



**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**

**CP (IB) No. 125/Chd/Hry/2022**

**Under Section 10 of the  
Insolvency & Bankruptcy Code**

**In the matter of:**

**Eco Auto Components Limited**

having its registered office at  
Plot No.-388, Sector-24,  
Faridabad, Haryana-121004

....Corporate Applicant/Corporate Debtor

**Judgment delivered on: 10.02.2023**

**Coram: HON'BLE MR. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)  
HON'BLE MR. SUBRATA KUMAR DASH, MEMBER (TECHNICAL)**

**Present :**

For the Petitioner : Mr. Sanjay Bhatt, Advocate

For the Income Tax Department : Mr Yogesh Putney, Senior Standing Counsel

**Per: Subrata Kumar Dash, Member (Technical)**

**JUDGMENT**

This petition has been filed by **Eco Auto Components Limited**, the Corporate Debtor itself in Form No.6 as prescribed under sub-rule (1) of Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, the 'Rules') for initiating Corporate Insolvency Resolution Process under Section 10 of Insolvency & Bankruptcy Code, 2016 (for short to be referred hereinafter as the 'Code'). The Corporate Debtor also falls within the definition of the term 'Corporate Applicant' as defined in sub-section (5) of



Section 5 of the Code.

2. The Corporate Debtor (hereinafter referred to as the 'corporate applicant') was incorporated on 25.08.1971, having been allotted CIN U34300HR1971PLC005761. Its registered office is at Plot No. 388, Sector 24, Faridabad, HR 121004 IN and therefore, the matter falls within the territorial jurisdiction of this Tribunal. Master Data and Memorandum of Association & Articles of Association of the corporate debtor are attached at Annexures A-4 & A-6, respectively.

3. The authorized share capital of the corporate debtor is ₹11,00,00,000/- divided into 1,10,00,000 shares of Rs. 10 each, and the paid-up share capital is ₹6,77,28,530/- divided into 67,72,853 shares of Rs. 10 each.

4. The petition has been filed by the corporate applicant through Mr. Arjun Caprihan, Managing Director, who has been authorized to file this petition under Section 10 of the 'Code' vide Board resolution dated 25.01.2022 (Annexure-5 of the petition). The petition has been filed in pursuance of the resolution passed with 100% votes in the meeting of members (EOGM) of the corporate applicant held on 25.01.2022 (Annexure A-4 of the petition). The contents of the application are supported by the affidavit of Mr. Arjun Caprihan, Managing Director, which is on Page No. 16-17 of the paper book.

5. As per the Memorandum of Association of the corporate applicant (Annexure A-2), the main objects of the corporate applicant are:

*“A) To the manufacturer, export, buy, sell, repair and/ or service or otherwise deal in ancillary items, parts and components of tractors, motor vehicle, motorcycles,*



*scooters, X-ray equipment, farm equipment, agricultural implements, and other equipment and products of all kinds in connection with manufacturers of the above-said items.”*

6. It is stated that on 25.06.2004, the corporate debtor was taken over by Mr. Bharat Caprihan (father of the now Managing Director of the Corporate Debtor), (who had served in Escorts Ltd. for more than 35 years and with his last assignment being Executive Director of Escorts Yamaha Motors Limited) (since deceased), and the Corporate Debtor name was changed from Escorts Employees Ancillary Limited to Eco Auto Components Limited. As a part of the takeover by Mr. Bharat Caprihan, the employees/ workmen which were part of the earlier Escorts Employees Union were retained as part of the terms and conditions of taking over.

