



**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**ALLAHABAD BENCH, PRAYAGRAJ**

**CP (IB) NO.25/ALD/2023**

*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)*

*In the matter of:*

**The Administrator of Specified  
Undertaking of the Unit Trust of India**

*Having its Registered Office at:*

UTI Tower, Gn Block, Bandra Kurla Complex,  
Bandra East, Mumbai-400051

**..... Applicant/Financial Creditor**

***Versus***

**M/s Usha India Limited**

*Having its Registered Office at:*

Village Gujartola, Amethi Road, Gauriganj,  
Rai Bareilly, Sultanpur, Uttar Pradesh-228001

**.....Respondent/Corporate Debtor**

Order pronounced on 5<sup>th</sup> October, 2023

***Coram:***

**Mr. Praveen Gupta. : Member (Judicial)**

**Mr. Ashish Verma : Member (Technical)**



***Appearances:***

Sh. Samaksh Goyal, Adv. : For the Financial Creditor

Ex Parte v.o.d. 31.08.2023 : For the Corporate Debtor

**ORDER**

1. The Present Application has been filed under Section 7 of the Insolvency and Bankruptcy Code,2016 (hereinafter referred as “**I&B Code,2016**”) on 10.05.2023 by the Applicant namely, The Administrator of the Specified Undertaking of the Unit Trust of India ( hereinafter referred as “ **SUUTI**”) seeking initiation of the Corporate Insolvency Proceedings against the Corporate Debtor i.e. **M/s Usha India Limited** read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 in Form 1 containing all the information as required in Part I, II, III, IV and V of the Form.

2. The Applicant is an Administrator of the Specified Undertaking of the Unit Trust of India and is represented by UTI Asset Management Company Limited (UTI AMC Ltd.). The Applicant is successor to the erstwhile Unit Trust of India (hereinafter referred as “**UTI**”). The erstwhile UTI was incorporated on 01.02.1964 under section 3(1) of the Unit Trust of India Act, 1963. Later, this statute was repealed by Unit Trust



of India (Transfer of Undertakings and Repeal) Act, 2002 which provided for transfer and vesting of undertaking (excluding specified undertaking) of the UTI to UTI Trustee Company Private Limited which is constituted and registered under the Companies Act,1956. For transfer and vesting of the Specified Undertaking of Unit Trust of India, the Central Government appointed the Administrator of the SUUTI under Section 7 of the Unit Trust of India (Transfer of Undertakings and Repeal) Act, 2002. By virtue of Section 4(1)(b) of the said Act , all business , assets , liabilities and the properties as set out in Schedule-I to the said Act stood transferred to and vested in the Administrator of the SUUTI on and with effect from the appointed day i.e. 1<sup>st</sup> February , 2003. The Registered office of the Applicant is situated at UTI Tower, Gn Block, Bandra Kurla Complex, Bandra East, Mumbai-400051.

3. The Applicant has filed this application u/s 7 of the I&B Code as Financial Creditor as defined in terms of the provision of section 5(8) of the I&B Code 2016, having taken over the assets/liabilities of erstwhile UTI that initially invested in the debentures of the Corporate Debtor, and hereinafter referred as Applicant/Financial Creditor.



4. Mr. Purushottam M. Bandekar has been appointed as authorized representative of the Financial Creditor by passing a resolution dated 20.09.2021 in a board meeting. Copy of minutes of meeting dated 20.09.2021 and letter of authorization dated 03.03.2023 has been annexed as **Annexure-A-2** with the application. He is duly authorized to initiate, sign, verify, and file the present application to initiate the corporate insolvency, resolution process against the Corporate Debtor, on behalf of the Financial Creditor.

5. The Corporate Debtor i.e. Usha India Limited is constituted under the Companies Act, 1956 having CIN U40110UP1996PLC020887 with registered office situated at Village Gujartola, Amethi Road, Gauriganj, Rai Bareilly, Sultanpur, Uttar Pradesh-228001. Copy of master data of the Corporate Debtor has been annexed as **Annexure A-3** with the Application.

