

IN THE NATIONAL COMPANY LAW TRIBUNAL,

KOLKATA BENCH,

KOLKATA

C.P (IB) No.1632/KB/2018

In the matter of

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.

And

In the matter of:

Stressed Assets Stabilization fund, having its registered at IDBI Tower, 3rd Floor, WTC Complex, Cuffe Parade, Mumbai- 400005.

... Financial Creditor

Versus

In the matter of:

Eastern Sugar & Industries Limited , CIN: L15421BR1964PLC006630, having its Registered office at PO Hanuman Sugar Mills, Motihari, Motihari East Champaran, Bihar , PIN: 845401.

...Corporate Debtor

Date of hearing : 04/01/2022

Order Pronounced on : 11/02/2022

Coram:

Mr. Rohit Kapoor, Member (Judicial)

Mr. Harish Chander Suri, Member (Technical)

Counsels appeared through Video Conference

1. Mr. Ajay Gagger, Adv. } For the Financial Creditor
2. Mr. Uttiyo Mallick Adv.

1. Mr. Jishnu Chowdhury, Adv. } For the Corporate Debtor

ORDER

Per: Harish Chander Suri, Member (Technical)

1. The Court is convened by video conference today.
2. This petition 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 has been filed by Stressed Assets Stabilization fund, created by trust deed dated 24th September, 2004 (Annexure-A) (hereinafter referred to as SASF), the Financial Creditor having its registered at IDBI Tower, 3rd Floor, WTC Complex, Cuffe Parade, Mumbai- 400005, through its Deputy General Manager Mr. Nitin Sawant, authorised representative vide authorisation letter dated 31st October, 2018 (Annexure-D) seeking initiation of Corporate Insolvency Resolution Process in respect of **Eastern Sugar & Industries Limited , CIN: L15421BR1964PLC006630**, having its Registered office at PO Hanuman Sugar Mills, Motihari, Motihari East Champaran, Bihar , PIN: 845401 (hereinafter referred to as the Corporate Debtor.
3. It is submitted in the application by the Financial Creditor that a total amount of debt granted and disbursed to the Corporate Debtor was Rs. 21,24,26,073/-. It is submitted that the total amount claimed Rs. 895,13,86,494/- comprises of the principal interest, further interest and liquidated damages as on July 01, 2018 are as under:
 - a) Rs. 19,78,04,532/- being the principal overdue.
 - b) Rs. 67,59,39,549/- being the interest overdue.
 - c) Rs. 729,72,88,287/- being further interest overdue and
 - d) Rs. 78,03,54,126/- being the liquidated damage overdue. A computation of the aforesaid along with days of default is annexed as Annexure-G to the petition.
4. It is further submitted in the petition (Part V) that the Financial Creditor

secured its loan by various documents executed by Corporate Debtor, which are as under:-

- i. On August 25,1998, mortgage by deposit of title deeds was done by Shri Hanuman Sugar and Industries Limited (hereinafter referred to as “SHSIL”) , Corporate Guarantor of the Corporate Debtor, over all the aforementioned properties of the company being Motihari, District Champaran East, Bihar. The aforesaid charge was created as security for the due repayment and discharge by the Corporate Debtor to the Term Loan amounting to Rs. 6,25,00,000/- provided by Industrial Development Bank of India (hereinafter referred to as “IDBI”). The said charge was to the tune of Rs.6,25,00,000/- only. The said charge was registered No.7276. A copy of the said Certificate of Charge is annexed as Annexure-H.
- ii. On August 25, 1998 by way of security for the Rupee Term Loan of Rs.6,25,00,000/- advanced by the IDBI to the Corporate Debtor, the charge amounting to Rs.6,25,00,000/- created on the whole of moveable properties of SHSIL pertaining to Sugar Mill Division. The said charge was registered as No. 7276. A copy of the certificate of charge is annexed as Annexure-I.
- iii. On August 25, 1998 the charge amounting to Rs. 6,25,00,000 I - (Rupees Six Crore twenty-five lakh only) on the whole of the moveable properties I to SHSIL as security for the Rupee Term Loan of Rs. 6,25,00,000/- (Rupees Six Crore Twenty Five Lakh only) provided by the IDBI to the Corporate Debtor was created. The said charge was registered as No. 7276. On October 14 1998, a further mortgage by deposit of title deeds was created by SHSIL in favour of the IDBI. A copy of the said modified certificate of charge is annexed and marked "J".

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- iv. On August 25, 1998 the charge amounting to Rs.6,25,00,000/- (Rupees Six Crore Twenty Five Lakh only) on the whole of the moveable properties of SHSIL as security for the Rupee Term Loan of Rs. 6,25,00,000/- (Rupees Six Crore Twenty Five Lakh only) provided by the IDBI to the Corporate Debtor was created. The said charge was registered as No. 7276. On October 14 1998, a further mortgage by deposit of title deeds was created by SHSIL in favour of the IDBI. A copy of the said modified certificate of charge is annexed and marked "K"
- v. Pursuant to the Deed of Hypothecation executed by the SHSIL, Corporate Guarantor of Corporate Debtor, in favour of IDBI, on March 15, 1999 a charge was created on whole of the movable properties of SHSIL including its movable plant, machineries, machineries spares, tools and accessories and other moveable as on the date of creation of the said charge and future pertaining to SHSIL's Sugar Mills Division. The afore mentioned charge, operated as security inter alia for the due repayment by the Corporate Debtor to IDBI for the Term Loan of Rs. 3,00,00,000/- (Rupees Three Crore only). The said charge was registered as number 7276. A copy of the said Charge Registration Certificate as under Section 125, 127, 135 of the Companies Act, 1956 is annexed and marked "L".
- vi. On March 15, 1999 the charge amounting to Rs. 3,00,00,000/- (Rupees Three Crore only) on the whole of the moveable properties to SHSIL as security for the Rupee Term Loan of Rs. 3,00,00,000/- (Rupees Three Crore only) provided by the IDBI to the Corporate Debtor was created. The said charge was registered as No. 7276. On October 14 1998, a further mortgage by deposit of title deeds was created by SHSIL in favour of the IDBI. A copy
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of the said certificate of charge is annexed and marked "M".

