, a Special Resolution was passed in the EoGM convened on 18.09.2023, authorizing Mr. Mithilesh Pandey, Director of the Corporate Applicant to file application.

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Arguments advanced by the Corporate Applicant:

8. Mr. Akash Sharma, Ld. Counsel appearing on behalf of the corporate applicant would submit that the company applied for a working capital facility of Rs. 67 Crore (fund-based) and Rs. 30 Crore (non-fund based), duly justified through projection and CMA data submitted in January 2017. Despite assurance from the representative of the Bank of Baroda and various follows ups, the bank remained unresponsive. Ultimately, a reduced working capital for an amount of Rs. 31 Crore was sanctioned on 16.01.2018, without any rationale or explanation, thereby impairing the operational viability of the project.

9. It is submitted that the drastic 52% reduction in the proposed working capital amount, without any transparent assessment or justification, made the plant's operations infeasible. The company, apprehending a debt trap, had to refuse the unviable working capital limit, leading to a complete standstill of the operational phase.

10. It is further submitted that a demand notice under Section 13(2) of the SARFAESI Act was issued on 30.05.2022, followed by a possession notice under Section 13(4) of the SARFAESI Act, issued on 03.03.2023, by the Bank of Baroda, annexed at pages 78 – 83 to the application, and the bank further preferred an Original Application bearing O.A. No. 39 of 2021 before the Ld. DRT, Ranchi. The corporate applicant has also filed an application being S.A. No. 79 of 2023 and Counter Claim No. 38 of 2023. The matters are under pending consideration.

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11. Mr. Sharma, Ld. Counsel for the applicant took us through the Statement of Profit and Loss and Financial Statement for the year ended 31.03.2023, are annexed at pages 64 – 65 to the application and would submit that the project is remain dormant due to the inability to operate due to lack of sufficient working capital. The losses of the corporate applicant as on 31.03.2023 stood at Rs. 19.06 Crore, and the outstanding dues to financial creditors amounted to Rs. 120.66 Crore, including interest.

12. We have heard the Ld. Counsel appearing on behalf of the Corporate Applicant and perused the records carefully.

13. During the proceedings, Bank of Baroda, had preferred an application bearing I.A. (IB) No. 2352/KB/2024, praying for dismissal of the main company petition due to ongoing DRT proceedings instituted against the corporate applicant by the bank and declare this proceeding as malicious one in terms of Section 65 of the I&B Code. On 07.05.2025, upon an instruction from the Bank of Baroda to seek withdrawal of the application, I.A. (IB) No. 2352/KB/2024 was dismissed as withdrawn.

Discernible Facts:

14. The corporate applicant undertook a greenfield project for setting up a coke over plant for manufacturing Low Ash Metallurgical Coke (LAMC) using Non-Recovery Coke Making Technology. The project, with a total capacity of 2,28,638 MTPA, was located at Tiruldih, Jharkhand.

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15. The corporate applicant was sanctioned a Term Loan of Rs. 74 Crores by Bank of Baroda (“BoB”), *vide* sanction letter dated 12.06.2015. A Term Loan Agreement was executed on 23.09.2015.

16. The Company had applied for a Working Capital facility of Rs. 67 Crore (fund-based) and Rs. 30 Crore (non-fund-based), duly justified through projections and CMA data submitted in January 2017. Despite assurances from BoB’s representatives and various follow-ups, a reduced Working Capital Limit of Rs. 31 Crore was sanctioned on 16.01.2018 without any rationale or explanation, thereby impairing the operational validity of the project.

17. The drastic 52% reduction in the proposed Working Capital amount, without any transparent assessment or justification, made the plant’s operations infeasible. The Company, apprehending a debt trap, had to refuse the unviable working capital limit, leading to a complete standstill of the operational phase.

Initiation of SARFAESI Action by the Bank:

18. A demand notice under Section 13(2) was issued on 30.05.2022 followed by a possession notice under Section 13(4) dated 03.03.2023, annexed at pages 78-83 of the petition.

19. The BoB also filed O.A. No. 39 of 2021 before the DRT, Ranchi. The Corporate Applicant has filed S.A. No. 79 of 2023 and Counter Claim No. 38 of 2023, the matter is still pending for consideration.

20. It is contended that the project remained dormant due to the inability to operate without sufficient working capital. The

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losses of the Corporate Applicant as on 31.03.2023 stood at Rs. 19.06 crores, and the outstanding dues to financial creditors amounted to Rs. 120.66 crores, including unapplied interest (Pages 64 – 65 of the petition). The date of default is noted as 30.05.2022.