6. It is stated in the application that the Corporate Debtor in order to raise its capital issued debentures to certain banks and financial institutions in the year 1992. For this purpose, Corporate Debtor and UTI executed Debenture Trust Deed dated 08.11.1996 wherein Corporate debtor issued 3,00,000 secured



Redeemable Non-Convertible Debentures of total value of Rs. 3,00,00,000 (Three Crores rupees) with interest at 19% p.a payable in four quarters i.e. 31<sup>st</sup> day of March, 30<sup>th</sup> day of June, 30<sup>th</sup> Day of September and 31<sup>st</sup> day December to financial creditor. Copy of Debenture Trust Deed has been annexed as **Annexure-4** and **Annexure-5** with the Application. State Bank of India, Hyderabad was appointed as Debenture Trustees under the said debenture deed.

7. In pursuance of said debenture deed, Corporate Debtor mortgaged its movable and immovable properties situated at Plot No. L-1, L-2, A-3/3, A-5 to 13 at Bhimtal Industrial Area, Bhimtal, Uttarakhand and Shop No. 49 and 50, 1<sup>st</sup> floor, Shree Ram Chambers, Plot No. 3 of RS No. 503, Part-1/47 in the Registration District and Sub District of Vadodara, taluka Vadodara in Vadodara in Khashba bearing city survey no. 1749/2, Tikka No. 1/15 admeasuring as per city survey record 1073-96-25 sq. mtr in favour of the financial creditor. Form-8 and Form-13 showing creation of charge on immovable property at Bhimatal, Nainital and Vadodara, Gujarat has been annexed as **Annexure A-6** with the application.



8. In addition to the 3,00,000 (Three Lakhs rupees) Secured Non-Convertible Debentures, the Corporate Debtor further issued 7,50,000 (Seven Lakhs Fifty thousand rupees) Unsecured Redeemable Non-Convertible Debentures at face value of Rs. 100 each amounting to Rs. 7,50,00,000/- with interest at 18.50% p.a. payable in four quarters i.e. 31<sup>st</sup> day of March, 30<sup>th</sup> day of June, 30<sup>th</sup> Day of September and 31<sup>st</sup> day December until the debentures are redeemed. Out of 7,50,000 Unsecured Redeemable Non-Convertible Debentures, the UTI subscribed to 3,00,000 Debentures at Rs. 100 each amounting to Rs. 3,00,00,000 (Three Crores rupees). These 3,00,000 Debentures were subscribed by way of an Subscription Agreement. Copy of subscription agreement and note stating amendment has been annexed as **Annexure A-6A (Colly)** with the application.

**DETAILS OF SHARES ALLOTTED BY M/S USHA INDIA LIMITED TO SUUTI**

<b>Types of Shares</b>	<b>No. of Shares</b>	<b>Face Value-At Par</b>	<b>Date of Allotment</b>	<b>Total Amount (in Rs.)</b>
19% Secured Redeemable Non Convertible Debentures	3,00,000	Rs. 100/- each	03.02.1993	3,00,00,000
18.5% Unsecured Redeemable Non Convertible Debentures	3,00,000	Rs. 100/- each	03.02.1993	3,00,00,000



9. The redemption dates of 3,00,000 Secured Redeemable Non-Convertible Debentures were 03.02.1999, 03.02.2000 and 03.01.2001 and for 3,00,000 Unsecured Redeemable Non-Convertible Debentures were 01.01.1999, 01.04.2000 and 01.04.2001.

10. It is also stated that Corporate debtor failed to honor its obligation under the debenture by omitting to pay the interest accrued on the 3,00,000 each secured and unsecured Debentures. Due to default in payment of quarterly interest by the Corporate Debtor from the quarter of July 1998, the Financial Creditor declared the Corporate Debtor's account as NPA on 28.09.1998. Thereafter , as the default continued , the Financial Creditor issued a recall notice dated 13.01.2003 on failure to pay interest as well as redemption amount for secured debentures as per debenture deed and another recall notice dated 13.01.2003 in respect of unsecured debentures. Copy of both Recall Notice dated 13.01.2003 has been annexed as **Annexure-9** and **Annexure-10** respectively with the application. Thereafter, a sum of Rs. 8,25,89,628 was outstanding as on 27.01.2003 in respect of secured NCD issued at 19% p.a under



the Debenture Deed and a sum of Rs. 7,91,06,896 was outstanding in respect of unsecured NCD issued at 18.5% p.a.