- vii. On March 15, 1999 the charge amounting to Rs. 3,00,00,000/- (Rupees Three Crore only) on the whole of the moveable properties of SHSIL as security for the Rupee Term Loan of Rs. 3,00,00,000/- (Rupees Three Crore only) provided by the IDBI to the Corporate Debtor was created. The said charge was registered as No. 7276. A copy of the said certificate of charge is annexed and marked "N".
- viii. On March 15, 1999 the charge amounting to Rs. 3,00,00,000/- (Rupees Three Crore only) on the whole of the moveable properties of SHSIL as security for the Rupee Term Loan of Rs. 3,00,00,000/- (Rupees Three Crore only) provided by the IDBI to the Corporate Debtor was created. The said charge was registered as No. 7276. A copy of the said modified certificate of charge is annexed and marked "O".
- ix. On March 15, 1999 the charge amounting to Rs. 3,00,00,000/- (Rupees Three Crore only) on the whole of the moveable properties of Corporate Debtor as security for the Rupee Term Loan of Rs. 3,00,00,000/- (Rupees Three Crore only) provided by the IDBI to the Corporate Debtor was created. The said charge was registered as No. 03-06630. A copy of the said certificate of charge is annexed and marked "P".
- x. On May 06, 1999, mortgage by deposit of title Deeds was created by Nopany Investment Private Limited (NIPL) over all the aforementioned properties of the company being Flat No. 111, Bajaj Bhawan, Nariman Point, Mumbai - 400021. The aforesaid charge was created as security for the due repayment and discharge by the Corporate

Debtor to the Term Loan amounting to Rs. 3,00,00,000/- (Rupees Three Crore only) provided by IDBI. The said charge was registered as number 27555. A copy of the said Certificate of Charge is annexed and marked "Q".

- xi. On May 06, 1999, mortgage by deposit of title Deeds was created by Nopany Investment Private Limited (NIPL) over all the aforementioned properties of the company being Flat No. 1 1 1, Bajaj Bhawan, Nariman Point, Mumbai - 400 021. The aforesaid charge was created as security for the due repayment and discharge by the Corporate Debtor to the Term Loan amounting to Rs. 3,00,00,000/- (Rupees Three Crore only) provided by IDBI. The said charge was registered as number 27555. A copy of the said Certificate of Charge is annexed and marked "R".
- xii. On October 22, 1999 a charge to the tune of Rs.7,00,00,000/- (Rupees Seven Crore only) was created on the moveable properties of the Corporate Debtor as security for the Bridge Loan of Rs. 7,00,00,000/- (Rupees Seven Crore only) lent and advanced by the IDBI to the Corporate Debtor. The said charge was registered as No' 03- 06630. A copy of the said certificate of charge is annexed and marked "S".
- xiii. On October 22, 1999 a charge to the tune of Rs.7,00,00,000/- (Rupees Seven Crore only) was created on the moveable properties of the Corporate Debtor as security for the Bridge Loan of Rs. 7,00,00,000/- (Rupees Seven Crore only) lent and advanced by the IDBI to the Corporate Debtor. The said charge was registered as No. 03- 06630. A copy of the said certificate of charge is annexed and marked "T".
- xiv. On October 22, 1999 a charge to the tune of Rs.7,00,00,000/- (Rupees Seven Crore only) was created

on the moveable properties of the Corporate Debtor as security for the Bridge Loan of Rs. 7,00,00,000/- (Rupees Seven Crore only) lent and advanced by the IDBI to the Corporate Debtor. The said charge was registered as No. 03- 06630. A copy of the said certificate of charge is annexed and marked "U".

- xv. On October 25, 1999 a charge to the tune of Rs.7,00,00,000/- (Rupees Seven Crore only) was created on the moveable properties of the Corporate Debtor as security for the Bridge Loan of Rs. 7,00,00,000/- (Rupees Seven Crore only) lent and advanced by the IDBI to the Corporate Debtor. The said charge was registered as No. 03- 06630. A copy of the said certificate of charge is annexed and marked "V".
- xvi. On November 16, 1999, mortgage by deposit of title deeds was done by Shri Hanuman Sugar and Industries Limited (SHSIL), Corporate Guarantor of the Corporate Debtor, over all the aforementioned properties of the company being Motihari, District Champaran East, Bihar. The aforesaid charge was created as security for the due repayment and discharge by the Corporate Debtor to the Term Loan amounting to Rs. 5,00,00,000/- (Rupees Five Crore only) provided by the Financial Creditor. The said charge was registered as number 2226. The said charge was to the tune of Rs. 5,00,00,000/_ only. (Rupees Five Crore only). The said charge was registered No. 7276. A copy of the said Certificate of Charge is annexed as Annexure-W.
- xvii. On November 16,1999, mortgage by deposit of title deeds was done by Shri Hanuman Sugar and Industries Limited (SHSIL), Corporate Guarantor of the Corporate Debtor, over all the aforementioned properties of the company

being Motihari, District Champaran East, Bihar. The aforesaid charge was created as security for the due repayment and discharge by the Corporate Debtor to the Term Loan amounting to Rs. 5,00,00,000/- (Rupees Five Crore only) provided by the Financial Creditor. The said charge was registered as number 7226. The said charge was to the tune of Rs. 5,00,00,000/ (Rupees Five Crore only). The said charge was registered No. 7276. A copy of the said Certificate of Charge is annexed and marked ,X"

5. It is further submitted that the application under Recovery of the Debts Due to Banks and Financial Institutions, Act, 1993, was filed by the Financial Creditor before Debt Recovery Tribunal, being O.A No. 129/2018 with a claim of Rs.740,24,47,966/- as on July 01,2017 and that the recovery certificate is yet to be issued by the Tribunal on the date of filing of the petition.
6. It is further submitted that on August 25,1998, a loan agreement was entered into between the Corporate Debtor, and IDBI and the IDBI granted a loan amounting to Rs.6,25,00,000/- (Rupees Six Crore Twenty Five Lakh only). The Corporate Debtor agreed to pay interest on the principal amount(s) of the loan outstanding from time to time quarterly in each year on January 1, April 1, July 1, October 1 @ 17.5% per annum and the borrower agreed to pay on the defaulted amounts, Liquidated Damages at 2.10% per annum for the period of default. A copy of the said agreement is annexed as Annexure-Y.
7. It is submitted that a Deed of Hypothecation was also executed at Patna on August 25, 1998 between the Corporate Debtor and IDBI. The said deed of hypothecation was executed as security of the Corporate Debtor's movables, other than movables and machineries on which the Corporate Debtor had already created charge in favour of the Bank of India, B.C.P. Marg, Patna. A copy of the deed of hypothecation is

annexed and marked "2".

