



NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH-COURT-1

CP (IB) No.239/CHD/HRY/2024

[An Application under Section 9 of the Insolvency and Bankruptcy Code, 2016]

In the matter of:

Ogota Motors Private Limited

Through its Authorised Representative

Sh. Mukesh, Having its registered address at:

P. No. - 97 sector 8, IMT Manesar, Gurugram,
Haryana-122052

CIN: U74999HR2018PTC074696

.....Applicant/Operational Creditor

Versus

Falcon Auto Engineering Private Limited

Through its Managing Director,

Having its registered address at:

Plot No. - 429, Sector-8, IMT Manesar,
Gurgaon, Haryana, India - 122052

CIN: U34300HR2021PTC099693

.....Respondent/Corporate Debtor

Order Pronounced On: 09.10.2025

Coram: HON'BLE SH. KHETRABASI BISWAL, MEMBER (JUDICIAL)

HON'BLE SH. SHISHIR AGARWAL, MEMBER (TECHNICAL)

Appearance:

For Petitioner : Mr. Sajal Jain, Advocate.

For Respondent : None (Respondent set ex-Parte vide order dated 09.07.2025)

J U D G M E N T



This petition has been filed on 26.09.2024, by Ogata Motors India Private Limited (Applicant) under Section 9 of the Insolvency and Bankruptcy Code, 2016 (the 'Code') for initiating Corporate Insolvency Resolution Process ('CIRP') against Falcon Auto Engineering Private Limited (Corporate Debtor). The default amount stated by the applicant is Rs. 3,47,05,653/- and its date of default is dated 25.10.2023.

2. Brief averments made by the Applicant in the Application and pleadings made by the learned counsel for the applicant are as follows:

(i) The Operational Creditor has been engaged in the businesses of manufacturing, assembling and trading of Electric Vehicle parts and used to supply the same to Corporate Debtor at its Plot No. 429, Sector-8, IMT Manesar, Gurugram, Haryana - 122052 against the purchase order raised by the Corporate Debtor and was maintaining a running ledger account. The association and business operation with Corporate Debtor started from January, 2022 and during the F.Y. 2021-22 and F.Y. 2022-23 and FY 2023-24 total goods amounting to Rs. 15, 12,48,440/- were supplied to the Corporate Debtor, which were supposed to be paid within 60 days from the date of issue of invoice as mentioned in the invoices. Out of the total supply of goods of Rs. 15,12,48,440/- paid only Rs. 11,65,42,786/-. Therefore, a sum of Rs. 3,47,05,653/- remains outstanding as on 24/06/2024 towards the supply made during the period of F.Y. 2021-22, 2022-23 and 2023-24. The details of debt and the dates from which the amount of debt fell due on account of invoices is annexed with the petition as Annexure: A-5(Colly).



Copy of the running ledger account of the corporate debtor for the F.Y. 2021-22, 2022-23, 2023-24 maintained by the Operational Creditor is annexed as Annexure A – 7 with the petition.

(ii) The statutory demand notice dated 24.06.2024, as required under section 8(1) of the Insolvency and Bankruptcy Code, 2016 (IBC), was issued by the Operational Creditor at the registered office as well as at the address of Directors of the Corporate Debtor by speed post. Additionally, the said demand notice was also sent on 03.07.2024 itself to the Corporate Debtor, at its email falconauto77@gmail.com registered with MCA website in addition to the other email id available with the Operational Creditor. Accordingly, the demand notice was delivered at the registered office cum factory of the Corporate Debtor vide speed post no. CH1217336401N on 26.06.2024 and the demand notice sent by the email was also delivered to the Corporate Debtor on 03.07.2024 itself. Copy of summary of the mail dated 30.10.2023 and 27.05.2024 sent/received by the Operational Creditors confirming the dues payable by the Corporate Debtor is annexed as Annexure A-8 with the petition. Copy of the demand notice dated 24.06.2024 sent by the Operational Creditor in Form 3 along with a copy of invoices sent by the Operational Creditor to Corporate Debtor including e-way bills is annexed as Annexure A-9 with the petition. Copies of proof of service of demand notice (by email) dated 03.07.2024 at the email address registered by the corporate debtor with MCA website and proof of dispatch and tracking report in respect of service of demand notice dated 24.06.2024 at the registered office/corporate office of the Corporate Debtor is annexed as Annexure A-10. Copy of the GST report/GSTR 3-B is annexed as



Annexure A-11 with the petition. Copy of bank certificate issued under Form 5A under section 9(3)(c) of the code depicting the total amount of credit from the Corporate Debtor in the bank accounts of the Operational Creditor is annexed as Annexure A-12 with the petition.

(iii) Therefore, the Operational Creditor has complied with all the mandatory provisions of section 9 of the IBC. Further the Operational Creditor submit that the Corporate Debtor has failed to respond to the demand notice much less any existence of any dispute within 10 days of service of demand notice u/s 8(2) of IBC with respect to the un-paid operational debt and an affidavit has been filed by the Operational Creditor as required u/s 9(3)(b) of the code.