11. The Corporate Debtor vide letter dated 19.03.2002 informed the Financial Creditor that Corporate Debtor's application has been registered under the Sick Industrial Companies (Special Provisions) Act, 1985. Copy of letter dated 19.03.2002 has been annexed as **Annexure-A-7** with the application.

12. After this development, SBI-Hyderabad informed vide letter dated 18.06.2002 to the Financial Creditor and Corporate Debtor that a resolution has been passed in a meeting held on 14.06.2002 regarding relinquishment of debenture trustee of Non-Convertible Debentures forming the part of Debenture Trust Deed dated 08.11.1996 from the expiry of one month from the date of this letter. Copy of letter dated 18.06.2002 and 22.11.2002 has been annexed as **Annexure-A-8** with the application.

13. As default continued even after receipt of recall notice by the Corporate Debtor, the Financial Creditor approached Debt Recovery Tribunal, Mumbai (DRT-Mumbai) by filing an Original Application numbered as OA No. 124/2003 on 24.04.2003 for enforcing the securities on the mortgaged properties situated at



Bhimtal, Nainital and Vadodara Gujarat specified under the Debenture Deed.

14. Due to non-appearance on behalf of the Corporate Debtor , the Hon'ble DRT- Mumbai vide an order dated 20.07.2005 directed the **Corporate Debtor to pay a sum of Rs. 16,16,96,524** with future interest rate @ 12% p.a from 28.01.2003 till realization of the amount. If the Corporate Debtor fails to repay the said due amount, the Financial Creditor shall proceed with selling the mortgaged immovable properties. Copy of order dated 20.07.2005 has been annexed as **Annexure-11** with the application. The relevant paragraph of the order is mentioned herein below:-

“.....

2. *The defendant No.1 to pay a sum of Rs. 16,16,96,524/- to the Applicants with Future interest @12% per annum from 28.01.2003 till realization of the amount.*

3. *On failure to repay the above mentioned amount within six months from today, the mortgaged immovable properties described in Annexure A/1 and Annexure A/2 be sold and net sale proceeds thereof be paid to the Applicants in proportion of their shares.*

4. *Issue Recovery Certificate accordingly.*  
....”



Further, DRT Mumbai also issued attachment warrant/recovery certificate dated 02.09.2005 in favour of the Financial Creditor attaching the properties of the Corporate Debtor situated at Bhimtal, Nainital and Vadodara Gujarat. Copy of attachment warrant/recovery certificate dated 02.09.2005 has been annexed as **Annexure-12** with the application.

15. The Corporate Debtor vide letter dated 24.11.2007 submitted One Time Settlement Offer to the Financial Creditor due to disparity in the debt amount which Financial Creditor refused to accept. Again the Corporate Debtor vide letter dated 05.7.2008 informed to the Financial Creditor that Corporate Debtor has been registered as “Sick Unit” under Section 15(1) of the Sick Industrial Companies (Special Provisions) Act,1985. Copy of letters dated 24.11.2007 and 05.07.2008 has been annexed as **Annexure-A-13** with the application. Subsequently, Corporate Debtor vide various letters dated 21.05.2009, 30.06.2009 and 27.03.2010 offered one time settlement price of Rs. 1,00,00,000 (Rupees One Crores) to Financial Creditor in respect of Bhimtal mortgaged property. Copy of letters dated 21.05.2009, 30.06.2009 and 27.03.2010 has been annexed as **Annexure-A-14 (Colly)** with the application.