8. It is submitted that in pursuance of the Loan Agreement dated August 25, 1999, a Deed of Hypothecation was entered into by SHSIL and IDBI as security for the loan provided to the Corporate Debtor, the whole of the movable properties of SHSIL including its movable plant and machinery was hypothecated to IDBI. A copy of the said deed of hypothecation dated August ,25, 1998 is annexed and marked AA.
9. It is further submitted that In pursuance to the loan agreement dated August 25, 1998, an agreement for pledge of shares was entered into by Shri B.K. Nopany (the Pledger) and IDBI. By way of such agreement, Shri Nopany pledged 50% of his shares in the Corporate Debtor as security for the Term Loan amounting to Rs.6,25,00,000/- (Rupees Six Crore Twenty Five Lakh only) provided to the Corporate Debtor by the Financial Creditor. A copy of the agreement for pledge of shares is annexed and marked "BB".
10. It is further submitted that on March 15, 1999, a loan agreement was entered into by the Corporate Debtor and IDBI. IDBI agreed to lend Rs. 3,00,00,000/- (Rupees Three Crore only) to the Corporate Debtor. The Corporate Debtor agreed to pay quarterly interest @ 17.5% (exclusive of interest tax) per annum to the Financial Creditor. The Corporate Debtor also agreed to pay further interest @ 1.05% (exclusive of interest tax) per annum till creation of final security as stipulated under Article III of the instant loan agreement. A copy of the said loan agreement is annexed and marked "CC".
11. It is submitted that on March 15, 1999, a Deed of Hypothecation was executed by the Corporate Debtor and the Financial Creditor. The Corporate Debtor by way of security of the Term Loan amounting to Rs.3,00,00,000/- (Rupees Three Crore only) granted to it by the Financial Creditor, agreed to hypothecate all its movables (save and

except book debts including movable machinery, machineries spares, tools and accessories). A copy of the said deed of hypothecation is annexed and marked "DD".

12. It is submitted that In pursuance of the loan agreement dated March 15, 1999, a Deed of Hypothecation was executed between SHSIL and IDBI wherein SHSIL by way of the security to the Term Loan, created to the Corporate Debtor by the Financial Creditor agreed to hypothecation of SHSIL's movables (save and except book debts) including movable machinery, machinery spares, tools and accessories. A copy of the said deed of hypothecation is annexed and marked "EE",.
13. It is submitted that on October 22, 1999 a Bridge Loan Agreement was entered into between the Corporate Debtor and IDBI. By way of such agreement, the Corporate Debtor was granted a loan amounting to Rs. 7,00,00,000/- (Rupees Seven Crore only) by IDBI. The Corporate Debtor agreed to pay to IDBI interest at 17% p.a. (exclusive of interest tax) and also agreed to pay 1.0% p.a. for non-creation of final security and liquidated damages @ 2.10% p.a. (inclusive of interest tax) in case of default in payment of principal, interest or any other monies payable under the Loan Agreement and arrears of liquidated damages shall carry interest at the I applicable rate for the loan on the principal amount of the bridge loan outstanding from time to time quarterly, in each year on January 1, April, 1 July, 1, October 1. A copy of the said bridge loan agreement is annexed and marked "FF".
14. It is submitted that simultaneously with execution of the bridge loan agreement, on October 22, 1999 a deed of hypothecation was entered into by the Corporate Debtor to IDBI. The Corporate Debtor by the said agreement, agreed to creation of first charge by way of hypothecation of the Corporate Debtor's movables (save and except being debts including movable machinery, spares, tools and accessories etc.) A copy of the deed of hypothecation is annexed hereto and marked "GG".

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15. It is submitted that simultaneously with the execution of the aforementioned bridge loan agreement, an agreement for pledge of shares was entered into between Shruti Limited and IDBI. The aforementioned company by way of securing bridge loan amounting to Rs. 7,00,00,000/- (Rupees Seven Crore only) granted by IDBI to Corporate Debtor, agreed to pledge 5,56,000 equity shares worth Rs.10/- each in SHSIL to IDBI. A copy of the said agreement is annexed and marked "HH".
16. It is submitted that a loan agreement dated September 29, 1999 executed between the Corporate Debtor, and IDBI by way of the said agreement IDBI, granted a loan amounting to Rs. 5,00,00,000/- (Rupees Five Crore only) for the purpose of conversion of machinery / equipment under Equipment Loan Scheme of the Corporate Debtor. The Corporate Debtor agreed to pay quarterly interest @ 23 % per annum and further agreed to pay further interest @ 1.05 % per annum till creation of security as envisaged under Article III of the said loan agreement and borrower agreed to pay on the default amounts further interest at the rate of 2.10% p.a. above the applicable lending rate for the period of default upon the footing of compound interest. A copy of the said loan agreement is annexed and marked "II".
17. It is submitted that simultaneously with the execution of the aforementioned loan agreement, a Deed of Hypothecation was entered into by the Corporate Debtor and IDBI on September 29, 1999. As a way of securing the afore mentioned loan, the Corporate Debtor agreed to creation of an exclusive first charge by way of hypothecation of the equipment to the Corporate Debtor as well as the first charge by way of hypothecation of all its movables, (save and except book debts and those movables exclusively charged to IDBI and those charged to Bank of India, Birchand Patel Marg, Patna). A copy of the said deed of hypothecation is annexed and marked 'JJ'.
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18. It is submitted that simultaneously with the execution of the loan agreement, a deed of hypothecation was entered into between SHSIL and IDBI on September 29, 1999. As a way of securing a loan amounting to Rs.5,00,00,000/- (Rupees Five Crore only) the SHSIL agreed to hypothecate of its movable properties (save and except book debts including movable machinery tools etc.) in favour of IDBI. A copy of the said deed of hypothecation is annexed and marked as "KK" to the petition.
19. It is submitted that the Government of India set up a Special Purpose Vehicle in the form of a Trust namely Stressed Assets Stabilization Fund (the Financial Creditor herein) vide Trust Deed dated 24, September 2004 with the object of acquiring the Stressed Assets of IDBI and with the view of recovering, by the said Trust Deed, the Trustee / Financial Creditor were given the authority to realize the Stressed Asset by reconstructing, arriving at settlement with borrowers, taking long measures or adopting such measure as they deem fit including but not limited to their recovery as arrear of loan revenue. A copy of the said Trust Deed has already been annexed and marked "A".
20. It is further submitted that the transfer Deed was executed at Mumbai on September, 30, 2004 between IDBI (the Transferor) and the Financial Creditor (the Transferee). By the said deed, IDBI unconditionally and irrevocably sold, assigned, transferred and released to and unto the Financial Creditor herein the loan / facilities sanctioned by IDBI to the Corporate Debtor making the Financial Creditor a full, absolute and legal owner and the only person entitled to receive amounts due and payable by the Corporate Debtor to IDBI. Further IDBI assigned in favour of the Financial Creditor to its right, title and interest under the loan agreement entered into between IDBI and the Corporate Debtor and all other collateral and unlying security interest, mortgage or hypothecated or pledged by the Corporate Debtor in favour of IDBI. A
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copy of the said Transfer deed is annexed and marked as "LL, to the petition.

