

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH - I
KOLKATA**

I.A. (IB) No. 110/KB/2022
and
IA (IB) No. 715/KB/2022
and
C.P (IB) No. 1377/KB/2020

*A 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.*

In the matter of:

UCO Bank

...Financial Creditor

Versus

Nandini Impex Private Limited[CIN U67120WB1993PTC060519]

...Corporate Debtor

I.A. (IB) No. 110/KB/2022

Nandini Impex Private Limited [CIN U67120WB1993PTC060519]

...Applicant

Versus

UCO Bank

...Respondent

IA (IB) No. 715/KB/2022

In the matter of:

Nandini Impex Private Limited[CIN U67120WB1993PTC060519]

...Applicant

Versus

UCO Financial Creditor

...Respondent

Date of Hearing;
I.A. (IB) No. 110/KB/2022 C.P (IB) No. 1377/KB/2020: 06 July, 2022
IA (IB) No. 715/KB/2022: 29 August, 2022
Order pronounced on: 20thSeptember, 2022

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Coram:

Shri Rohit Kapoor : **Member (Judicial)**
Shri Balraj Joshi : **Member (Technical)**

Appearances (through Video Conferencing/physical hearing)

- | | |
|-------------------------------------|--------------------------|
| 1. Mr. Joy Saha, Sr. Advocate | } For Financial Creditor |
| 2. Mr. Rahul Auddy, Advocate | } |
| 3. Mr. Aditya Gooptu, Advocate | } |
| | |
| 1. Mr. Abhrajit Mitra, Sr. Advocate | } For Corporate Debtor |
| 2. Mr. Adjitya Kanodia, Advocate | } |

COMMON ORDER

Per Balraj Joshi, Member (Technical)

This common order deals with CP (IB) 1377/KB/2020, IA 110/KB/2022 which is a demurrer application for dismissal of the CP and IA (IB) 715/2022 which is an IA filed by the Corporate Debtor for bringing on record a recent judgment of Hon'ble Supreme Court of India .

CP (IB) 1377/KB/2020

1. The Court convened *via* hybrid mode.
2. This is a Company Petition filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (*'the Code'*) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 by UCO Bank (*'Financial Creditor'*), by Mr. Prasenjit Roy, Assistant General Manager, duly authorized by virtue of Power of Attorney, duly notarized on 18 June, 2020 for initiation of Corporate Insolvency Resolution Process (*"CIRP"*) against Nandini Impex Private Limited (*'Corporate Debtor'*).
3. The present Petition was filed on 08 December, 2020 before this Adjudicating Authority on the ground that the Corporate Debtor has defaulted in payment of the

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Credit Facility (*'Credit facility' or 'Loan'*) advanced by the Financial Creditor to the Corporate Debtor.

4. The total amount to be claimed in default by the Financial Creditor is Rs.4,52,08,22,525.31/- (Rupees Four Hundred Fifty Two Crore Eighty Lakh Twenty Two Thousand Five Hundred Twenty Five and Thirty One Paise only) including interest as on 31 October, 2020. The date of default is stated to be **30 September, 2012**
5. It is submitted in the Petition, Part – II that the authorised share capital of the Corporate Debtor is Rs.93,00,000/- (Rupees Ninety Three Lakh only) with paid up Capital as Rs.85,25,040/- (Rupees Eighty Five Lakh Twenty Five Thousand Forty only).
6. I.A. (IB) No. 110/KB/2022 C.P (IB) No. 1377/KB/2020 was listed was pronouncement on 20 July, 2022, however, the same was deferred on the mentioning made by Ld. Sr. Advocate Mr. Abhrajit Mitra with respect to I.A. (IB) No. 715/KB/2022.
7. ***Submissions by the Ld. Sr. Counsel, Mr. Joy Saha appearing on behalf of the Financial Creditor***
 - 7.1 The Financial Creditor was approached by the Corporate Debtor for several credit facilities to set up trenchless digging project for laying underground utilities. Subsequently, upon consideration, the Financial Creditor sanctioned the credit facility. The credit facilities were sanctioned on the terms and conditions contained in the sanction letter dated 19 June, 2001.
 - 7.2 From time to time the Credit facilities availed by the Corporate Debtor were renewed, reviewed and enhanced. The Credit Facilities were lastly renewed in September, 2012 *vide* sanction letter dated 28 September, 2012.
 - 7.3 To avail the Credit Facility, the Corporate Debtor executed several security documents; the Corporate Debtor and its Corporate Guarantor also hypothecated and

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created charge on stocks, plant and machinery and other immovable and moveable assets of the Corporate Debtor.

