

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH**

**Company Petition (IB)No. 168/ALD/2017**  
(Under Section 7 of Insolvency and Bankruptcy Code,2016 read with Rule 4 of the  
Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule,2016)

**IN THE MATTER OF**

**Mr. Shobhnath & Ors.**

*..... Applicant/Financial Creditor*

**VS**

**Prism Industries Complex Ltd.**

*.....Respondent/Corporate Debtor*

**ORDER RESERVED ON: 10.01.2020**  
**ORDER DELIVERED ON: 29.01.2020**

**CORAM: Justice (Retd.) Rajesh Dayal Khare, Member (Judicial)**

**For the Applicant/ Operational Creditor : Sh. Abhishek Mishra, PCS**  
**For the Respondent/ Corporate Debtor : None**

**Per se: Mr. Justice (Retd.) Rajesh Dayal Khare, Member (Judicial)**

**ORDER**

1. The present petition has been filed under Section 7 of the Insolvency & Bankruptcy Code,2016, read with Rule 4 of the Insolvency & Bankruptcy Code (Application to Adjudicating Authority) Rules, 2016, praying for initiation of Corporate Insolvency Resolution Process of the Corporate debtor on grounds of its inability to liquidate its financial debt,
2. As per averments made in the petition, the Corporate Debtor (Respondent Company) had issues Debentures to the Applicants as listed Form 1 amounting to Rs. 81,34,000/-. And as per agreed terms, the loan amount should have been repaid on the date of Redemption along with the monthly income in some cases.

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- In case of monthly income scheme, for initial months, the amount as agreed has been transferred to Debenture Holders' Bank account. But later on, the Corporate Debtor had stopped paying the monthly return.
- In lump sum payment scheme, the Corporate Debtor has not paid any amount on redemption date. Even after repetitive reminders and visits, Respondent Company has not shown any inclination in paying the redemption amount and/or monthly return.

Therefore, Corporate Debtor has made a default in paying Rs. 96,15,553/- (Rupees Ninety-Six Lakh Fifteen Thousand Five Hundred and Fifty-Three). Hence this Petition.

3. In the Counter-Affidavit filed by the Corporate Debtor, it is stated that they intend to refund the amount towards the maturity of the debentures raised by the Company and has already initiated process to sell some of their properties by issuing advertisement in the English Newspapers i.e. the Telegraph and Anand Bazar Patrika in Bengali dated 10.12.2017 published from Kolkata.
4. Although, after conclusion of certain facts and circumstances the present Petition was dismissed by this Tribunal, vide Order dated 05.07.2018 against which an Appeal was preferred before Hon'ble National Company Law Appellate Tribunal, New Delhi which has decided the same vide Judgment dated 06.08.2019. As per the contents of Para No. 17 of the Judgment dated 06.08.2019, the aforesaid Order was set aside. Accordingly, the case was remitted to this Tribunal to admit the Application after Notice to the Corporate Debtor so as to enable the Corporate Debtor to settle the claim.
5. The present petition being filed in August, 2019 is well within limitation, being within three years from the date of the cause of action. It is seen that the amount in default

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is in excess of Rs. 1,00,000/- being the minimum threshold limit fixed under IBC to trigger off proceedings under Section 7 of the IBC.

6. Further the default of the debt has been admitted by the Corporate Debtor in the Counter-affidavit filed by them and Applicant has annexed sufficient evidence to show the default on behalf of the Corporate Debtor. Considering these circumstances this adjudicating Authority is inclined to admit this petition and initiate CIRP of the Respondent Company.

7. Keeping in mind, the above direction given by the NCLAT and other circumstances, this Petition is therefore admitted.

8. A moratorium in terms of Section 14 of the Insolvency & Bankruptcy Code, 2016 shall come into effect forthwith stating: -

*(i) Subject to provisions of sub-sections (2) and (3), on the insolvency Commencement date, the Adjudicating Authority shall by order declare a moratorium on prohibiting all of the following, namely: —*

*(a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any 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;*

*(d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate debtor.*

Further:

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(ii) *The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.*

(iii) *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.*

(iv) *The order of moratorium shall have effect from the date of such order till the completion of the corporate Insolvency Resolution Process.*

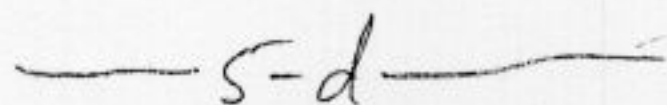
9. The Financial Creditor has proposed the name of **Anuj Kumar Tiwari, Registration No. IBBI/IPA-002/IP-N00811/2019-2020/12555** for appointment as Interim Resolution Professional (IRP). Further IRP has filed a declaration in form 2 affirming that he is registered insolvency professional and no disciplinary proceedings are pending against him. We accordingly confirm his appointment as the IRP. He shall take such other and further steps as are required under the statute, more specifically in terms of Sec 15,17 and 18 of the Code and file his report.

10. The Registry is directed to communicate this order to Operational Creditor, as well as to Corporate Debtor and to IRP.

11. Urgent Photostat certified copies of this order, if applied for, be supplied to parties upon compliance of requisite formalities.

12. List on **20.02.2020** for the filing of the progress report.

Date: 29.01.2020



**JUSTICE RAJESH DAYAL KHARE  
MEMBER (JUDICIAL)**