21. It is further submitted that the Financial Creditor has annexed with the petition, copies of the entries in the books of accounts maintained by the Financial Creditor for the period 1999 to 2018 as under the Bankers' Books Evidence Act, 1891, collectively annexed as Annexure-MM.
22. It is submitted that on July 25 1996, Mr. Krishnan Murari Shah delivered to Mr. E.K. Das, General Manager of IDBI (Patna) documents of title, evidences, deeds as security by way of mortgage to IDBI. A copy of the minutes of the said meeting is annexed and marked as "NN"to the petition.
23. It is submitted that Mr. Krishnan Murari Shah, a director of SHSIL, gave his oral consent on behalf of the company on September 9, 1996 to Shri T.K. Das, acting for IDBI to hold and retain the title deeds mentioned in the Schedule by constructive delivery on SHSIL's immoveable properties as security. A copy of the Schedule of such properties as well as the minutes prepared by IDBI is annexed hereto and marked "OO".
24. It is submitted that Mr. Krishnan Murari Shah, a director of SHSIL met Shri T.K. Das of IDBI on November 14 1996 and gave oral consent on behalf of SHSIL to create security on the immovable properties of SHSIL mentioned in the Schedule. The minutes of such meeting and Schedule are annexed to the petition and marked "PP"
25. It is submitted that on August 25, 1998, Shri B.K.Nopany executed a Guarantee Agreement in favour of IDBI to the tune of Rs. 6,25,00,00,000/- (Rupees Six Crore Twenty Five Lakh only) as provided to the Corporate Debtor by IDBI in pursuance of its Loan Agreement dated August 25, 1998. A copy of the said Guarantee Agreement is annexed and marked as "QQ" to the petition.

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26. It is submitted that on October 14 1998, Shri M.P. Dhandania a director of the Corporate Debtor delivered to the Mr. T.G. Mirchandani, General Manager of IDBI, title deeds as security by way of mortgage by deposit of title deeds on the Corporate Debtor's immovable properties. A copy of the minutes of the said meeting alongwith particulars of charge created is annexed and marked "RR".
27. It is submitted that on March 15, 1999, Shri B.K. Nopany executed a Guarantee Agreement in favour of IDBI to the tune of Rs. 3,00,00,000/- (Rupees Three Crore only) as provided to the Corporate Debtor by IDBI by its Loan Agreement dated March 15, 1999. A copy of the Agreement is annexed and marked "SS".
28. It is submitted that on May 6th 1999, Shri Kamal Singh Bhutoria, a director of Nopany Investments Pvt. Limited delivered to Mr. T.G. Mirchandani, General Manager of IDBI title deeds as security by way of mortgage by deposit of title deeds on the aforementioned company's immovable properties. A copy of the minutes of the said meeting alongwith particulars of charge created is annexed and marked "TT".
29. On May 6th 1999, Shri Raj Kumar More, a director of SHSIL delivered to Mr. T.G. Mirchandani, General Manager of IDBI title deeds as security by way of mortgage by deposit of title deeds on the Corporate Debtor's immovable properties. A copy of the minutes of the said meeting alongwith particulars of charge created is annexed and marked "UU".
30. It is further submitted that on September 28, 1999, SHSIL executed a Guarantee Agreement in favour of IDBI to the tune of Rs. 5,00,00,000/- (Rupees Five Crore only) by its Loan Agreement dated September, 1999. A copy of the said Guarantee Agreement is annexed hereto and marked "W".
31. It is submitted that on September 30, 1999, Shri B.K.Nopany executed a
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Guarantee Agreement in favour of IDBI to the tune of Rs. 5,00,00,000/- (Rupees Five Crore only) as provided to the Corporate Debtor by IDBI by a Loan Agreement dated September 29 , 1999. A copy of the said Guarantee Agreement is annexed and marked "WW".

32. It is submitted that on October 22, 1999, Shri B.K. Nopany executed a Guarantee Agreement in favour of IDBI to the tune of Rs. 7,00,00,000/- (Rupees Seven Crore only) as provided to the Corporate Debtor by IDBI by its Bridge Loan Agreement dated October 22, 1999. A copy of the said Guarantee Agreement is annexed and marked "XX".
33. It is submitted that on November 1,1999, a Guarantee Agreement was executed by SHSIL in favour of IDBI as Guarantee for the Bridge Loan amounting to Rs.7,00,00,000/- .A Copy of the said Agreement is annexed as Annexure-YY.
34. On September 19 2000, Shri M.P. Dhandania a director of the Corporate Debtor delivered to Mr. T.G. Mirchandani, General Manager of IDBI title deeds as security by way of mortgage by deposit of title deeds on the Corporate Debtor's immovable properties. A copy of the minutes of the said meeting alongwith particulars of charge created is annexed and marked as "ZZ".
35. It is submitted that on November 1 2006, Shri Mahesh Prasad Dhandania, a director of the Corporate Debtor delivered to Mr. T.G. Mirchandani, General Manager of IDBI title deeds as security by way of mortgage by deposit of title deeds on the Corporate Debtor's immovable properties. A copy of the minutes of the said meeting alongwith particulars of charge created is annexed and marked "AAA".
36. It is further submitted that the Financial Creditor by a Recall Notice dated November 24, 2016 demanding a sum of Rs. 19,78,04,532/- (Rupees Nineteen Crore Seventy eight Lakh Four Thousand Five Hundred Thirty Two only) together with interest, further interest,