16. The Corporate Debtor vide letter dated 06.09.2014 informed to the Financial creditor that State Infrastructure and Industrial Development Corporation of Uttarakhand Limited, (SIIDCUL), Dehradun took initiative and acquired the certain plots of land from owners at Bhimtal to allot them new plot. This also includes the plot of corporate debtor mortgaged with the Financial Creditor for securities under the Debenture Deed. In response to the said letter, the Financial Creditor issued letter dated 22.09.2014 informing to the Corporate Debtor that principal debt as on September 2014 was Rs. 5,00,00,000/- (Five Crores rupees) along with simple interest of Rs. 16,92,00,000/- (Sixteen Crores Ninety Two Lakhs rupees) and Overdue interest of Rs. 157,47,00,000/- (One Hundred and Fifty Seven Crores and Forty Seven Lakhs) and Penal interest of Rs. 103,07,00,000/- (One Hundred and One Crores and Seven Lakhs rupees), totaling to sum of approximately Rs. 189,77,00,000/- (One Hundred and Eighty Nine Crores and Seventy Seven Lakhs). Copy of Letters dated 06.09.2014 and 22.09.2014 has been annexed as **Annexure A-15 and A-16** respectively with the application.

17. In 2018, the Financial Creditor came to know that Indian Bank had initiated proceedings against the Corporate Debtor in



DRT (Debt Recovery Tribunal) New Delhi by filing an application numbered as OA 42/2003. It was discovered that a sum of money had been deposited with DRT, Delhi in connection with the case of the Financial Creditor. Subsequently, the Recovery Officer of DRT, Mumbai sent a notice on 13.07.2018 to the Registrar of DRT, Delhi, instructing them not to release any funds in favor of the Corporate Debtor. Copy of said notice dated 13.07.2018 has been annexed as **Annexure A-17** with the Application.

18. Despite more than thirteen years have passed since the order dated 20.07.2005, no payments were made by the Corporate Debtor towards the outstanding amount of Rs. 16,18,71,524/- (Sixteen Crores Eighteen Lakhs Seventy-One Thousand Five Hundred and Twenty-Four), along with accrued interest. In response to this, the Recovery Officer at DRT Mumbai issued a Notice to Settling the Sale Proclamation dated 24.03.2018, for the Vadodra and Bhimtal mortgaged properties, inviting the Corporate Debtor to participate in the settlement scheduled for 07.05.2018. Copy of said notice dated 07.05.2018 has been annexed as **Annexure A-18** with the Application.



19. Due to the Corporate Debtor's lack of response to previous communications from DRT Mumbai, the Recovery Officer issued notice dated 13.07.2018, informing the Corporate Debtor that, as of 23.08.2018, the Corporate Debtor owed a significant debt amounting to Rs. 94,31,60,576/- (Ninety-Four Crores Thirty-One Lakhs Sixty Thousand Five Hundred and Seventy-Six rupees) to the Financial Creditor. Consequently, DRT Mumbai started taking steps to auction the Vadodra and Bhimtal properties of the Corporate Debtor.

20. Due to lack of response from the Corporate Debtor again, DRT Mumbai proceeded with e-auction on 24.08.2018 of the mortgaged Vadodara property of the Corporate debtor located at Shop No. 49 and 50, 1<sup>st</sup> floor, Shree Ram Chambers, Plot No. 3 of RS No. 503, District Vadodara, Gujarat. On the scheduled E-Auction, Mr. Kiran Thakur came out as the highest and successful bidder and was asked to deposit the a sum of Rs. 26,00,000/- in the account of Recover Officer, DRT Mumbai, on or before 07.09.2018. Copy of instruction has been annexed as **Annexure A-20** with the application.

