



IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOLKATA BENCH, (COURT NO.-II)  
KOLKATA

I.A (Companies Act) No. 69/KB/2023

In

T.P No. 24/KB/2023

*A Petition under Section 433, 434 and 439 of the Companies  
Act, 1956.*

**IN THE MATTER OF:**

M/S JYOTI UDYOG, a proprietorship firm represented by its  
Proprietor Sharad Kumar Bahety son of Shree Gopal Bahety having  
its office at 1, Dacres Lane, Kolkata- 700069.

....Petitioner

**VERSUS**

UNIT CONSTRUCTION COMPANY PRIVATE LIMITED, a company  
incorporated under the provisions of the Companies Act, 1956,  
and having its registered office at Unit House, P-40, Block- B,  
New Alipore Kolkata- 700053.

....Corporate Debtor

**AND**

*An Application under Section 60(5) of the Insolvency and  
Bankruptcy Code, 2016 read with Rule 11 of the National Company  
Law Tribunal Rules, 2016.*

CERTIFIED TO BE TRUE COPY





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I.A.(Companies Act) No.69/KB/2023  
T.P No. 24/KB/2023

IN THE MATTER OF:

INVENT ASSETS SECURITISATION AND RECONSTRUCTION PRIVATE LIMITED,  
acting in its capacity as trustee of INVENT/1617/IDBI/S96 Trust  
and INVENT/1516/S77 Trust, having its registered office at-  
Bakhtawar, Suite- B, Ground Floor, Backbay Reclamation Scheme  
229, Nariman Point, Mumbai- 400021.

.....Applicant

**VERSUS**

UNIT CONSTRUCTION COMPANY PRIVATE LIMITED, a company  
incorporated under the provisions of the Companies Act, 1956,  
and having its registered office at Unit House, P-40, Block- B,  
New Alipore Kolkata- 700053.

.....Respondent

Date of Pronouncement: 12.02.2026

Coram:

Shri. Labh Singh, Member (Judicial)

Ms. Rekha Kantilal Shah, Member (Technical)

Appearances: (via Physical / Hybrid Mode):

Mr. D.N. Sharma, Adv.	]	
Mr. Santosh Kr. Ray, Adv.	]	
Ms. Zeba Khan, Adv.	]	For the Applicant
Ms. Ashmita Lohia, Adv.	]	
Ms. Utkarshika, Adv.	]	





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Ms. Tanushree Dasgupta, Adv. ]  
Ms. Aishwarya Chowdhury, Adv. ] For Official Liquidator

ORDER

Per: Rekha Kantilal Shah, Member (Technical)

- 1.The Court convened through physical mode.
- 2.This present application is being filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter may be referred as "IBC") read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter may be referred as "NCLT Rules") by Invent Assets Securitisation And Reconstruction Private Limited seeking to initiation of Corporate Insolvency Resolution Process ("CIRP") against M/s Unit Construction Company Private Limited ("Corporate Debtor").
- 3.The Applicant is seeking the following reliefs:
  - a.This Hon'ble Tribunal may be pleased to initiate Corporate Insolvency Resolution Process Insolvency under the and Bankruptcy Code, 2016 of Unit Construction Company Pvt Ltd;
  - b.This Hon'ble Tribunal may be pleased to appoint Mr. Santosh Bhatia having IBBI/IPA-001/IP P01750/20192020/12668 as the Interim Resolution





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- Professional of the Corporate Debtor/Unit Construction Company Pvt Ltd (in liquidation);
- c.The Official Liquidator, High Court Calcutta be discharged as liquidator of Unit Construction Company Pvt Ltd and be directed to make over all documents, records and handover possession of all the movable and immovable properties of the Corporate Debtor to the incoming Interim Resolution Professional;
- d.The provision for making and compliant of Insolvency Bankruptcy Code in TP No. 24 of 2023 be dispensed with;
- e.Such further Order/Orders and/or direction/directions be passed as this Hon'ble Tribunal may deem fit and proper;

#### 4. Background of the Case

4.1 An application was filed against the Corporate Debtor for winding up before the Hon'ble High Court at Calcutta being Company Petition No. 45 of 2013 by one of the creditors of the Corporate Debtor being Jyoti Udyog. The said Company Petition was admitted by the Hon'ble High Court at Calcutta vide its order dated 07.05.2013.