liquidated damages etc aggregating to Rs. 627,41,05,487/- (Rupees Six Hundred Twenty Seven Crore Forty one Lakh Five Thousand Four Hundred Eighty Seven only) i.e. a total sum of Rs. 647 ,19,10,019/- (Rupees Six Hundred Forty Seven Crore Nineteen Lakh Ten Thousand and Nineteen only) due as on October OL, 2016 with a further sum of Rs. 48,200/- (Rupees Forty eight Thousand Two Hundred only) payable for expenses incurred by IDBI or the Financial Creditor. It was indicated by the Financial Creditor that if the Corporate Debtor failed to pay the afore mentioned sum within a period of 15 days of receipt of this instant letter, the Financial Creditor would be constrained to initiate legal proceedings against the Corporate Debtor including but not limited to proceedings under the SARFAESI Act,2002. A copy of the said Recall Notice is annexed and marked "BBB"

37. It is submitted that a letter dated December 14, 2016 was issued by Financial Creditor to SHSIL as the Guarantor to the Corporate Debtor, demanding payment of Rs. 501,57,47,295/- (Rupees Five Hundred and One Crore Fifty Seven Lakh Forty Seven Thousand Two Hundred Ninety five only). A copy of the said letter is annexed and marked as CCC".
38. It is submitted that a letter dated December 14 2016 was issued by Financial Creditor to Shri Bimal Kumar Nopany as the Guarantor to the Corporate Debtor demanding payment of Rs.647,19,10,0 19/ - (Rupees Six Hundred and Forty Seven Crore Nineteen Lakh Ten Thousand Nineteen only). A copy of the said letter is annexed and marked "DDD".
39. It is stated that the Annual Report of the Corporate Debtor for the financial year 2016-17 shows that the loan from IDBI is due and payable. Further it acknowledges the fact that the Term Loan from IDBI is secured by way of mortgage of whole of the movable properties to the Corporate Debtors including its movable plant and machinery, machinery spares, tools and accessories and other movables both as on date of preparing the said Annual Report and further other than the

movable plant and machinery on which the Corporate Debtor has already created charge in favour of Bank of India. A copy of the said Annual Report is annexed and marked "EEE".

40. **In its reply affidavit** filed by Mr. Shirish Goswami, one of the Executive Director of the Corporate Debtor, it is submitted that the deponent of the petition is not authorised to affirm or file the same due to insufficient and deficient authority. It is submitted that there is no debt or default on the part of the Corporate Debtor, therefore, the petition is liable to be dismissed.
41. It is submitted that the amounts which were lent by the Financial Creditor to the Corporate Debtor have been squared off in the larger transaction between the parties, as has been agreed between the parties and a part of the amount has been repaid. It is submitted that the Financial Creditor has also instituted legal proceedings before the Debt Recovery Tribunal, Patna against the Corporate Debtor with respect to the same debt which is subject matter of the present proceedings and the matter is subjudice and has reached an advanced stage. The Corporate Debtor has further submitted that the claim of the Financial Creditor is not maintainable against the Corporate Debtor. It is submitted that the Stressed Assets Stabilization Fund has incorrectly claimed itself to be the Financial Creditor. Therefore, the present company petition is not maintainable on this ground alone. It is submitted that the Corporate Debtor is in business concern rendering financial services on a habitual and regular basis. Therefore, the petition is not maintainable. It is stated in the affidavit that the purported loan cannot be recovered under the Bengal Money Lenders Act because the Financial Creditor does not have any licence under the aforesaid enactment and therefore, is not entitled to recover any alleged loan. The amount claimed by the Financial Creditor has been specifically denied by the Corporate Debtor by the Corporate along with interest and liquidated damages thereon the Corporate Debtor has denied all the

annexures enclosed with the petition and has submitted that the petition should be dismissed with cost.

42. **In the Rejoinder** filed by the Financial Creditor through its Manager and authorised signatory, it is submitted that Mr. Sirish Goswami filed affidavit on behalf the Corporate Debtor as its Executive Director to be put strict proof that he is authorised to file an affidavit on behalf of the Corporate Debtor.
43. The Financial Creditor has denied all the allegations, except those which are matters of record. It is denied that the application is not in proper form or is liable to be rejected. The Financial Creditor reiterated all the averments of the petition and denied the corresponding reply denying the facts mentioned in the application. It is denied that there is no debt or default on the part of the Corporate Debtor or that the petition is liable to be dismissed. It is denied that there is no debt due or default on the part of the Corporate Debtor or that the petition is liable to be dismissed. It is submitted that the Corporate Debtor is taking up baseless and frivolous grounds to stall the CIRP which is liable to be initiated in respect of the Corporate Debtor. The pendency of the proceeding before DRT, Patna has no relevance in the present proceedings. It is denied that the present proceedings are not maintainable or that Stressed Assets Stabilization Fund is incorrectly claiming itself to be the Financial Creditor or that the petition is not maintainable. It is denied that any licence is required under Bengal Money Lenders Act. It is denied that the calculation given in the said application is incorrect. It is submitted that the Corporate Debtor does not have any defence to the admitted claim of the Financial Creditor and has raised all vague and frivolous grounds.
44. The Financial Creditor had filed a **supplementary affidavit** in which it is stated that the Corporate Debtor has continuously acknowledged its debt to the Financial Creditor and has made several promises to pay

back to the Financial Creditor and has placed on record the following documents :-