- 7.4 However, the Corporate Debtor started defaulting in liquidating the outstanding dues under the credit facilities on account of interest as well as principal amount. The account of the Corporate Debtor was declared as a Non- Performing Asset (NPA) as on 30 September, 2012
- 7.5 In the year 2018, the Financial Creditor *vide* its letter dated 23 October, 2018 restructured the credit facilities availed by the Corporate Debtor and it was agreed that the compromise amount would be paid in six equal half yearly instalments from March 2019 to September, 2021.
- 7.6 Even after such arrangements, the Corporate Debtor failed to make the compromise payment. Further, the Corporate Debtor in its letter dated 16 January, 2020, cited their financial distress and sought for additional time till March, 2021 for the repayment of the Compromise Amount.¹The Financial Creditor had also issued a notice dated 01 October, 2020 under section 13(2) of the SARFAESI Act, 2002 to the Corporate Debtor
- 8. *Submissions by the Ld. Counsel, Mr. Indradeep Basu appearing on behalf of the Corporate Debtor***
- 8.1 The Power of Attorney annexed to the instant petition does not confer any authority on the Deponent i.e., Mr. Prasanjit Roy because neither the Power of Attorney bears any date, nor it has the names of the executants of the Power of Attorney. Further, the Deponent was Authorised on 18 June, 2020 but he is affirming to the facts much prior to his appointment to represent the Financial Creditor.
- 8.2 As per the RBI guidelines, it is not mandatory to classify any account of as NPA on happening of default but the Bank has to exercise judicious discretion to classify or

¹Annexure K of the Petition.

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not to classify an account as NPA. In view of the facts fresh credit limits were sanctioned on 28 June, 2012, hence, it is not justified to declare the account of the Corporate Debtor as NPA within three months from sanctioning of the fresh limit.

- 8.3 On 28 September, 2012, i.e., two days before the date of the alleged classification of NPA, the Financial Creditor had issued a letter restructuring the loan account. The loans were restructured with moratorium up to March, 2014 and repayment in five years commencing from June 2014 quarter.
- 8.4 Further, on 23 October, 2018, a concluded Agreement was entered between the parties, where they have stipulated the manner in which the settled amount was to be repaid.
- 8.5 The other terms of arrangements between the parties were that the Corporate Debtor was to raise capital for payment of the agreed consolidated amount by way of sale of the mortgaged properties.
- 8.6 Instant Application is misconceived and the amount claimed in default is not in terms of the subsequent agreement dated 23 October, 2018. This application is on the premise that the account of the Respondent was declared as NPA on 30 September, 2012. The Financial Creditor cannot proceed on the premise that the settlement agreement between the parties have failed.

I.A. (IB) No. 715/KB/2022

9. This is an application by Nandini Impex Private Limited (*'Corporate Debtor'*) for recalling the order dated 06 July, 2022 passed by this Adjudicating Authority. In the said order this Adjudicating Authority has heard the Ld. Counsels appearing on behalf of the parties, and reserved the petition, being C.P. No.1377/KB/2022. However, on the day of pronouncement, it was intimated by the Ld. Counsel that they seek to place an important judgment of the Hon'ble Supreme Court, which would have material impact on the outcome of the CP 1377 for which the judgment stood reserved. Hence this application.