7. As the demands raised by the employees/ workmen were declined by the Corporate Debtor in the larger interest of the Corporate Debtor, the employees/ workmen went on a strike which lasted for a period of more than three months. Pursuant thereto, after deliberation between the Corporate Debtor and the employees/ workmen, the Corporate Debtor was constrained to avail loan facilities from various banks in and around 2011 to pay the employees/ workmen as per the Voluntary Retirement Scheme floated by the Corporate Debtor. The Corporate Debtor availed loans from Standard Chartered Bank Limited in August 2011 to the tune of INR 107 Lacs, Reliance Capital Limited in September & August 2011 to the tune of INR 119 Lacs, INR 100 Lacs & INR 100 Lacs, respectively, Federal Bank Limited to the tune of INR 335 Lacs of cash credit limit and of INR 80 Lacs to the tune of IN 2017



Lacs. The above loans availed by the Corporate Debtor/ Applicant were duly paid by the Corporate Debtor, and the loan accounts were duly closed.

8. It is further stated that as the revenue and profits of the Corporate Debtor were already dwindling, the untimely demise of Mr. Bharat Caprihan in the year 2016/17 added to the further woes of the Corporate Debtor and started to go under financial distress. The plant and machinery of the Corporate Debtor were sold in the year 2017. There is no prospect of the revival of the Corporate Debtor despite best efforts

9. In Part-III of Form No. 6, the complete particulars, including addresses of the operational creditors, have been given. A certificate of the Chartered Accountant dated 01.02.2022 with respect to the statutory dues of the corporate debtor is attached at Annexure A-8. A copy of the audited balance sheet for the financial years 2018-19, 2019-20 & 2020-21 is at Annexures 9, 10 & 11.

10. Notice of this petition was issued to all the creditors by this Adjudicating authority vide order dated 30.05.2022. The petitioner has filed an affidavit of service with respect to service on IBBI vide Diary No. 504/01 dated 07.06.2022. Further, an affidavit of service with regard to operational creditors has been filed vide Diary No. 00504/2 dated 06.09.2022. It is also mentioned in the same affidavit that the operational creditors have been served through the speed post as well as through publication in two daily newspapers dated 26.06.2022. None has appeared on behalf of the Excise Department, Faridabad and the Sales Tax Department, Faridabad. In compliance with the order dated 11.11.2022 of this Bench, the petitioner had filed an affidavit for



placing on record the copy of minutes of the board meeting dated 20.08.2022. Vide affidavit having diary No. 00504/4 dated 06.01.2023, it is stated that there are no operational creditors except those mentioned in the petition. Further, the proposed Insolvency Professional has also filed an affidavit stating that there is no disciplinary proceeding pending against him and the tenures as IP is continuing as of the date and is eligible to be appointed as IRP.

11. We have heard the learned counsel for the corporate applicant and learned counsel for the financial creditors and have gone through the records.

12. Sub-section (4) of Section 10 of the Code says that the Adjudicating Authority by an order:-

*“(a) admit the application if it is complete (and no disciplinary proceeding is pending against the proposed resolution professional); or*

*(b) reject the application, if it is incomplete (or any disciplinary proceeding is pending against the proposed resolution professional).*

*Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.”*

13. In order to comply with the requirement of clause (a) of Section 10(3) of the Code, the petitioner has placed on record all the necessary documents to prove the existence of financial/operational debt and the amount as required in column 3 of Part-III of the Application Form. The details of the operational debt in default have also been provided. The petitioner has also filed its audited financial statements for the years 2018-19, 2019-20 and 2020-21 at Annexure A-9, 10 & 11



14. Sub-Section (3) of Section 10 of the Code reads as under:-

*“The corporate applicant shall, along with the application, furnish-*

*(a) The information relating to its books of account and such other documents for such period as may be specified;*

*(b) The information relating to the resolution professional proposed to be appointed as an interim resolution professional; and*

*(c) The special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.”*

15. Under Clause (b) of Section 10(3), the corporate applicant is bound to propose the name of a Registered Resolution Professional to be appointed as an Interim Resolution Professional. We have perused the written communication in Form No.II at Annexure A-7 furnished by Mr. Mansij Arya, a Registered Resolution Professional with IBBI. This Form contains all the particulars provided in the Form. He has furnished his written consent and stated that currently, he is serving as an Interim Resolution Professional/Resolution Professional/Liquidation in four proceedings under IBC, 2016. He has also certified that no disciplinary proceedings are pending against him with the IBBI or the Indian Institute of Insolvency Professionals of ICAI of which he is a member. His Registration number is IBBI/IPA-002/IP-N00907/2019-20/12939. We find that the written consent furnished by the proposed Interim Resolution Professional is in order.

