

**IN THE NATIONAL COMPANY LAW TRIBUNAL**  
**NEW DELHI BENCH (COURT – II)**

**Item No. 201**  
**CP(IB)-676/ND/2024**

**IN THE MATTER OF:**

**Central Bank of India.**

Stressed Assets Management Branch,  
Jeevan Tara Building,  
5, Parliament Street,  
New Delhi-110001

**... Applicant/Financial Creditor**

**Versus**

**M/s Indian Technometal Company Limited**

Regd. Office: 1107, Vikrant Tower 4,  
Rajendra Place, New Delhi-110008

**... Respondent/Corporate Debtor**

**Under Section: 7 of IBC, 2016**

**Order delivered on 06.01.2025**

**CORAM:**

**SH. ASHOK KUMAR BHARDWAJ, HON'BLE MEMBER (J)**  
**SH. SUBRATA KUMAR DASH, HON'BLE MEMBER (T)**

**PRESENT:**

**For the Applicant** : Not Marked

**For the Respondent** : None

**Hearing Through: VC and Physical (Hybrid) Mode**

**ORAL ORDER**

Present petition has been preferred under Section 7 of IBC, 2016. The amount of debt and default are mentioned in Part-IV of the application which reads thus:-

**PART IV**

PARTICULARS OF FINANCIAL DEBT		
1.	TOTAL AMOUNT OF DEBT GRANTED DATE(S) OF DISBURSEMENT	(i)The Corporate Debtor was granted the following credit facilities under consortium arrangement with other lenders: vide sanction letter no. Mid-CFB/AGM/2011-

		12/225 dated 06.07.2011 for a sum of Rs. 25 Crores. (ANNEXURE-P-5)  (ii) The Credit facilities Granted to the Corporate Debtor were reviewed/renewed at same level vide sanction letter no. Mid-CFB/AGM/2012-13/1230 dated 06.02.2013 for a sum of Rs. 25 Crores. (ANNEXURE-P-6)
2.	AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED (ATTACH THE WORKINGS FOR COMPUTATION OF AMOUNT AND DAYS OF DEFAULT IN TABULAR FORM)	Towards principal amount: Rs.24,42,08246.00 Towards interest for principal amount Rs.669257199.82 Total amount claimed to be in default by the corporate debtor is Rs. 913465445.82 The date on which the default occurred are in respect of the aforesaid facilities is 8/2/13

2. No one appeared on behalf of the corporate debtor despite service of notice. In **State Bank of India & Ors. vs. The Consortium of Mr. Murari Lal Jalan** Hon'ble Supreme Court ruled that this Tribunal should endeavour to adhere to timelines specified in IBC, 2016. Para 182 of the Judgment reads thus:-

*“182. Moving on to certain efficiency issues within the NCLTs and NCLAT, it has been noticed over a period of time that there is a serious lack of timely admission and disposal of the applications filed as regards the initiation of CIRP, approval of the resolution plan and liquidation. This only adds to the uncertainty of the process and prolongs the dispute thereby jeopardizing the interest of all the stakeholders involved. Adjudication in a time-bound manner would help prevent any further deterioration of the value of the corporate entity. The integrity of the original timelines laid down by the Code and the*

*resolution plan must not be allowed to be violated since it would dilute the objective of the Code in its entirety, erode investor confidence and hinder all corporate restructuring efforts.”*

3. After the order dated 09.12.2024, no application was moved on behalf of the corporate debtor for setting aside the ex-parte proceedings. Today again there is no appearance on behalf of the corporate debtor. The IBC provides that this Tribunal should take decision regarding admission or rejection of an application preferred under Section 7 of IBC, 2016 within 14 days. We had issued notice to Corporate Debtor on 15.10.2024 and a period of 14 days has already expired. Though the Hon'ble Supreme Court ruled that the time limit is not binding and in appropriate cases, same should be related. However, in the present case there is no appearance on behalf of the corporate debtor. In the circumstances there is no scope or occasion to keep the application pending for admission indefinitely as can be seen from Section 7(3) of IBC, 2016, with the application preferred under Section 7(1) & (2) of the Code the financial creditor need to furnish:- record of default recorded with the information utility or such other record of evidence of default as may be specified and the name of resolution professional proposed to be Interim Resolution Professional as may be specified by the Board. The sub-section (4) of Section 7 provides that Adjudicating Authority shall within 14 days of receipt of the application ascertain the debt of default from the record of an information utility or on the basis of other evidence furnished by the financial creditor. Section 7(3) & (4) reads thus:-

***“7. Initiation of corporate insolvency resolution process by financial creditor.—***

.....