4.2 In the said Company Petition No. 45 of 2013, the Hon'ble High Court at Calcutta by an Order dated





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25.06.2014<sup>1</sup>, inter alia, directed the said Corporate Debtor to repay certain sums of money, in default whereof winding up of the said company was to follow and, in such situation, the Official Liquidator was granted liberty to forthwith take possession of the books, records and documents as also the assets and properties of the company. In terms of the said order, the Official Liquidator has taken possession of the assets of the said Corporate Debtor.

4.3 Subsequently, the Corporate Debtor filed an application before the High Court seeking certain modification of order dated 25.06.2014. The Hon'ble High Court vide order dated 18.09.2014<sup>2</sup> had disposed of the said application and directed the Corporate Debtor to strictly adhered to the order of the High Court dated 25.06.2014.

4.4 Thereafter, vide Order dated 07.05.2015<sup>3</sup>, passed by the Hon'ble High Court at Calcutta, it was thus clarified that the Company/Corporate Debtor herein had gone into Liquidation by virtue of Order dated 25.06.2014 read with subsequent Order dated 18.09.2014. Subsequently, an interim order was passed by the Hon'ble High Court at Calcutta dated

<sup>1</sup> Annexure- A-3

<sup>2</sup> Annexure- A-4

<sup>3</sup> Annexure- A-5





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22.03.2017<sup>4</sup> on an application made by one of the shareholders of the company, directing the Official Liquidator to maintain status quo with regard to the possession and ownership of the assets of the Company (In Liquidation) however, the application was dismissed, and the interim order was vacated vide order dated 04.01.2018<sup>5</sup>.

4.5 The Official Liquidator has taken into his custody and/or under his control and/or is in possession, all the property, which the Corporate Debtor is or appears to be entitled to, including the secured assets/mortgage property over which the applicant has acquired right, interest and title being a 5 storied commercial building named unit House situated at Premises No P-40, Block B, New Alipore Kolkata -700053 and Premises No 181/1, Sarsuna Main Road, P.S Thakurpukur, District South 24-Parganas, Kolkata-700061.

4.6 That the Official Liquidator has not taken any steps and/or actions to sell the said properties either by public auction or by private contract to any person or body corporate and in view of the aforementioned facts and circumstances, the Applicant

<sup>4</sup> Annexure- A-5

<sup>5</sup> Annexure- A-5





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had filed a disclaimer application under Section 535 of the Companies Act, 1956 being C.A. No. 17 of 2022 in C.P No 45 of 2013 before the Hon'ble High Court at Calcutta.

4.7 The said application being C.A No 17 of 2022 was heard and the Hon'ble High Court was pleased to pass an Order dated 20.09.2022<sup>6</sup> inter alia, transferring the said winding up proceeding of the Corporate Debtor being C.P No. 45 of 2013 along with all connected applications to this National Company Law Tribunal ("NCLT"), Kolkata.

4.8 That by dint of such Order passed by the Hon'ble High Court at Calcutta dated 20.09.2022, the Applicant is making this application before this Adjudicating Authority inter alia, seeking to initiate CIRP of the Corporate Debtor.

**5. Submission of Learned Counsel for the Applicant**

5.1 Ld. Counsel submits that the Corporate Debtor had availed credit facilities from Assignor Banks- State bank of India and IDBI Bank and the Assignor banks issued sanction letter dated 25.03.2013<sup>7</sup> and Letter of Intent dated 10.01.2012<sup>8</sup> respectively.

<sup>6</sup> Annexure- A-8

<sup>7</sup> Annexure- A-1 (Supplementary Affidavit dated: 28.03.2025)

<sup>8</sup> Annexure- A-1 (Supplementary Affidavit dated: 28.03.2025)





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5.2 Ld. Counsel submits that the Corporate Debtor undertook to strictly adhere to the Terms & Conditions of the sanction as entered into by and between both the Assignor Banks and the Corporate Debtor respectively. The Corporate Debtor therein was mandated to repay the loan at an agreed interest rate or as per the RBI/Bank's Directives from time to time, according to the stipulated Terms and Conditions as envisaged in the sanction. Further, under the sanctions the Corporate Debtor was mandated to repay the sum, but the Corporate Debtor has failed and/or neglected to make repayments of the principal debt and interest thereon in accordance with the Terms and Conditions as enshrined in the sanctions and thereby committed breach of the said sanctions extended by both the Assignor Banks respectively.