3. We have heard Mr. Sajal Jain, Advocate, the learned counsel for the Applicant and have carefully read all the averments made in the Application along with material papers placed on record and the extant provisions Code and the settled position of law on the subject issue.

4. The record of office discloses that notice of this Petition has been duly served on the Respondent. Since no reply or any representation has been made on behalf of the Respondent, this Adjudicating Authority, vide Order dated 19.12.2024, observed that despite the service of notice to the Corporate Debtor, no representation was made. However, in the interest of justice, a last opportunity was granted to the Corporate Debtor to file the reply with a condition that if there is no representation on behalf of the Corporate Debtor, the Respondent would be set as ex parte. Even after the notice was served upon the Corporate Debtor, the Corporate Debtor neither replied to the present petition nor appeared before this



Adjudicating Authority during the entire proceedings. Therefore, this Adjudicating Authority vide its Order dated 09.07.2025 set the Respondent ex parte. However, on the next date of hearing i.e 11.08.2025 Mr. Anoop Kumar, one of the Directors of the Respondent Company appeared and stated that he wants to move an application to set aside the ex parte order. Thereafter. This Tribunal granted one week time for the same. Despite having been granted sufficient opportunities, neither the Respondent appeared nor was any reply/application filed. Accordingly, this Tribunal, while reserving the matter for orders, directed the Petitioner to submit a table showing details of sales relating to amount in default and the corresponding purchase orders. In compliance of the same, the petitioner has filed Additional Documents vide diary no 029757/6 dated 15.09.2025.

5. In view of the foregoing discussion, this Adjudicating Authority is satisfied that an operational debt of ₹ 3,47,05,653/- stands established as due and payable by the Corporate Debtor towards the supply of goods made by the Operational Creditor, duly supported by invoices, running ledger account, GST records, email communications, and bank certificate. There has been a clear default in payment of debt. The Corporate Debtor has also failed to raise any pre-existing dispute within the meaning of Section 8(2) of the Code prior to issuance of the statutory demand notice dated 24.06.2024. Despite due service of statutory demand notice at the registered office, on the directors, and through email, no reply was filed by the Corporate Debtor. Even after repeated opportunities and despite the ex parte order passed by this Tribunal, the Corporate Debtor failed to file any application or reply, demonstrating lack of bona fides.




6. As we have extended adequate opportunity to the Respondent and it has failed to avail the opportunities given, we have no other alternative except to decide the case in accordance with the material available on record. The facts, as mentioned supra, make it clear that there exists Operational Debt, which is payable and has been defaulted by the Respondent. The debt is more than the threshold limit of Rs. 1 crore as per Section 4 of the IBC, and the Application is filed within the limitation period. No pre-existing dispute has been claimed/brought on record by the Corporate Debtor. Therefore, the instant Application is complete in all respects, so as to initiate CIRP against the Corporate Debtor.

7. In the above circumstance, by exercising the powers conferred on this Adjudicating Authority, under the provisions of Section 9 of the Code, we admit the Application bearing CP (IB) No. 239/CHD/HRY/2024 for initiating CIRP against Corporate Debtor **Falcon Auto Engineering Private Limited** and also direct moratorium to take effect and appoint Interim Resolution Professional as below.

8. In Part III of Form No. 5, Mr. Shashi Bhushan Prasad, Interim Resolution Professional (IRP), has been proposed by the petitioner. The Law Research Associate of this Tribunal has checked the credentials of Mr. Shashi Bhushan Prasad, wherein his AFA Certification is valid upto 31.12.2025 and there is nothing adverse against him. In view of the above, we appoint Mr. Shashi Bhushan Prasad, RegNo.IBBI/IPA-002/IPN00676/2018-2019/12114, E-mail: shashibpd@gmail.com, Mobile No. 9810332269, as the Interim Resolution Professional with the following directions:



- i. The term of appointment of Mr. Shashi Bhushan Prasad, shall be in accordance with the provisions of Section 16(5) of the Code; subject to his written consent to be filed within 7 days of this order;
- 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 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 moral;
- 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 is 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 empaneled 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 Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies, and other entities with the 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
- x. The IRP shall also serve a copy of this order to various departments such as Income Tax, GST, State Trade Tax and Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/ employee's associations so that they are timely informed about the initiation of CIRP against the corporate debtor.
9. 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 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 the possession of the corporate debtor.

10. 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.

11. 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.

12. The petitioner is directed to deposit an amount of ₹ 2,00,000/- (Rupees Two Lakhs Only) with the Interim Resolution Professional to meet the immediate expenses of the CIRP within two weeks. The same shall be fully accountable by Interim Resolution Professional and shall be reimbursed by the Committee of Creditors (CoC) to the petitioner to be recovered as the CIRP cost.

13. 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.

14. As a result, the Company Petition **CP (IB) No. 239/Chd/Hry/2024 stands admitted** and the Registry is directed to list the list case after 4 weeks of this order for further orders. .

-Sd-

SHISHIR AGARWAL
MEMBER (TECHNICAL)

October 09, 2025

AKS

-Sd-

KHETRABASI BISWAL
MEMBER (JUDICIAL)