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10. Submissions by the Ld. Sr. Counsel, Mr. Abhrajit Mitra appearing on behalf of the Applicant/Corporate Debtor

- 10.1 The Corporate Debtor is a going concern of Engineering Procurement and Construction and, has subsisting contracts with Indian Oil Corporation, Torrent Gas Private Limited and Green Gas Private Limited. The Corporate Debtor employees over 100 people directly and over 500 people through sub-contractor[*Annexure B of the Petition*]. All these contracts would be terminated in the Corporate Debtor goes into Corporate Insolvency Resolution Process (“*CIRP*”).
- 10.2 The Applicant came to know about the judgment delivered by the Hon’ble Supreme Court of India in *Vidharbha Industries Power Limited v. Axis Financial Creditor Limited*² on 12 July, 2022, in the said judgement the Hon’ble Supreme Court has opined that it is incumbent upon the Adjudicating Authority to examine the purpose that would be served by admitting the application under Section 7 of the Insolvency and Bankruptcy Code (“*Code*”) and to also consider whether it would be prudent and make more commercial sense to not admit the application of the Financial Creditor and initiate a CIRP process in respect of the Corporate Debtor.
- 10.3 In light of the said judgement it has also become necessary to consider the aspect of default (if any), from the prospective of whether or not the Corporate Debtor was prevented by reasons of beyond their contract to honour the OTS and the prospects of the Corporate Debtor so achieving in future.
- 10.4 The corporate debtor is a company established in the year 2001 and is primarily engaged in the business of pipeline infrastructure development in the oil and gas sector including across country pipeline, city gas distribution network, electrical and telecom etc. across India. The Corporate Debtor is a going concern and has bright prospects of surviving the present financial crisis

²Civil Appeal No.4633 of 2021

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- 10.5 The corporate health of the Corporate Debtor is depending on the performance of the said contracts of the Corporate Debtor. If the corporate debtor is admitted to CIRP, the Corporate Debtor will be left with only its plant and machinery which are old and will not fetch much. It is for this reason that the Financial Creditor even after COVID-19 pandemic was willing to settle on OTS terms [*Financial Creditors letter dated 19 March, 2020 and 19 June, 2020*].
- 11. Submissions by the Ld. Sr. Counsel, Mr. Joy Saha appearing on behalf of the Respondent/ Financial Creditor**
- 11.1 The Financial Creditor had filed an application under section 7 petition in 2020 due to default of the Corporate Debtor to repay a sum of Rs. 452.08 Crores. The dues of the Financial Creditor were admitted by the Corporate Debtor in its balance sheets and also in other correspondences. The main section 7 petition was heard at length on merits on 6th July 2022. Substantial arguments were made by the Corporate Debtor on issue of authority and majorly on OTS which the Financial Creditor had rejected.
- 11.2 The main gamut of the submission was whether OTS was valid, whether only the OTS amount the Corporate Debtor is required to pay etc. This Adjudicating Authority heard the counsels at length for over one hour on 6th July 2022 on the merits of the matter and reserved it for orders.
- 11.3 Thereafter the Hon'ble Supreme Court in its judgment dated 12th July 2022 in the matter of Vidharbha Industries Power Limited (*Supra*) held that an otherwise solvent company cannot be penalized under the Code for temporarily defaulting payments of financial creditors. That is the main and most important part of the said judgment. After the pronouncement of the said judgment and relying upon the same, the Corporate Debtor filed this instant application on 16th July 2022 attempting to establish that it is a solvent company and that the order dated 6th July 2022 reserving the matter for orders should be recalled.
- 11.4 In this instant application, the Corporate Debtor has relied upon tenders and purchase orders to demonstrate that the company is an on-going company having substantial

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business. The said application was moved on 1st August 2022 by the Corporate Debtor when the majority of the argument was made on OTS, whether OTS was valid, how the Financial Creditor has claimed 452 Crores as default when only 30 Crores was due under the OTS. Arguments were being advanced by the Corporate Debtor from the written notes of arguments which was supposed to be filed after the hearing on 6th July 2022. There is no concept of arguing the written notes of argument.