- i. The Corporate Debtor had in its Annual Report for the year ended 2000-01 acknowledged Industrial Development Bank of India (hereinafter referred to as "IDBI") as a secured financial creditor of the company. Further, it has admitted that as on June 30, 2000 a sum of Rs.2492.45 lakh was due to IDBI and on June 30, 2001, a sum of Rs.2844.19 lakh was due to IDBI' A copy of the extract of the said report is annexed and marked "A.
- ii. The Corporate Debtor had in a letter dated March 8, 2002 issued to the then Hon'ble Finance Minister' Government of India acknowledged IDBI as a Financial Creditor alleging that IDBI had forced the Corporate Debtor to part with the purported sum of around Rs.450 lakh. A copy of the said letter is annexed and marked B.
- iii. In its Annual Report for the year ended 2003-04, the Corporate Debtor acknowledged that a sum of Rs.4411.01 lakh was due as on June 30, 2004. It is further acknowledged that as on June 30, 2003 a sum of Rs.4033.27 lakh was due to IDBI and as on June 30' 2004' a sum of Rs.4411'01 lakh was due to IDBI' A copy of the extract of the said report is annexed and marked "C.
- iv. The Corporate Debtor had by a letter dated April 19, 2005 admitted that as on August 31, 2004 the outstanding principal balance of Rs.19,78,04,5321- remained due and payable by the Corporate Debtor to the Financial Creditor. A copy of the said letter is annexed and marked' D.
- v. By a letter dated June 7, 2005 the Corporate Debtor had requested the Financial Creditor to recommend to IDBI to sanction a Term Loan of Rs.1000 lakh to Shree Hanuman

Sugars& Industries Ltd. so that the principal amount due to IDBI could be repaid from the beginning of the third year from the effective date in 28 quarterly instalments of Rs.70.75 lakh. A copy of the said letter is annexed and marked as 'E'.

- vi. The Corporate Debtor had by a letter dated January 24,2006 admitted that principal amount of Rs.1978.04 lakh was due and payable by the Corporate Debtor to Financial Creditor. A copy of the said letter is annexed and marked as F.
- vii. The Corporate Debtor had in its Annual Report for the year ended 2009 admitted that as on June 30, 2009 a sum of Rs.5445.32 lakh was due and payable to IDBI and also acknowledged that as on June 30, 2008 a sum of Rs.5343.58 lakh was due and payable by the Corporate Debtor to IDBI. A copy of the extract of the said Annual Report is annexed and marked as G.
- viii. In the Annual Report of the Corporate Debtor for the year ended June 30, 2010, the Corporate Debtor has acknowledged IDBI as its creditor and has admitted that with respect to the Term Loan provided by IDBI (the predecessor-in-interest of the Financial Creditor), a sum of Rs.5445.32 lakh was due and payable in the year 2009 and in the year ended June 30, 2010 a sum amounting to Rs.5457.06 lakh was due and payable by the Corporate Debtor to the Financial Creditor in respect of Term Loan. A copy of the said Annual Report is annexed and marked as H.
- ix. The Corporate Debtor has also in its Annual Report for the year ended June 30, 2011 admitted and acknowledged IDBI as its Financial Creditor of a sum amounting to Rs.5808.79 lakh for the said financial year.

A copy of the said report is annexed and marked as I.

- x. Further in the Corporate Debtor's Annual Report for the year ended June 30,2012, IDBI has been acknowledged and admitted to be a Financial Creditor of the Corporate Debtor to the tune of Rs.4808.79 lakh. It may be noted that although the name of IDBI has not been expressly stated in the said Annual Report so as to avoid and/or evade liability to pay, however from a perusal of Note 3 of the said report it is provided in page 25 of the report, the amount admitted to be due from 'Bank' in June 30, 2011 a sum of Rs.5808.79 lakh is shown to have been due and payable which is the same amount as provided in the Annual Report for the year ended June 30,2011, a copy whereof has been annexed and marked hereinabove as Annexure 'I'. A copy of the said Report for the year ended 2012 is annexed and marked 'J'
- xi. The Corporate Debtor in its Annual Report for the year ended 2013 has acknowledged IDBI as a Financial Creditor of the Corporate Debtor. A copy of the said Annual Report for the Financial Year 20'13 is annexed and marked 'K'.
- xii. The Corporate Debtor has further acknowledged IDBI as its secured creditor in its Annual Report for the year ended 2014. A copy of the said Annual Report is annexed and marked as L.
- xiii. The Corporate Debtor in its Annual Report for the year ended 2015 has acknowledged that the Term Loan from IDBI is secured by way of mortgage of whole of the properties of the company including its movable plant & machinery, machinery spares, tools & accessories and other movable, both present and future on which Corporate Debtor has created charge. A copy of the said

Annual Report for the year ended 2015 is annexed and marked as M.

- xiv. The Corporate Debtor had in its Annual Report for the Financial Year ended 2015-16 acknowledged IDBI as a secured Financial Creditor of the Corporate Debtor. The said report is annexed as N.
- xv. The Corporate Debtor had also in its Annual Report for the Financial Year ended 2016-17 admitted IDBI as secured Financial Creditor. A copy of the said Annual Report is already annexed and marked as Annexure 'EEE' of the main Section 7 application'
- xvi. The Corporate Debtor had in the Annual Report for the year ended 2018'19 acknowledged IDBI as its Financial Creditor' A copy of the said report is annexed hereto and marked 'O

- 45. The Financial Creditor proposed the name of **Mr. Ajay Kumar Agarwal**, to act as an IRP having Registration No. **IBBI/IPA-002/IP-N00608/2018-2019/11859**, who has consented vide his affidavit and Form-2 and submitted that he has agreed to accept the appointment as IRP if an order admitting the present application is passed by this Adjudicating Authority. He has further submitted that no disciplinary proceedings are pending against him with the Board or Institute of Insolvency Professionals of ICAI.
- 46. During the course of arguments, the Financial Creditor has submitted that the Corporate Debtor had availed various credit facilities from IDBI from 25th August, 1998 till 4th December, 1999 to the tune of Rs. 21,24,26,073.00(Rupees Twenty One Crores Twenty Four Lacs Twenty Six Thousand and Seventy Three only), and has defaulted in repaying the loan amount due to which the account of the Corporate Debtor became an NPA on 1st July, 2001. It is stated that the account of the

Corporate Debtor was assigned to the applicant formed by the Government of India for taking over the bad debts of IDBI. Due to such default, the Financial Creditor was constrained to initiate present proceedings under section 7 of the Code for the Corporate Insolvency Resolution Process of the Corporate Debtor.