21. It is stated that DRT, Mumbai vide order dated 26.02.2019 asked the SIIDCUL not to create any third party right or



encumbrance on the Bhimtal Property of the Corporate debtor. Copy of order dated 26.02.2019 has been annexed as **Annexure A-21** with the application. The Corporate Debtor neither disputed the amount of default nor issued any communication regarding the said liability. In fact, the said debentures issued has been reflecting in the financial statements of the Corporate Debtor for the FY-2003-2004. **Annexure-22**

22. Because of the aforesaid circumstances, the Financial Creditor filed an application on 10.05.2023 before this Tribunal under Section 7 of the Insolvency and Bankruptcy Code, 2016. The date of default as mentioned in Part-IV of the application is 28.09.1998. It is stated in Part-IV of the application that Corporate Debtor has admitted its liability in its Annual Returns for the Financial Years-2007-2014 and further in its balance sheets for the Financial Years 2014-2021. Copy of Balance Sheets for the Financial Years 2014-2021 have been annexed as **Annexure A-23** with the application.

23. The Applicant has filed record of default with the information utility i.e. National E- Governance Services Limited (NeSL) as per Regulation 21 of the IBBI (Information Utility) Regulations, 2017 wherein the status of authentication is



“Deemed to be Authenticated”. Copy of Record of Default file with the NeSL has been annexed as **Annexure A-25** with the application.

24. The Financial Creditor has also filed written submission vide dairy no. 2432 dated 11.09.2023 wherein it is contended that Corporate Debtor failed to repay the quarterly interest since July 1998 as consequence of which the Financial Creditor declared the account of the Corporate Debtor as NPA on 28.09.1998, which is the date of default as per the records of the Information Utility (NeSL), however, the default is still continuing till date and as mentioned in the Record of Default( Form D) of the Information Utility , the due amount along with interest is more than Rs. 303,95,30,000/-. Details of records in which debt has been continuously being recognized by the Corporate Debtor has been explained showing that since the first date of default i.e. 28.09.1998, the Corporate Debtor has been continuously acknowledging its debt in its balance sheets , while approaching Financial Creditor for one time settlement and also such debt being recognized in the order dated 20.07.2005 passed by the DRT, Mumbai determining a sum of Rs. 16,16,96,524/- payable by the Corporate Debtor to the Financial Creditor. Thereafter,



DRT Mumbai issued a Recovery Certificate dated 02.09.2005 in favour of the Financial Creditor. Thereafter, the Corporate Debtor made several OTS offers to the Financial Creditor vide letters dated 24.11.2007, 21.05.2009, 30.06.2009 and 27.03.2010. Since 2010, the Corporate Debtor has continuously admitted its debt due towards Financial Creditor in its Balance Sheets prepared for subsequent years. In the Record of Default issued by the NeSL, the default is deemed to have been authenticated on 04.11.2022. Thus, it has been shown that default is continuing in nature and the Corporate Debtor is still in default in not paying the debt as discussed in previous paras of this order. Therefore, it is emphasized that the present application filed u/s 7 is within limitation period and hence, to be admitted for initiating CIRP against the Corporate Debtor on account of it being in default in not repaying the debt due to the Financial Creditor as being more than the threshold limit. For this purpose, reliance has been placed on the judgment dated 04.08.2021 passed by the Hon'ble Supreme Court in **Civil Appeal No. 1650 of 2020 titled as Dena Bank vs C. Sivakumar Reddy** wherein it was held that:-



“.....

138. A final judgment and order/decreed is binding on the judgment debtor. Once a claim fructifies into a final judgment and order/decreed, upon adjudication, and a certificate of Recovery is also issued authorizing the creditor to realize its decretal dues, a fresh right accrues to the creditor to recover the amount of the final judgment and/or order/decreed and/or the amount specified in the Recovery Certificate.

141. Section 18 of the Limitation Act cannot also be construed with pedantic rigidity in relation to proceedings under the IBC. This Court sees no reason why an offer of One Time Settlement of a live claim, made within the period of limitation, should not also be construed as an acknowledgment to attract Section 18 of the Limitation Act. In *Gaurav Hargovindbhai Dave* (supra) cited by Mr. Shivshankar, this Court had no occasion to consider any proposal for one time settlement. Be that as it may, the Balance Sheets and Financial Statements of the Corporate Debtor for 2016-2017, as observed above, constitute acknowledgement of liability which extended the limitation by three years, apart from the fact that a Certificate of Recovery was issued in favour of the Appellant Bank in May 2017. The NCLT rightly admitted the application by its order dated 21st March, 2019.

