

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

CP (IB) No.84/ALD/2024

(An application filed 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:

**PUNJAB NATIONAL BANK
(Through Authorized Officer)
Head Office At: Plot No. 4, Sector -10,
Dwaraka, New Delhi, 110075
Circle Sastra At:
Birahana Road, Kanpur-208001**

.....Petitioner/Financial Creditor

Versus

**M/s Tasty Dairy Specialities Ltd.
CIN-L15202UP1992LC014593**

**Registered Office:
D-3, UPSIDC Industrial Area, Jainpur Kanpur Dehat-209311**

..... Corporate Debtor/Respondent

Order Pronounced on: 07.10.2025

Coram:

Sh. Praveen Gupta

: Member (Judicial)

Sh. Ashish Verma

: Member (Technical)

Appearances:

**Sh. Madan Mohan Dixit, Adv.
Sh. Sandeep Arora with**

: For the Financial Creditor

Sh. Shubham Agarwal, Adv.

: For the Corporate Debtor

CP (IB) No.84/ALD/2024

**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

Page 1 of 20

-Sd-

-Sd-

ORDER

1. This Application has been filed on 29-05-2024 by Punjab National Bank as the Applicant/Financial Creditor under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as "IBC") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016 against M/s Tasty Dairy Specialities Ltd (hereinafter referred as Respondent/Corporate Debtor/Borrower) in Form 1 containing all the information as required in Part I, II, III, IV and V of the Form showing a total financial debt of Rs. 72.59 crore, declaring date of default being 28.12.2021.
2. It is stated that the Corporate Debtor sought financial assistance from the Applicant Bank by way of multiple credit facilities and loans at different intervals. The applicant bank originally sanctioned the facilities in favour of the Corporate Debtor vide sanction letter dated 31-07-2003 for Rs. 80 lacs as Cash Credit (CC) and Rs. 40 lacs as Term Loan (TL) aggregating to Rs. 1.20 crore under the documents executed on 31-07-2003. Thereafter, a Corporate Guarantee dated 30.07.2004 was furnished on the request of borrower and the aforesaid credit facilities were enhanced from Rs. 1.20 crore to Rs. 2.45 crore. This loan facility was thereafter enhanced from time to time and finally enhanced to Rs. 72.59 crores by issuing various sanction letters till 20.02.2021.

CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 2 of 20

-Sd-

-Sd-



The loan was secured by mortgaging of assets of the Corporate Debtor through its Director, Shri Atul Mehra and Guarantee agreement with directors.

3. During the period of COVID-19, the Corporate Debtor availed the benefits of various schemes brought by the Government of India by moving an application /undertaking dated 18-08-2020 for availing FITL under RBI guidelines for COVID-19 and accordingly, the Borrower was provided Limit/Facilities under FITLs, and a separate account was opened in the name of the Borrower detailed in the account statement annexed to this application. The Borrower company also availed of a CECF Loan and GECL 2.0 to meet the Pandemic situation but even then, the account could not be maintained as it was expected, finally, the Corporate Debtor defaulted in repayment of the loan on 28.12.2021, which has been classified as NPA on 29-12-2021. The date 28.12.2021 is taken as date of default by the Financial Creditor Bank in the application filed u/s 7 of the Code.

In pursuance to the said default, Bank served the Notice dated 04.01.2022 for recall of loan and invocation of Guarantee.

4. Thereafter, the Bank initiated the steps under the SARFAESI Act to recover the dues and served notice of demand dated 13.01.2022 u/s 13(2) of SARFAESI Act, 2002. In this regard, the borrower company submitted a proposal to the Bank in January 2022 for restructuring of the loan and submitted in its reply under Section 13 (3A) SARFAESI ACT 2002 for seeking

relief by a restructuring of the loan on the existing outstanding i.e. Rs.67,34,42,849.00 as on. 29.12.2021 along with further interest and other Expenses/charges due from 30.12.2021. Under the guidelines of RBI to restructure the debts, Borrower's proposal for restructure the Loan and other Secured Obligations was accepted on the terms and conditions provided in Sanction Letter dated 20.08.2022, and the Applicant Bank approved the restructuring of existing Debt of Rs.68.71 Crore into sustainable debt of Rs.59.67 crore (83.01%) and unsustainable debt of Rs.12.21 crore (16.99%) under a Sole Banking arrangement. The Borrower executed various documents regarding the Restructuring on 28.11.2022.

5. However, the Borrower again failed to regularize the repayment of loan as per Schedule or in payment of over dues of the Loan Accounts. Thus, restructuring was declared failed on 30.06.2023 by the bank, due to non-compliance with the terms and conditions of the restructuring proposal.