47. It is submitted that the present application was filed for non-payment of debt by the Corporate Debtor to the tune of Rs. 895,13,86,494.00 which comprises of principal, interest or further interest and liquidated damages as on 1st July, 2018. It is submitted that the loan was duly disbursed to the Corporate Debtor and the Corporate Debtor had availed various credit facilities from IDBI on and from 25th August, 1988 till 4th August, 1999 to the tune of Rs.21,24,26,073/-, Annexure-G at pages 53-63, Volume-I of the petition.
48. It is submitted that the Corporate Debtor had executed numerous security documents viz. Deed of Mortgage, Deed of Hypothecation, Deed of Guarantee, Memorandum of deposit of title deeds etc. and accordingly the charge had been created on the properties mortgaged with the Financial Creditor. Copies of all the documents are annexed with the petition. It is submitted that to further corroborate, the Corporate Debtor had been acknowledging its debt and admitting default through its financial statements and balance sheets from 2001-2019, due and payable to the Financial Creditor i.e. Annexures A, C to O of the supplementary affidavit and Annexure EEE of section 7 petition in a recurring manner.
49. The Financial Creditor has further submitted on the point of limitation that the account of the Corporate Debtor was classified as an NPA on 1st July, 2001 and that the Corporate Debtor has admittedly acknowledged its liability due and payable to the Financial Creditor in its financial statements and other related documents from 2000-01 to the year

ending 2018-19 thereby unequivocally conceding to its liability towards the Financial Creditor. It is submitted that constant acknowledgement of debt and admitted liability can be evidenced from the pleadings made in the application, and the supplementary affidavit of the Corporate Debtor including the balance sheets/ annual return filed by the Corporate Debtor.

50. It is submitted that from the letters and balance sheets of the Corporate Debtor, it would be clear that the Corporate Debtor duly acknowledged the debt in the balance sheets. It is submitted that the balance sheets fall within the ambit and scope of documents which are accepted as written acknowledgement under section 18 of the Limitation Act, 1963.Ld. Counsel referred to various judgments of the Hon'ble Supreme Court as well in support of his arguments. He submitted that in ***Sheoraphuli Co-operative Bank Ltd. and Another, 2021 SCC Online SC 244(Annexure-C-I to the petition) (Paragraphs 66,68-69) and Laxmi Pat Surana v. Union Bank of India 2021 SCC Online SC 267 (Annexure C-II to the petition) (Paragraphs 41 & 42) , the Hon'ble Supreme Court*** has precisely held that Section 18 of the Limitation Act is applicable in respect of the Code,2016.
51. Similarly, the ***Hon'ble Supreme Court subsequently in Asset Reconstruction Company v. Bishal Jaiswal & Anr. 2021 SCC Online SC 321 (Annexure C-III to the petition) (Paragraphs 34,40-45)*** has held that acknowledgement or entry or recording in the balance sheet is to be regarded as legitimate admission hence the claim is precisely within the limitation period. The Corporate Debtor vide its balance sheet had effected written acknowledgement of its debts successively from 2000 and lastly in 2019 thereby extending the period of limitation for three years and/or fresh cause of action from such recording. In the present case, the corporate debtor has with regard to the balance sheets the same being a valid document under section 18 of the Act, 1963 accepted the debt and acknowledged its liability towards

the applicant thereby extending the period of limitation by such balance sheet recording.

52. It is further argued that the Financial Creditor has filed the balance sheets by way of Supplementary Affidavit, and has contended and pleaded the significance of the balance sheet entries and the acknowledgement of the debt and default in respect of the same. The ***Hon'ble Apex Court in Dena Bank versus P.Shivkumar Reddy, 2021 SCC Online SC 543,(Annexure C-IV to the petition) (Paragraphs 91, 110, 113, 114, 118,141 to 144)***, has clearly held that there is no estoppel in filing additional documents for substantiation of the claim of the creditor hence the balance sheets submitted are stated to be a part and parcel of the Section 7 petition and to be considered while adjudicating the debt, default and limitation.
53. It is submitted that besides the above facts, the debt and default shall also be evident from the information utility filed with this Adjudicating Authority obtained from the official portal of NESL which may be drawn to page 5 of the supplementary affidavit filed by the Financial Creditor of 24th February, 2021.
54. During the Course of arguments, the Ld. Counsel for the Corporate Debtor has submitted that the application under section 7 of IBC, 2016 should be dismissed on the ground that no date of default is mentioned. Requirement arises in view of sub rule (1) of rule 4 and Form-I contained in the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules,2016. Such requirement of giving the date of default is not an idle formality but enables the court to adjudicate on the issue of limitation, which is a duty cast on the court under section 3 of the Limitation Act. Annexures indicating the date, is not sufficient compliance.
55. It is submitted that secondly, the petition deserves to be dismissed as being barred by limitation. In the petition, there is no averment that can save or extend the period of limitation. Explanation in a petition is

necessary [2020 SCC Online SC 647 @ Paragraph 96]. By filing a supplementary affidavit, the case or grounds in the petition cannot be amplified. [2003(4) Comp LJ 333 Cal @ paragraph 33].

56. It is submitted that In **Babulal Vardharji Gurjar vs Veer Gurjar Aluminium Industries Pvt. Ltd. and Anr.** [**2020 SCC Online SC 467 @ Para 96**], the Supreme Court has held that *“The question of limitation is essentially a mixed question of law and facts and when a party seeks application of any particular provision for extension or enlargement of the period of limitation, the relevant facts are required to be pleaded and requisite evidence is required to be adduced.”* The Supreme Court has also held in the same paragraph that *“Even if section 18 of the Limitation Act and principles thereof were applicable, the same would not apply to the application under consideration in the present case, looking to the very averment regarding default therein and for want of any other averment in regard to acknowledgement.”*
57. It is submitted that, it is necessary that a petitioner should disclose facts and evidence in his application and if he does not do so, it would not have the benefit of extension or exclusion.
58. It is submitted that in the present case, the date of default is not mentioned, however, from elsewhere, (page 53 of the petition) it becomes evident that the NPA date was 1st July 2001. Therefore, the petitioner is seeking extension of the period of limitation without any averment or statement in the petition or any evidence being disclosed.
59. It is submitted that the Financial Creditor has filed a supplementary affidavit relying on balance sheet of the corporate debtor. Page 303 and 306 of the supplementary affidavit have been relied upon. There is, however, no admission of liability or of any amount in either of the two

pages. In none of the balance sheets is there any admission of liability or promise to pay within the meaning of the Limitation Act. Further, the letters relied upon are of 2005 and 2006 and cannot assist the Financial Creditor. Admission has to be clear and unambiguous.