21. Considering the default and continued inoperability of the business, the Board of Directors of the Corporate Applicant passed a resolution on 14.08.2023, approving the initiation of the Corporate Insolvency resolution Process (CIRP) under Section 10 of the I&B Code. Subsequently, a Special Resolution was passed in the Extra-Ordinary General Meeting dated 18.09.2023, authorizing Director Mr. Mithilesh Pandey to initiate CIRP on behalf of the company, annexed at pages 71 – 73 to the petition.

22. The petition is accompanied by requisite documents, board and shareholders' approvals, and meets all procedural and substantive requirements under Section 10 of the I&B Code. Further the following documents will testify the default: -

- a.** Audited Balance Sheet year ending 31.03.2023, annexed at pages 63-65 to the petition.
- b.** Statement of Affairs, annexed at pages 69 – 70 to the petition.
- c.** List of Shareholders & Directors and Master Data, annexed at pages 74 – 77 to the petition.
- d.** Pending cases of corporate debtor, annexed at page 90 to the petition.

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- e. Supplementary Affidavit dated 08.05.2025 for appointment of IRP.

Issue to be decided:

23. The issues herein are in two folds i.e.,

23.1. Whether an ongoing DRT proceeding would be a bar upon admission of CIRP.

23.2. Whether the default exists in the present case.

Analysis and Findings:

24. Coming to the first issue, whether the ongoing DRT proceedings restrains this Tribunal to admit the corporate debtor into CIRP, we would note that the Hon'ble NCLAT Chennai in **Mr. G. Sundaravadivelu v. Indian Overseas Bank**, reported in (2023) ibclaw.in 404 NCLAT, has laid down that:

“94. Under the I & B Code, 2016, the shift is from `inability to pay`, to an `existence of Default`. The circumstances under which a `Corporate Debtor`, could not repay the `Financial Debt`, need not be taken as a defence in a proceeding, under the I & B Code, 2016.

95. What is essential is to exhibit that the `Debtor`, had committed a `Default`, after the `Debt`, had become `Due` and `Payable`, by a `Debtor` and no more.

*96. It is pointed out that the **pendency of proceedings before the `Debt Recovery Tribunal`**, is not a bar, for the `Financial Creditor`, **to initiate an***

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action against the `Corporate Debtor'. That apart, an `Adjudicating Authority', need not wait for the decision of `Debt Recovery Tribunal', while rendering its findings."

(Emphasis Added)

25. Thus, in view of the ratio held in **G. Sundaravadivelu (Supra)**, an ongoing DRT proceeding against the corporate debtor would restrain this forum to admit it into CIRP.

26. Now, coming to the second issue for consideration, we would record the submissions advanced by the Ld. Counsel for the applicant that due to late approval of the reduced working capital to the tune of Rs. 31 Crore by the bank, hampered the unit's operational capability and its capacity to repay the loan and thus, the entire project incurred substantial losses. Further, the bank has invoked Section 13(2) of the SARFAESI Act for demanding the amount of Rs. 77.88 Crore and issued a possession notice under Section 13(4) of the SARFAESI Act, and further has instituted the DRT proceeding against the corporate applicant herein.

27. We would note that as per the Financial Statement for the year ended March 31, 2023, at page 65 to the application, the corporate applicant has the term loan (secured) along with interest obtained from the Bank of Baroda under the head of "the long-term borrowings" to the tune of Rs. 120.67 Crore.

28. It is a settled position of law that the legislative intends behind enacting the I&B Code, is only to resolve the default occurred on part of the corporate person in a time bound manner for value maximization of the assets of such persons, and to promote

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entrepreneurship, availability of credit with balancing the interests of all the stakeholders. Thus, weapon as catered to under this Code should not be applied for the recovery of money or to fulfil any other purpose beyond the resolution of the defaulting debtor.

29. In the present case at hand, what we note that the Bank has advanced a secured loan to the corporate applicant and the same they are trying to recover by invoking a proper recourse of law.

30. In view of above, we find no merit in the case, and accordingly, the petition is **dismissed**.

31. We make no order as to costs.

32. Certified copies of this order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.

**Cmde. Siddharth Mishra
Member (Technical)**

**Bidisha Banerjee
Member (Judicial)**

This Order is signed on the 26th Day of September 2025.

Bose, R. K. [LRA]