5.3 Ld. Counsel submits that the CDR Package approved by the CDR cell in the year 2014 had also failed (for both Assignor Banks) and thereafter, having seen the conduct of the Corporate Debtor, was constrained to declare the account of the defendants as NPA (Non-Performing Asset) on 01.11.2012 by State Bank of India (as CDR failed on 24.05.2014 hence N.P.A rolled back to 01.11.2012) and 30.06.2012 by IDBI bank





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respectively as per the prevailing directives/guidelines relating to asset classification issued by the Reserve Bank of India.

5.4 Ld. Counsel submits that on 18.01.2017<sup>9</sup> by an instrument/Assignment Agreement in writing and registered between IDBI Bank (hereinafter referred to as the "Assignor Bank No.1") and the Applicant and another instrument/Assignment Agreement dated 24.05.2016<sup>10</sup> in writing and registered between State Bank of India (hereinafter referred to as the "Assignor Bank No.2") and the Applicant herein, both the assignor banks had assigned/transferred unto and in favour of the Applicant, the loan disbursed under the financing documents together with all its rights, title and interest in the financing documents and any other underlying security interest, pledges and/or guarantees in respect of such loan.

5.5 Ld. Counsel submits that the Corporate Debtor failed to repay the outstanding dues of the Applicant. The outstanding sums due and payable by the Corporate Debtor to the Applicant amounts to Rs. 2,07,71,96,521 (Rupees Two Hundred Seven Crores Seventy-One Lakhs Ninety-Six Thousand Five Hundred Twenty-One Only) &

<sup>9</sup> Annexure- A-1 (Pg 65-136)

<sup>10</sup> Annexure- A-1 (Pg 25-64)





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Rs.3,31,38,93,873/- (Rupees Three Hundred Thirty-One Crores Thirty-Eight Lakhs Ninety-Three Thousand Eight Hundred Seventy-Three only) as on 28/02/2023 for IDBI Bank & State Bank of India respectively including uncharged interest in respect of the credit facilities granted by the Applicant. The interest calculation<sup>11</sup> chart is annexed in the supplementary dated 28.03.2025.

5.6 Ld. Counsel submits that the Corporate Debtor failed to repay the outstanding dues of the Applicant herein and as such, default occurred and the NESL Certification<sup>12</sup> shall evince the date of default.

5.7 Ld. Counsel submits that the Applicant being the Financial Creditor of the said Corporate Debtor has filed its Proof of Debt<sup>13</sup> in appropriate form as prescribed under the relevant provisions of law.

5.8 Ld. Counsel submits that the Applicant had also issued a notice under Section 13(2) of the SARFAESI Act, 2002 upon the Corporate Debtor and its guarantors on 12.11.2021<sup>14</sup> to discharge its liabilities within a period of 60 days, failing which the Financial Creditor/ Applicant shall be constrained to exercise its rights under Section 13(4) of the SARFAESI Act,

<sup>11</sup> Annexure- A-3

<sup>12</sup> Annexure- A-2 (Supplementary dated: 28.03.2025)

<sup>13</sup> Annexure- A-6

<sup>14</sup> Annexure- A-7





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2002. However, the said notice under Section 13(2) was not delivered upon the Corporate Debtor and its guarantors as a result of which, the same was published in two newspapers being Financial Express and Sangbad Pratidin (Vernacular) on 24.11.2021<sup>15</sup>.

5.9 Ld. Counsel submits that the Assignor Banks have filed Recovery Suit before the Learned Debts Recovery Tribunal, Kolkata being O.A. No. 396 of 2015 filed by State Bank of India before the Learned DRT-III, Kolkata and O.A. No. 425 of 2016 filed by IDBI Bank before the Learned DRT-1, Kolkata. Both the applications are pending for final adjudication.

5.10 Ld. Counsel submits that the original title deeds of the respective properties are in the custody of the Applicant herein.