16. Also, as stated above, the Audited Balance Sheet for the financial Year 2020-2021 clearly indicates that the corporate applicant has failed to pay its



debt and has thus committed default. It is thus competent to set in motion the insolvency resolution process under the Code to ensure the maximum value of assets which is in the interest of all the stakeholders. It could also be observed that despite repeated service, none appeared on behalf of the financial creditors, which indicated that such financial/operational creditors have no objection if the CIRP is initiated against the corporate applicant.

17. The Law Research Associate of this Tribunal has checked the credentials of the proposed Interim Resolution Professional, and nothing has been found adverse against Mr. Mansij Arya.

18. In view of the above, we appoint Mr. Mansij Arya, Insolvency Professional, bearing registration no.IBBI/IPA-002/IP-N00907/2019-20/12939, Email Id:[pcsmansij@gmail.com](mailto:pcsmansij@gmail.com), Mobile No. 9716092482, as an Interim Resolution Professional, with the following directions:-

- i.) The term of appointment of Mr. Mansij Arya shall be in accordance with the provisions of Section 16(5) of the Code;
- ii.) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended, and the management of the affairs shall vest with the Interim Resolution Professional and the officers, and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions of the Code, including taking



control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of the inventory of assets of the Corporate Debtor;

iii.) The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government, and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and morals;

iv.) The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;

v.) It is hereby directed that the Corporate Debtor, its Directors, personnel, and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;



vi.) The Suspended Board Of Directors is directed to give complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act. In case the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also the address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. The statutory auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI. The IRP/Resolution Professional is directed to take possession of the Books of Account in physical form or the computer systems storing the electronic records at the earliest. In case of any non-cooperation by the Suspended Board of Directors or the statutory auditors, he may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order for retrieval of relevant information from the



systems of the corporate debtor, the IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances. The Interim Resolution Professional is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.

vii.) The Interim Resolution Professional/Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies, and other entities with a request for information/documents available with those authorities/institutions/others pertaining to the corporate debtor, which would be relevant in the CIR proceedings. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the Resolution Professional to enable him to conduct the CIR Proceedings as per law.

viii.) The Interim Resolution Professional shall, after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor, constitute a Committee of Creditors and shall file a report, certifying the constitution of the Committee 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 Committee within seven days of filing the report of the constitution of the Committee; and

ix.) The Interim Resolution Professional is directed to send a regular progress report to this Tribunal every fortnight.

19. We declare the moratorium in terms of sub-section (1) of Section 14 of the Code, as under:-

- a) The institution of suits or continuation of pending suits or proceedings against the corporate debtor, including the 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 Operational 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.

20. It is further directed that the supply of essential goods or services to the corporate debtor, as may be specified if any, shall not be terminated or suspended, or interrupted during the moratorium period. 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 operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.

21. The order of moratorium shall have effect from the date of this order till the 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.

22. The petitioner-corporate applicant is directed to deposit an amount of ₹1,00,000/- (Rupees One Lakh Only) with the Interim Resolution Professional to meet the immediate expenses of the CIRP within two weeks. The same shall be fully accountable by the Interim Resolution Professional and shall be reimbursed by the Committee of Creditors (CoC) to the petitioner-corporate applicant to be recovered as the CIRP cost.

23. Accordingly, the present petition is admitted.

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

Sd/-

**(Subrata Kumar Dash)**  
**Member (Technical)**

February 10, 2023  
PB/ASH

Sd/-

**(Harnam Singh Thakur)**  
**Member (Judicial)**