11.5 It is a settled principle of law that OTS is not a right of the borrower and OTS cannot be enforced by the borrower.³ So far as the issue of 'otherwise solvent company' is concerned, which the CORPORATE DEBTOR is trying to portray as per the judgment of the Hon'ble Supreme Court, the Financial Creditor states as follows:-

- (a) The Company is an absolute loss making company and the same is evident from its balance sheet and director report.
- (b) The following are the figures stated in the balance sheets for the last 6 years:

<i>Years</i>	<i>Profit / Losses (in Crores)</i>	<i>Accumulated Losses (in Crores) transferred to the Balance Sheet</i>
2016	(1.78)	(41.60)
2017	4.41	(37.19)
2018	1.85	(35.33)
2019	18.12	(53.45)
2020	0.84	(52.60)
2021	14.73	(67.34)

11.6 Thus, the company is a total loss-making company. From the above it is seen that in 2019, the loss was Rs. 18.12 Crores and in 2021 the loss is Rs.14.73 Crores. In 2020, the company managed to make a meagre profit of Rs.84 Lakhs. So if the company is not in a position to generate any income, how are they trying to classify themselves as an 'otherwise solvent company' or how is the Company trying to portray that they can pay the dues of the Financial Creditor.

³Bijnor Urban Cooperative Financial Creditor Limited vs. Meenal Agarwal & others (Civil Appeal No. 7411 Of 2021)

Analysis and Findings

12. We have heard the Ld. Senior Counsel appearing on behalf of the Financial Creditor and the Ld. Senior Counsel appearing on behalf of the Corporate Debtor and perused the records
13. In the context of the "Vidharbha Judgement" by Hon'ble Supreme Court, the Ld. Counsel for the Corporate debtor avers that the company is a solvent company and it is a matter of time that the company would be back on its feet as the works in hand are completed and therefore before deciding to send the corporate debtor to CIRP, there is a sure occasion for the Adjudicating Authority to use its discretion that has been given to it under section 7(5)(a). Instituting the CIRP at this crucial juncture will mean a death knell for the Corporate Debtor, which is against the object of the code which is to resolve insolvency so as to enable the corporate debtor to be revived.
14. The discretion given to this Adjudicating Authority by virtue of the use of the word "may" as against "shall" makes it obligatory for the Adjudicating Authority to consider exercising the discretion on a rational and not capricious basis. For understanding the crux of the said judgement and going into further detail thereof it is imperative to cite here the relevant paras from this epochal judgement:

81 *"The title "Insolvency and Bankruptcy Code" makes it amply clear that the statute deals with and/or tackles insolvency and bankruptcy. It is certainly not the object of the IBC to penalize solvent companies, temporarily defaulting in repayment of its financial debts, by initiation of CIRP. Section 7(5)(a) of the IBC, therefore, confers discretionary power on the Adjudicating Authority (NCLT) to admit an application of a Financial Creditor under Section 7 of the IBC for initiation of CIRP"*

82 *The Adjudicating Authority (NCLT) failed to appreciate that **the question of time bound initiation and completion of CIRP could only arise if the companies were bankrupt or insolvent and not otherwise.** Moreover the*

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timeline starts ticking only from the date of admission of the application for initiation of CIRP and not from the date of filing the same.

- 15.** The moot question which arises for consideration is whether or not an otherwise promising company be spared the rigmarole of CIRP, even if all conditions necessary for prima facie declaring a company as ‘insolvent’, as provided for in law are met with and whether there can be conditions wherein the company might be undergoing a rough patch in its operations at a given point in time and may be mistakenly branded as an insolvent company.
- 16.** This brings us to the very definition of insolvency, which in the general understanding of the term means a state in which an enterprise is not able to service its debt obligations and may also be verily said to be a company that is not able to pay its bills due to lack of finances or financial strength. Further analysis of the term insolvency leads us to two branches of insolvency – one the Balance sheet insolvency and two the Commercial insolvency. The balance sheet insolvency means that the company has neither immovable or liquid assets to fulfil its debt obligations i.e. its borrowing liabilities are more than its total assets, which includes the immovable and moveable & liquid assets, all valued at a fair market price. The commercial insolvency is an indicator of the fact that even though the enterprise has sufficient immoveable assets, there is a shortage of the liquid assets or the assets which could be readily converted to cash or cash equivalents which would have enabled the enterprise to meet its debt obligations. It is here that the issues like a promising future for the company, the ongoing works in hand and a prospect of earning a decent profit in near future and thus a possibility of servicing the debt come up for consideration.
- 17.** When applying this algorithm in the present case we find that though there have been years during which the Corporate Debtor has made some nominal profits also, which has a large magnitude of deferred tax assets, but even then, on an aggregate basis, the accumulated loss as given in the table above is of the order of 67.34 Crores.