5.11 Ld. Counsel further submits that the object sought to be achieved by the IBC, it is amply clear that only where a company in winding up is near corporate death that no transfer of the winding up proceeding would then take place to the NCLT to be tried as a proceeding under the IBC. However, the Winding Up petition has been transferred to the NCLT by the Hon'ble High Court at Calcutta to be tried under

<sup>15</sup> Annexure- A-4 (Supplementary dated: 28.03.2025)





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the IBC, 2016 after carefully considering all aspects, facts and circumstances of the instant case which short of an irresistible conclusion that where the Corporate Debtor is not heading towards corporate death, every effort should be made to resuscitate the Corporate Debtor in the larger public interest including its creditors and the goods it produces in the larger interest of the economy of the country.

5.12 Ld. Counsel submits that the applicant bank is the highest stakeholders amongst other secured creditors and as such proposes the name of Mr. Santosh Bhatia having IBBI Registration No. IBBI/IPA-001/IP-P-01750/2019-2020/12668 to act as the Interim Resolution Professional ("IPR") of the Corporate Debtor in terms of the IBC. The said Mr. Santosh Bhatia has given consent<sup>16</sup> in writing.

5.13 Ld. Counsel further submits that the proceedings for winding up of a company are actually proceedings in rem to which the entire body of creditors is a party. The proceeding might have been initiated by one or more creditors, but by a deeming fiction the petition is treated as a joint petition. Therefore, apropos the same, the Applicant Bank intends to make this instant

<sup>16</sup> Annexure- A-9





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application before this Hon'ble Tribunal under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 in T.P. No 24 of 2023.

5.14 Ld. Counsel lastly submits that the instant application seeking inter alia initiation of the CIRP of the Corporate Debtor herein is thus necessary and/or imperative to protect and preserve the going concern of the Corporate Debtor and maximize the value of its assets.

**6. Status Report of the Respondent Company:**

6.1 By an order dated 23.01.2025 passed by this Adjudicating Authority, the Official Liquidator ("OL") was directed to file a report before this Adjudicating Authority. The submission of the report filed by the OL are summarized hereinafter:

6.2 The eight secured creditors of the company are:  
1) Kotak Mahindra Bank 2) Syndicate Bank 3) ICICI Bank 4) Tata Capital Financial Service Ltd. 5) Axis Bank 6) Canara Bank 7) United Bank of India 8) Invent Assets Securitization & Reconstruction Pvt. Ltd. (Assignee of two other secured creditors viz. IDBI Bank Ltd. & State Bank of India).





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6.3 That by an order dated 25.06.2014 of the Hon'ble High Court, Calcutta Unit Construction Co. Ltd. was wound up and the Official Liquidator, High Court, Calcutta by virtue of his office became the liquidator thereof.

6.4 Accordingly, the official Liquidator has taken possession of the Registered Office of the Company (In Liquidation) situated at Unit House, 1 Floor, P-40, Block-B, New Alipore, Kolkata 700053 on 13.11.2014 in presence of Petitioning Creditor and the Secured Creditors. The Official Liquidator has also taken possession of land & shed of the Company (In Liquidation) situated at Mouza Basudebpur, Sarsuna Main Road, P.S. Behala, Kolkata 700061 on 05.12.2014. Further, as per the information received Municipal Corporation is in possession of one flat of the company (In Liquidation) situated at 171C, Rash Behari Avenue, Kolkata - 700019 has been taken on 8th March 2017.

6.5 Pursuant to an order dated 14.12.2018 passed by the Hon'ble Judge taking company matters the Official Liquidator has issued notice under rule 148(1) of the Companies (Court) Rules, 1959 through newspapers





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asking the creditors to submit their claims within 28.03.2019.

6.6 This is also essential to submit here that no realization has so far been made as none of the assets of the company has so far been sold. Hence, disbursement of dues of the creditor of any sort or rank could not be given effect to.

6.7 That it is worthwhile to state here that after taking possession of the registered office of the company (In Liquidation), the Official Liquidator has been able to collect the information about occupancy of spaces by several firms/organizations. The said entire four storied building is owned by the company (in Liquidation), in which the ground floor was occupied by the Punjab National Bank, New Alipore Branch, Kolkata as tenant for last 30 years. The Company (In Liquidation) itself occupied the first floor of the said building as its registered office, M/s. M.B.Car occupied the 2nd floor and 3rd and 4th floor were under the occupation of M/s. Tega Industries Ltd.