60. It is submitted that furthermore, the Supplementary Affidavit cannot be looked into or considered. By filing a supplementary affidavit, the case or grounds in the petition cannot be amplified. (2003 (4) Comp LJ Cal @ paragraph 33].
61. It is submitted that the supplementary affidavit which has been filed by the Financial Creditor, discloses balance sheets and annual reports. None of these constitutes an acknowledgement of debt or a promise to pay or has the effect of extending or excluding limitation, within the meaning of the Limitation Act 4.
62. It is submitted that the Financial Creditor has also relied upon a letter dated 8th March,2002 [page 14 of Supplementary Affidavit], letter dated 19th April,2005 [page 21 of Supplementary Affidavit] and a letter dated 24th January 2006 [page 26 of Supplementary Affidavit). While none of these three letters constitute a promise to pay or can be used for extending the period of limitation, it is also submitted that at best, these letters would have the effect of extending the period of Limitation to 2009. Calculating three years from 2009, the Financial Creditor would have to file the petition by 2012.The petition is of 2018. The NPA date is 1st July, 2001 (Annexure G page 53 of the petition).
63. Ld. Counsel for the Financial Creditor in reply to the arguments of the Corporate Debtor has submitted that the arguments of the Corporate Debtor that additional documents cannot be accepted as the same is in complete contradiction to the judgment of the Hon'ble Supreme Court as

held in ***Dena Bank vs. P.Shivkumar Reddy, 2021 SCC Online SC 543***. It is reiterated that this Adjudicating Authority, for the adjudication of the debt and default made at any juncture deliberate additional documents and there is no estoppel to the same. Hence, the purported claim of the Corporate Debtor objecting to reliance being placed on such documents filed by way of supplementary affidavit is liable to be rejected. It is argued by the Ld. Counsel for the Financial Creditor that Section 7(4) of the Code clearly states that the Adjudicating Authority shall, within 14 days of the receipt of the application under sub section (2) ascertain, the existence of a default from the records of an information utility or on the basis of other evidence furnished by the Financial Creditor under sub section 3.

64. Ld. Counsel further argued that the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No.385 of 2020 vide its order dated 10th December, 2021 has categorically held that without amending the relevant column in Section 7 Application, a Financial Creditor can bring relevant material on record before the Adjudicating Authority by way of Supplementary Affidavit, rejoinder affidavit and the additional affidavit, which materials can be looked into and non-amending of relevant column in Form-1 shall not preclude the admissibility of the materials brought subsequently by way of supplementary affidavit or additional affidavit.
65. It is submitted by the Corporate Debtor that there is no pleading in section 7 petition or the affidavits with regard to limitation. In such context, it is submitted by the Financial Creditor that the contention of the corporate debtor is palpably incorrect as the Financial Creditor has specifically contended in section 7 petition and the supplementary affidavit has duly dealt with limitation and that the debt has been acknowledged by the Corporate Debtor in its financial statement and balance sheets for successive years from 2000 to 2019. It is submitted that the applicant has categorically mentioned about acknowledgement of debt by the Corporate Debtor by way of its recordings in the balance

sheets and the restructuring proposal letters and more particularly the averment made in para 4 of the said affidavit wherein the Financial Creditor has expressly stated that *“I say that there have been continuous acknowledgements of debt by the Corporate Debtor and no part of the Financial Creditor’s claim is barred by limitation.”* Therefore, the stand of the Corporate Debtor is contrary to the documents placed on record before this Adjudicating Authority and is liable to be rejected. It is finally argued by the Ld. Counsel for the Financial Creditor that the debt and default are within the prescribed period of limitation and the same is duly enforceable in the eyes of law and there is apparent admission of debt and default on the part of the Corporate Debtor. Therefore, the petition under section 7 holds sufficient grounds for admission and should be admitted and the application made by the Corporate Debtor is required to be rejected.

66. We have heard Ld. Counsel for the parties at great length. The Financial Creditor has taken us through various documents including the petition, supplementary affidavit and their respective annexures, and has sufficiently proved the disbursement of the loan, the outstanding financial debt, and the default. It has been proved that the loan has been acknowledged in consecutive years from 2002 to 2019 and that the petition has been filed within limitation, and is not time barred as was argued by the Ld. Counsel for the Corporate Debtor
67. The petition is otherwise complete in all respects.
68. In these circumstances, we are satisfied that the petition deserves to be admitted, we, therefore, pass the following orders:

O R D E R S

- i) The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor is hereby **admitted**.

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- ii) We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
 - iii) Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The I.R.P. shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
 - iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:
 - 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

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- 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.
- v) The supply of essential goods or services rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.
- vi) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii) Provided that where at any time during the Corporate Insolvency Resolution Process period, if the 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, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- ix) **Mr. Ajay Kumar Agarwal**, registered with Insolvency and Bankruptcy Board of India, having Registration No. **IBBI/IPA-002/IP-N00608/2018-2019/11859** Email cs.aaa.2014@gmail.com. hereby appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan subject to production of written consent within one week from the date of receipt of this order.

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- x) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.
- xi) The Financial Creditor/Applicant is directed to deposit **Rs. 5,00,000/- (Rupees Five Lakhs Only)** with the IRP appointed hereinabove within **three** days from this order. IRP can claim the preliminary expenses and fees subject to the approval by the CoC and after constitution of CoC.
- xii) Registry is hereby directed to communicate the order to the Financial Creditor, the Corporate Debtor, the I.R.P. and the jurisdictional Registrar of Companies by Speed Post as well as through email.
- xiii) List the matter on **18/04/2022** for the filing of the progress report.
- xiv) Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Harish Chander Suri)
Member (Technical)

(Rohit Kapoor.)
Member (Judicial)

Order signed on, this 11th day of February, 2022

Pj