- (3) *The financial creditor shall, along with the application furnish—*
- (a) *record of the default recorded with the information utility or such other record or evidence of default as may be specified;*
  - (b) *the name of the resolution professional proposed to act as an interim resolution professional; and*
  - (c) *any other information as may be specified by the Board.*

(4) *The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3).*

*Provided that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (5) within such time, it shall record its reasons in writing for the same.”*

4. In terms of the provisions of sub-section (5) of Section 7 where the Adjudicating Authority is satisfied that default has occurred and the application sub-section (2) is complete and there are no disciplinary proceedings pending against the proposed Resolution Professional it may by order admit such application. Section 7(5)(a) reads thus:-

***“7. Initiation of corporate insolvency resolution process by financial creditor.—***

.....

- (5) *Where the Adjudicating Authority is satisfied that—*
- (a) *a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application;”*

5. To espouse disbursement of debt to corporate debtor, the Ld. Counsel for the applicant could draw our attention to Annexure P-35 of the petition i.e.

entries from banker's book. As can be seen from Part-IV(2) of the application, the date of default in payment of debt is 08.02.2013. Ld. Counsel for the Bank could draw our attention to the factual position that recovery certificate was issued on 28.08.2019 and if the period from 15.03.2020 to 28.02.2022 is excluded from the period of limitation, the present application would be within prescribed time limit. The relevant excerpt of the Judgment in Hon'ble Supreme Court in **Suo Moto Civil Writ Petition No 3/2020** dated 10.01.2022 reads thus:-

- I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasijudicial proceedings.*
- II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.*
- III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022, is greater than 90 days, that longer period shall apply*
- IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting*

*proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings..”*

6. No one appeared on behalf of the corporate debtor to rebut any of the plea raised on behalf of the bank, thus we have no reason to not accept the same.

7. The particulars of the RP are given in Part-III of the application which reads thus:-

PART III					
PARTICULARS OF THE PROPOSED INTERIM RESOLUTION PROFESSIONAL					
1.	<table border="1"><tr><td>NAME, ADDRESS, EMAIL</td><td>Mr. Vikram Bajaj</td></tr><tr><td>ADDRESS AND THE REGISTRATION NUMBER OF THE PROPOSED INTERIM RESOLUTION PROFESSIONAL</td><td>IBBI/ IPA-002/IP-N0003/2016-17/10003 214, Tower A, Spazedge Sector 47, Gurgaon -122018 Mob. 91-9999989408 Email:</td></tr></table>	NAME, ADDRESS, EMAIL	Mr. Vikram Bajaj	ADDRESS AND THE REGISTRATION NUMBER OF THE PROPOSED INTERIM RESOLUTION PROFESSIONAL	IBBI/ IPA-002/IP-N0003/2016-17/10003 214, Tower A, Spazedge Sector 47, Gurgaon -122018 Mob. 91-9999989408 Email:
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8. The RP has given his consent in Form-2. He has made a declaration that no disciplinary proceedings are pending against him. The declaration reads thus:-

*“IV. certify that there are no disciplinary proceeding pending against me with the Board or ICSI Insolvency Professionals Agency”*

9. From the above it is apparent that the requirement of Section 7(3) & (5) are satisfied. The amount of loan defaulted to be paid is much beyond the threshold limit. In the circumstances, **we are left with no option, but to admit the present captioned application. Ordered accordingly. In the backdrop, moratorium as provided under Section 14 of IBC, 2016 is declared qua the**

**CD and** as a necessary consequence thereof 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 Respondent 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 Respondent 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 Respondent 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 Respondent.

10. As proposed by the Petitioner, Mr. Vikram Bajaj, having Registration No. IBBI/IPA-002/IP-N00003/2016-2017/10003, is appointed as IRP, subject to the condition that no disciplinary proceeding is pending against him and disclosures as required under IBBI Regulations, 2016 are made by him within a period of one week from this Order.

11. It is further ordered that Mr. Vikram Bajaj shall take charge of the CIRP of the Corporate Debtor with immediate effect and would take steps as mandated under the IBC specifically under Section 15, 17, 18, 20 and 21 of IBC, 2016 read with extend provisions of IBBI (Insolvency Resolution of Corporate Persons) Regulations, 2016.

12. The Petitioner is directed to deposit Rs. 2,00,000/- only with the IRP to meet the immediate expenses. The amount, however, will be subject to adjustment by the Committee of Creditors as accounted for by Interim Resolution Professional and shall be paid back to the Financial Creditor.

13. A copy of this Order shall immediately be communicated by the Registry/Court Officer of this Tribunal to the Petitioner /Financial Creditor, the Respondent/Corporate Debtor and the IRP mentioned above.

14. In addition, a copy of this Order shall also be forwarded by the Registry/Court Officer of this Tribunal to the IBBI for their records.

**Sd/-**  
**(SUBRATA KUMAR DASH)**  
**MEMBER (T)**

**Sd/-**  
**(ASHOK KUMAR BHARDWAJ)**  
**MEMBER (J)**

*Ashima/Ruchita*