6.8 That this office had filed an application being C.A. No. 99 of 2019 and upon hearing, the Hon'ble High Court, Calcutta vide order dated 13.08.2019 was





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pleased to appoint Mr. Subhasish Majumdar as Valuer. Mr. Subhasish Majumder, valuer after assessment of the assets & properties submitted the original valuation report of two properties viz. Regd. Office at Unit House at New Alipore and land at Basudevpur, Behala with the Assistant Registrar (company), Original Side, High Court, Calcutta on 31 July, 2021 and un-priced copy with the Official Liquidator on 6th August, 2021. Valuation report of other property viz flat at 171C, Rashbehari Avenue, Kolkata was awaited.

6.9 That this office has filed an application being C.A No. 14 of 2021 for appointment of an Auditor to investigate into the affairs of the company (In Liquidation) prior to liquidation for initiating misfeasance proceedings under Section 543 of the Companies Act, 1956 against the ex-director of Company (In Liquidation), if any, & also to initiate proceedings under Section 468 of the Companies Act, 1956 against the persons who were the directors as on the date of winding up order which was pending at the time of transfer of the proceedings to this Hon'ble Tribunal vide order dated 20.09.2022 of the Hon'ble High Court, Calcutta.





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6.10 In the given facts and situation all relevant papers and documents may be collected by the IRP to be appointed by the Hon'ble Tribunal in this matter. Considering the above this Hon'ble Tribunal may pass an appropriate order in the matter.

**7. Analysis and Findings**

7.1 Heard the Ld. Counsel on behalf of the Applicant and the Official Liquidator and perused the records.

7.2 Upon perusal of the records, we find that while the Applicants have filed the instant petition under the ambit of Insolvency and Bankruptcy Code, 2016, they have failed to make the same compliant with the provisions of the Code. According to the submissions of the Applicant, since the liquidation order was passed by the Hon'ble High Court at Calcutta back in 2014, there is no possibility of reviving the Respondent Company and as such, the need to make the instant petition IBC compliant does not arise. The said contention by the Applicant requires to be examined.

7.3 The Applicant, in support of its argument, has also referred to section 434 (1)(c) of the Companies Act, 2013 according to which all proceedings under the Companies Act, 1956, including proceedings





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relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer.

7.4 Now let us address the matter of transferring winding up proceedings to this Adjudicating Authority, it is pertinent to commence with a comprehensive examination of Section 434 of the Companies Act, 2013, with specific emphasis on its fifth proviso. The verbatim text of Section 434 is provided below for reference:

*"434. Transfer of certain pending proceedings.--*

*(1) On such date as may be notified by the Central Government in this behalf,--*

*(a) all matters, proceedings or cases pending before the Board of Company Law Administration (herein in this Section referred to as the Company Law Board) constituted Under Sub-section (1) of Section 10-E of the Companies Act, 1956, immediately before such date shall stand transferred to the Tribunal and the Tribunal shall*





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*dispose of such matters, proceedings or cases in accordance with the provisions of this Act;*

*(b) any person aggrieved by any decision or order of the Company Law Board made before such date may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of Law arising out of such order:*

*Provided that the High Court may if it is satisfied that the Appellant was prevented by sufficient cause from filing an appeal within the said period, allow it to be filed within a further period not exceeding sixty days; and*

*(c) all proceedings under the Companies Act, 1956, including proceedings relating to arbitration, compromise, arrangements and reconstruction and winding up of companies, pending immediately before such date before any District Court or High Court, shall stand transferred to the Tribunal and the Tribunal may proceed to deal with such proceedings from the stage before their transfer:*

*Provided that only such proceedings relating to the winding up of companies shall be transferred*





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to the Tribunal that are at a stage as may be prescribed by the Central Government:

Provided further that only such proceedings relating to cases other than winding up, for which orders for allowing or otherwise of the proceedings are not reserved by the High Courts shall be transferred to the Tribunal:

Provided also that-

(i) all proceedings under the Companies Act, 1956 other than the cases relating to winding up of companies that are reserved for orders for allowing or otherwise such proceedings; or

(ii) the proceedings relating to winding up of companies which have not been transferred from the High Courts;

shall be dealt with in accordance with provisions of the Companies Act, 1956 and the Companies (Court) Rules, 1959:]