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18. We also note that the company is a going concern and has some ongoing contracts in hand, which when completed would return some profits for the company. These contracts are valued at about 100 Crores and assuming that a net profit of 10% is made from these contracts, the CD would have additional 10 Crores in hand, which is far too low an amount that can address the present liquidity woes of the Corporate Debtor. Thus accumulated losses are carried over to the balance sheet put additional strain on the balance sheet resulting in a further loss of strength in the balance sheet.

19. In this regard we also reproduce para 88 of the Vidarbha Judgement and then apply the postulates on the case in hand. Para 88 reads as under:

88. The Adjudicating Authority (NCLT) has to consider the grounds made out by the Corporate Debtor against admission, on its own merits. For example when admission is opposed on the ground of existence of an award or a decree in favour of the Corporate Debtor, and the Awarded/decretal amount exceeds the amount of the debt, the Adjudicating Authority would have to exercise its discretion under Section 7(5)(a) of the IBC to keep the admission of the application of the Financial Creditor in abeyance, unless there is good reason not to do so. The Adjudicating Authority may, for example, admit the application of the Financial Creditor, notwithstanding any award or decree, if the Award/Decretal amount is incapable of realisation. The example is only illustrative.

20. Thus the advantage of the balance sheet strength is to be given to a corporate debtor, which means that a Corporate Debtor suffering from the liquidity shortages, i.e. undergoing a cash flow based commercial insolvency, would not be reckoned to be insolvent if the asset base of the company is stronger on in other words if the Corporate debtor has a strong balance sheet. However in the instant case, it is seen that the assets of the company have been on the decline over the years. There are no trade receivables which may result a bounty through an arbitral award or similar accruals. In any case, the figures of the trade receivables are not that large, even if we assume that they are fully 'realisable', that they can set off the borrowings in a foreseeable future. This indicates that the company is not only suffering from the commercial i.e. cash flow based insolvency, but also from the balance sheet

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insolvency. The red flags are so obvious that even if we take the optimism of the company at its highest, the financial figures are leading to symptoms that are not encouraging enough that may support the assertion that the company can make a wonder turn around anytime soon. Therefore, facts as pleaded by Corporate Debtor in IA 715 when tested in view of Vidaraba Judgement, we find that the Corporate Debtor was unable to pay its debts and this inability continues.

21. Now the issues arising in the instant case are as follows;
- i. Whether there is an existence of any debt and default?
 - ii. If yes, whether the same is barred by limitation?
22. Upon perusal of the record it is apparent that transaction held between the parties was purely financial in nature and the terms and conditions were also mutually revised from time to time. Further, with respect to the Power of Attorney submitted by the Financial Creditor, it is pertinent to mention that it has been signed by two of the Directors of the UCO Bank i.e., the Financial Creditor [at page 46 of the Petition] and it clearly authorizes the petitioner to initiate proceedings on behalf of the Financial Creditor.
23. In ***Laxmi Pat Surana V. Union Bank of India & Anr***, decided on March 21, 2021, the Hon'ble Supreme Court has held that.

"37. Ordinarily, upon declaration of the loan account/debt as NPA that date can be reckoned as the date of default to enable the financial creditor to initiate action under Section 7 of the Code. However, Section 7 comes into play when the corporate debtor commits "default". Section 7, consciously uses the expression "default" not the date of notifying the loan account of the corporate person as NPA. Further, the expression "default" has been defined in Section 3(12) to mean non-payment of "debt" when whole or any part or instalment of the amount of debt has become due and payable and is not paid by the debtor or the corporate debtor, as the case may be. In cases