.....”



25. On filing of the application u/s 7 of the I&B Code, 2016 by the Financial Creditor, in order to give opportunity to the Corporate Debtor, notice was issued to it in the hearing held on 12.05.2023. Affidavit of the service of notice was filed by the Financial Creditor in the hearing held on 08.08.2023, as per which, the notice to the Corporate Debtor was served on 01.06.2023. However, after giving opportunity in the subsequent hearings held on 08.08.2023 and 31.08.2023, neither any appearance has been made on behalf of the Corporate Debtor nor any counter affidavit with reply to the application has been filed. Therefore, in the order passed by this Tribunal on 31.08.2023, the Corporate Debtor has been set ex-parte and the case as presented by the Ld. Counsel of the Financial Creditor, has been finally heard without there being any counter made by the Corporate Debtor.

### **FINDINGS AND ORDER**

26. We have heard learned counsel who appeared on behalf of the Applicant and perused the materials available on record.

27. As revealed from the record, it is clear that secured as well as unsecured redeemable non-convertible debentures totaling to Rs. 6,00,00,000/- (Rs. 3,00,00,000/ each) were issued by the



corporate debtor to the financial creditor out of which principal amount of Rs 5,00,00,000/- and Interest Rs 577,44,36,000/- as on 31.01.2023 remained unpaid which as mentioned in Part-IV of the application. Copy of calculation sheet and computation of interest is annexed as **Annexure no.26** with the application.

28. It has also been found that the Corporate Debtor's application was registered under the Sick Industrial Companies (Special Provision) Act, 1985 on 18.06.2002 due to its financial condition not being sound and continuously making default in repaying its debt. The date of default is on 28.09.1998 as it was declared as NPA on 28.09.1998 as mentioned in Part IV of the application as well as in RoD (Form D) issued by the IU. However, It is also pertinent to note that the Corporate Debtor has acknowledged the debt of 19% Secured Redeemable Non-Convertible Debenture of Rs. 100 each and 18.5% Unsecured Redeemable Non-Convertible Debenture of Rs. 100 each within the limitation period of three years from the date of default i.e 28.09.1998 as per the provisions of the section 18 of the Limitation Act , 1963, which is evident from the balance sheet of the years 1999-2000 and 20001-2003 annexed as **Annexure-22 (Colly)** with the Annual Returns filed by the Corporate Debtor.



Thereafter, the debt under consideration is continuously being recognized by the Corporate Debtor as per the order dated 20.07.2005 of the DRT Mumbai and then Recovery Certificate dated 02.09.2005 issued by the DRT in favour of the Financial Creditor and thereafter, the Corporate Debtor making several OTS offers to the Financial Creditor vide letters dated 24.11.2007, 21.05.2009, 30.06.2009 and 27.03.2010. Since 2010, the Corporate Debtor has continuously admitted its debt due towards Financial Creditor in its Balance Sheets prepared for subsequent years.

29. It is a settled law that an application under the I&B Code would not be barred by limitation, if there was acknowledgment of debt before expiry of limitation of three years and in such case, the period of limitation would get extended by the further period of three years, and OTS offers are clearly an acknowledgment of liability. There have been numerous OTS offers by the Respondent, thus clearly admitting the liability and extending the period of limitation, including letters dated 24.11.2007, 21.05.2009, 30.06.2009 and 27.03.2010. Simultaneously, Corporate Debtor has admitted its liability in its Annual Returns of the financial years 2007-2014 and Balance Sheet of the



financial years 2014-2021 which has been annexed as **Annexure-22 (Colly) and Annexure-23 (Colly)** respectively with the application. Therefore, keeping in view the decision of the Hon'ble Supreme Court in case of **Dena Bank vs C. Sivakumar Reddy (supra)**, we are satisfied that the present application u/s 7 has been filed within the limitation period.