Provided also that proceedings relating to cases of voluntary winding up of a company where notice of the resolution by advertisement has been given Under Sub-section (1) of Section 485 of the Companies Act, 1956 but the company has not been dissolved before the 1st April, 2017 shall





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*continue to be dealt with in accordance with provisions of the Companies Act, 1956 and the Companies (Court) Rules, 1959:*

*Provided further that any party or parties to any proceedings relating to the winding up of companies pending before any Court immediately before the commencement of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, may file an application for transfer of such proceedings and the Court may by order transfer such proceedings to the Tribunal and the proceedings so transferred shall be dealt with by the Tribunal as an application for initiation of corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 (31 of 2016).*

*(2) The Central Government may make Rules consistent with the provisions of this Act to ensure timely transfer of all matters, proceedings or cases pending before the Company Law Board or the courts, to the Tribunal under this section."*

7.5 Further, it is relevant to refer to Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016, which is reproduced hereinafter:





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*"5. Transfer of pending proceedings of Winding up on the ground of inability to pay debts.-*

*(1) ALL petitions relating to winding up under clause (e) of Section 433 of the Act on the ground of inability to pay its debts pending before a High Court, and where the petition has not been served on the respondent under Rule 26 of the Companies (Court) Rules, 1959 shall be transferred to the Bench of the Tribunal established under sub-section (4) of Section 419 of the Companies Act, 2013 exercising territorial jurisdiction and such petitions shall be treated as applications under Sections 7, 8 or 9 of the Code, as the case may be, and dealt with in accordance with Part II of the Code:*

*Provided that the petitioner shall submit all information, other than information forming part of the records transferred in accordance with Rule 7, required for admission of the petition under Sections 7, 8 or 9 of the Code, as the case may be, including details of the proposed insolvency professional to the Tribunal upto 15th day of July, 2017, failing which the petition shall stand abated:*





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*Provided further that any party or parties to the petition shall, after the 15th day of July, 2017, be eligible to file fresh applications under Sections 7 or 8 or 9 of the Code, as the case may be, in accordance with the provisions of the Code:*

*Provided also that where a petition relating to winding up of a company is not transferred to the Tribunal under this Rule and remains in the High Court and where there is another petition under clause (e) of Section 433 of the Act for winding up against the same company pending as on 15th December, 2016, such other petition shall not be transferred to the Tribunal, even if the petition has not been served on the respondent."*

7.6 Further, we refer to the decision rendered by the Hon'ble Supreme Court in the matter of *Forech India Ltd. vs. Edelweiss Assets Reconstruction Co. Ltd.*<sup>17</sup> wherein the Apex Court has held as follows:

*"The resultant position in Law is that, as a first step, when the Code was enacted, only winding up petitions, where no notice under Rule 26 of the Companies (Court) Rules was served, were to be*

<sup>17</sup>(22.01.2019 - SC): MANU/SC/0080/2019





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*transferred to the NCLT and treated as petitions under the Code. However, on working of the Code, the Government realized those parallel proceedings in the High Courts as well as before the adjudicating authority in the Code would stultify the objective sought to be achieved by the Code, which is to resuscitate the corporate debtors who are in the red.*

*In accordance with this objective, the Rules kept being amended, until finally Section 434 was itself substituted in 2018, in which a proviso was added by which even in winding up petitions where notice has been served and which are pending in the High Courts, any person could apply for transfer of such petitions to the NCLT under the Code, which would then have to be transferred by the High Court to the adjudicating authority and treated as an insolvency petition under the Code."*

*(Para 17)*

7.7 The Respondent company in the present case, was directed by the Hon'ble High Court to clear its dues owed to its creditors on multiple occasions and failed to do the same. As such, the applicant being the secured creditor of the Respondent company, filed





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CA No. 17 of 2022 before the Hon'ble High Court seeking the transfer of C.P. No. 45 of 2013 to this Adjudicating Authority. Thereafter, vide order dated 20.09.2022, the Hon'ble High Court passed an order transferring the winding up proceedings of the Corporate Debtor to this Adjudicating Authority. Keeping in mind that the transfer of the company petition was made owing to the inability of the Respondent Company in clearing its dues, we find it fit to conjointly apply the provisions being section 434 of the Companies Act 2013 read with Rule 5 of the Companies (Transfer of Pending Proceedings) Rules, 2016 as well as the precedent set by the Apex Court to the instant case. As such, the transferred company petition will have to be treated as a petition filed to initiate insolvency resolution process under the sections 7,9 or 10 of the Code.