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*where the corporate person had offered guarantee in respect of loan transaction, the right of the financial creditor to initiate action against such entity being a corporate debtor (corporate guarantor would get triggered the moment the principal borrower commits default due to non-payment of debt. Thus, when the principal borrower and/or the (corporate) guarantor admit and acknowledge their liability after declaration of PA but before the expiration of three years therefrom including the fresh period of limitation due to (successive) acknowledgments, it is not possible to extricate them from the renewed limitation accruing due to the effect of Section 18 of the Limitation Act. **Section 18 of the Limitation Act gets attracted the moment acknowledgment in writing signed by the party against whom such right to initiate resolution process under Section 7 of the Code enures. Section 18 of the Limitation Act would come into play every time when the principal borrower and/or the corporate guarantor (corporate debtor), as the case may be, acknowledge their liability to pay the debt. Such acknowledgment, however, must be before the expiration of the prescribed period of limitation including the fresh period of limitation due to acknowledgment of the debt, from time to time, for institution of the proceedings under Section 7 of the Code.** Further, the acknowledgment must be of a liability in respect of which the financial creditor can initiate action under section 7 of the Code.”*

24. In *RajendraNarottamdasSheth and Another v. Chandra Prakash Jain and Another*⁴, the Hon’ble Supreme Court, speaking through L. Nageswara Rao, J., has held that question of applicability of section 18 of the Limitation Act, 1963 to an application filed under section 7 of the Code has been well established by now. When an application under section 7 is filed beyond the period of three years from the date of default and the financial creditor furnishes the required information relating to the acknowledgement of debt, in writing by the corporate debtor, before the Adjudicating

⁴2021 SCC OnLine SC 843

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Authority, with such acknowledgement having taken place within the initial period of three years from the date of default, a fresh period of limitation commences and the application can be entertained, if filed within this extended period (**Para 23**).

- 25.** In this instant case, the Balance Sheet of the Corporate Debtor as on 31 March, 2014⁵, 31 March, 2015⁶, 31 March, 2016⁷, 31 March, 2017⁸, 31 March 2018⁹ and 31 March, 2019¹⁰ clearly acknowledges the default in payment of the debt by the Corporate Debtor to the Financial Creditor.
- 26.** In view of the present facts and circumstances we are satisfied that this petition completes all the parameters required in Section 7 of the Code. Hence, the Petition made by the Financial Creditor is complete in all respects as required by law. The Petition establishes that the Corporate Debtor is in default of a debt due and payable and that the default is more than the minimum amount stipulated under section 4 (1) of the Code, stipulated at the relevant point of time.
- 27.** Accordingly, it is, hereby ordered as follows:-
- (a) The application bearing CP (IB) No. 1377/KB/2020 filed by UCO Bank, the Financial Creditor, under section 7 of the Code read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against Nandini Impex Private Limited, the Corporate Debtor, is ***admitted***.
 - (b) There shall be a moratorium under section 14 of the IBC.
 - (c) The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan

⁵Page 87 of the Petition

⁶Page 107 of the Petition

⁷Page 134 of the Petition

⁸Page 163 of the Petition

⁹Page 193 of the Petition

¹⁰Page 230 of the Petition

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under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC, as the case may be.

- (d) Public announcement of the CIRP shall be made immediately as specified under section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (e) *Mr.SantanuBhattacharjee*, registration number ***IBBI/IPA-001/IP-P01443/2018-2019/12194***, email: *santanub100@gmail.com*, is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the Code.
- (f) During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or the RP, as the case may be, in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow. No separate notice for cooperation by the suspended management should be expected.
- (g) The IRP/RP shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- (h) The Financial Creditor shall deposit a sum of ***Rs.5,00,000/- (Rupees Five Lakh only)*** with the IRP to meet the expenses arising out of issuing public notice and

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inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

- (i) In terms of section 7(5)(a) of the Code, Court Officer of this Court is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (j) Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, Kolkata by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this order.
- 28. CP (IB) No. 1377/KB/2020** to come up on **31st October 2022** for filing the periodical report. Resultantly, **I.A. (IB) No. 110/KB/2022** stands ***dismissed***.
- 29.** As brought out above, the facts of the case find no application of the ratio of Vidarbha and accordingly IA /715/2022 is ***not allowed***.
- 30.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Balraj Joshi
Member (Technical)

Rohit Kapoor
Member (Judicial)

The Order is pronounced on 20th day of July, 2022

Safura A., LRA