30. The financial debt as defined under Section 5(8) of the Code means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes, inter alia, money borrowed against the payment of interest. In view of the above definition, there is no need for any elaboration with respect to the nature of liability as financial debt as per Section 5 (8) of the Code as the default amount is clearly mentioned in Part IV of the application as we have already discussed in foregoing paras.

31. From a perusal of the record and the documents relied upon by the Applicant, it stands proved that there has been a financial debt in respect of which default has been committed by the Corporate Debtor and further that the Application has been filed within the period of limitation. Therefore, the Application u/s 7 of



the Code, deserves to be admitted. It is ordered accordingly in the following terms:

32. In view of our above findings, we are satisfied that the Applicant/Financial Creditor has proved the debt and the default, which is more than the threshold limit of one crore. The application is also filed within limitation period and complete in all respect and a resolution professional is also proposed as per section 7(3)(b). Accordingly, the present application under Section 7, has been found fit to be admitted as per Section 7(5) of the I & B Code, 2016.

33. In Part III of the application, the Financial Creditor has proposed the name of Mr. Chirag Rajendra Kumar Shah as Interim Resolution Professional. His Registration Number is IBBI/IPA-001/IP-P01169/2018-2019/11837, R/o 208, Ratnaraj Spring, Beside Navnirman Bank, Opp. HDFC Bank House, Navrangpura, Ahmadabad, Gujarat, 380009, Email: chirag.irp@gmail.com. He has duly given the consent in Form No. B dated 11.11.2022 annexed as **Annexure 24** with the Application. The Law Research Associate of this Tribunal, Ms. Ankita Sharma, has checked the credentials of Mr. Chirag Rajendra Shah, and found that there are no disciplinary



proceedings pending against the proposed Resolution Professional and also, there is nothing adverse against him. Upon verification from the website of IBBI, it is found that IRP holds valid authorization till 10 November 2023. After considering these details, we appoint Mr. Chirag Rajendra Kumar Shah, Registration No. IBBI/IPA-001/IP-P01169/2018-2019/11837, as Interim Resolution Professional (IRP).

34. In the given facts and circumstances of the case as per our above findings, the present application u/s 7 being complete in all respect and having established the default in payment of the Financial Debt for the default amount being above the threshold limit and an IRP also having been appointed as per above para 31, the application is admitted in terms of Section 7(5) of the I & B Code, 2016 against the Corporate Debtor, M/s Usha India Ltd. and accordingly, moratorium is declared in terms of Section 14 of the Code.

35. The IRP is directed to take steps as mandated under section 13 and 15 of the IBC for making public announcement about the commencement of CIRP against the Corporate Debtor and moratorium against it u/s 14, and also take necessary actions as per sections 17, 18, 20 and 21 of IBC, 2016.



36. The IRP shall after collation of all the claims received against the Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors (CoC) and shall file a report certifying the constitution of the CoC to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene the first meeting of the CoC within seven days of filing of the report of Constitution of the CoC. The IRP is further directed to send regular progress reports to this Tribunal every month.

37. As a necessary consequence of the moratorium in terms of Section 14, the following prohibitions are imposed, which must be followed by all and sundry:

(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 the possession of the corporate debtor.

(e) It is further directed that 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.

(f) The provisions of Section 14(3) shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a corporate debtor.

(g) The order of moratorium shall have effect from the date of this order till completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under



sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33 as the case may be.”

38. We direct the Financial Creditor to deposit a sum of Rs. 1,00,000/- with the Interim Resolution Professional, to meet out the expenses to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The amount, however, is subject to adjustment by the Committee of Creditors as accounted for by the IRP on the conclusion of CIRP.

39. A certified copy of the order shall be communicated to both the parties. The learned counsel for the petitioner shall deliver a certified copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send a certified copy of this order to the IRP at his e-mail address forthwith.

40. List the matter on 10<sup>th</sup> November, 2023 for filing of the progress report/further proceeding.

41. Ordered Accordingly.

-Sd-

**(Ashish Verma)**  
**Member (Technical)**

Ankita Sharma  
(LRA)

-Sd-

**(Praveen Gupta)**  
**Member (Judicial)**