7.8 Be that as it may, it is clear that the respondent company had defaulted in repayment of its dues to various creditors and as a result, the respondent company was ordered to be wound up by the Hon'ble high Court at Calcutta, as that was the thrust of the relevant provisions in the Companies Act 2013. The loan of the Respondent Company had been





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declared as Non Performing Asset (NPA) on 01.11.2012 (by State Bank of India) and on 30.06.2012 (by IDBI Bank). It is noted that the Respondent Company has failed to discharge the outstanding dues payable to the Applicant, and such debt and default stands duly evidenced by the NeSL certificate, which has been placed on record in the supplementary affidavit dated 02.04.2025 as Annexure A-2. As such, the debt and default of the Respondent Company stands established.

7.9 Since the application has been filed by Invent Assets Securitisation and Reconstruction Private Limited, it is pertinent to mention that both State Bank of India and IDBI Bank have assigned the debt to the applicant herein vide registered Assignment Agreement dated 08.01.2017 and 24.05.2016, in respect of loan dues, the Applicant shall be deemed to be a 'financial creditor' within the meaning of section 5(7) of the Code and the instant petition shall be treated as a petition under section 7 of the Code. As per the NeSL certificate provided by the Applicant, the total outstanding due as on the date of NPA i.e 01.11.2012 and 30.06.2012 is Rs. 76,94,868/ and Rs. 81,97,00,000/- respectively which is above the





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pecuniary threshold stipulated under section 4 of the Code.

7.10 Lastly, it is clear that winding up proceedings in respect of the Respondent Company were going on from 07.05.2013, right until the transfer of the petition to this Adjudicating Authority vide order dated 20.09.2022 passed by the Hon'ble High Court at Calcutta. As such, the question of limitation period does not arise in this case.

7.11 Keeping in mind the aforesaid facts and circumstances, we are of the considered opinion that the Respondent Company needs to be admitted into Corporate Insolvency Resolution Process (CIRP) and Mr. Santosh Bhatia shall be appointed as the IRP as proposed by the Applicant.

8. Accordingly, it is, hereby ordered as follows:-

8.1 The Corporate Debtor i.e., M/s Unit Construction Company Private Limited is admitted into Corporate Insolvency Resolution Process (CIRP).

8.2 There shall be a moratorium under section 14 of the IBC.

8.3 The moratorium shall have effect from the date of this order till the completion of the CIRP or until this Adjudicating Authority approves the





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resolution plan 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.

8.4 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.

8.5 Mr. Santosh Bhatia, registration number IBBI/IPA-001/IP/P-01750/2019-2020/12668, email: [casantoshbhatia@gmail.com](mailto:casantoshbhatia@gmail.com), is hereby appointed as Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the Code and 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. Further, the RP have provided written consent in Form-B along with Form-2 as prescribed under the code and rules.





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- 8.6 The Official Liquidator, High Court Calcutta shall be discharged as the Liquidator of Unit Construction Company Private Limited after handing over all the assets/documents and record in his possession to the IRP, against a joint memorandum. A copy of the handing over/taking over note shall be exchanged 'inter-se' and shall also be filed with this Adjudicating Authority with a copy to the Financial Creditor.
- 8.7 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 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.
- 8.8 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.





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8.9 The Applicant being the Financial Creditor shall deposit a sum of Rs 3,00,000/- (Rupees Three Lakhs only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).

8.10 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.

8.11 Additionally, the Applicant herein 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.

9. I.A (Companies Act) No.69/KB/2023 stands disposed off accordingly with above directions.

10. Post the Transfer Petition on 16.03.2026 for filing the Periodical Progress Report by the IRP/RP as appointed herein.





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

Sdt

(Rekha Kantilal Shah)  
Member (Technical)

Sdt

(Labh Singh)  
Member (Judicial)

Order signed on the 12th day of February 2026

S.T. (LRA)





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Ap  
20/2/2026

K 20.2.2026  
JR / DR / AR / Court Officer  
National Company Law Tribunal  
Kolkata Bench