6. Further, to recover bank dues the Petitioner Bank initiated recovery actions and re-issued the demand notice u/s 13 (2) of the SARFAESI Act 2002 on 09.08.2023, which was subsequently withdrawn on 21.10.2023 on receiving representation u/s 13(3) of the SARFAESI Act by The Corporate Debtor against both notices. The bank withdrew its demand notices 09.08.2023. and 04.11.2023 and again issued fresh demand notice u/s 13(2) of the SARFAESI

CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 4 of 20

-sd-

-sd-

Act on 16.02.2024, but Corporate Debtor and its Guarantors again failed to repay the debts due to bank.

7. As a result, Petitioner Bank filed OA No. 428 of 2024 on 10-03-2024 before Hon'ble DRT Allahabad against the Corporate Debtor and its Guarantors which is pending.
8. During the hearing held on 19.05.2025, Ld. Counsel representing the Financial Creditor submitted that while scrutinizing the matter for preparing the same, it came to his notice that certain pages i.e. from page nos.438 to 455 (18 pages) concerning the Term Loan Account were missing in the volume 5 of the paper book of the petition filed U/s 7 of the Code. In this regard, a permission was sought to attach/ file 18 pages from page nos.438 to 455, which are concerning the Term Loan Account with regard to Corporate Debtor which was then permitted by this Tribunal to be taken on record. The Applicant has also filed an application submitting Records of Default in Form D vide diary no. 2117 dated 09.10.2024. As per the Records of Default issued by NeSL for non-repayment of various loan facilities granted by the Financial Creditor bank to the Corporate Debtor, all the defaults have been found to be marked as "Authenticated" after completion of authentication on 22.01.2024.

CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 5 of 20

-Sd-

-Sd-

REPLY ON BEHALF OF THE CORPORATE DEBTOR

9. The Respondent/Corporate Debtor filed a counter affidavit vide diary no. 917 dated 12.04.2025 in response to the averments stated by the Applicant Bank and submits that:

- i. The application filed by the Applicant Bank is defective as there appears to be no valid authorization granted to the deponent representing the Financial Creditor as no Board Resolution(s) and /or minutes of meetings have been placed on record in support of the purported Power of Attorney/authority of Shri. Shiv Kant Singh to give further authorization to anyone. The Power of Attorney annexed with the present application is related to Oriental Bank of Commerce when the present application has been filed by Punjab National Bank.
- ii. The application has not been duly verified by the Financial Creditor, rendering it procedurally defective.
- iii. The date of classification of the account as a Non-Performing Asset (NPA) is erroneous. As per RBI guidelines, an account can be classified as NPA only after 90 days from the end of the quarter in which the default has occurred, provided the default persists, creating a time gap of approximately 90 to 180 days from the date of default. However, as per the Applicant's own admission as referred on Page 43 para 47 of the application, the date of default is stated to be 28.12.2021, and the account is shown as classified NPA on 29.12.2021, merely a day later, which is in clear violation of the prescribed norms.

CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 6 of 20

-sd-

-sd-

- iv. The application is erroneous due to the presence of multiple and conflicting dates of default. It is a settled principle that there can be only one, specific date of default. Notably, after the alleged classification of the account as NPA on 29.12.2021, the Applicant/Financial Creditor itself restructured the loan on 20.08.2022, with all related documentation finalized on 28.11.2022. Restructuring of a loan implies acknowledgment that there is no subsisting default, thereby nullifying any earlier claims of default. Once the account is restructured on 20.08.2022, the account could not be treated to be in default on 28.12.2021.
- v. The Applicant has failed to adhere to the guidelines laid down in the RBI Circular dated June 7, 2019, titled *Prudential Framework for Resolution of Stressed Assets*. Despite the Respondent's One-Time Settlement (OTS) proposal being under consideration, the Applicant prematurely initiated the present proceedings. As per the framework, lenders are obligated to consider resolution/OTS plans over a 180-day period. Moreover, the Reference Date required to initiate such a timeline has not even been established in this case.



- vi. The Applicant has simultaneously initiated recovery proceedings under the SARFAESI Act by issuing notices under Sections 13(2) and 13(4) and has already realized over ₹9.75 Crores through the sale of secured assets. This action has taken place after filing the present application under Section 7 of the IBC. Consequently, the outstanding dues claimed in the present application are incorrect and inflated. Moreover, the sale of assets under SARFAESI contradicts the objective of the resolution

process under IBC, as it leaves the Corporate Debtor asset-less, defeating the very purpose of insolvency resolution.

vii. The application contains factual discrepancies. While the Applicant claims that the loan was first extended to the Corporate Debtor in 2003, the Search Report dated 25.02.2024 annexed as Annexure F, at Page 117 reveals that a charge in favor of Punjab National Bank was created as early as 06.08.1999. This contradiction raises serious concerns about the accuracy and reliability of the Applicant's averments and supporting documents.

viii. The application is defective as it has been filed against an incorrectly named entity — “Tasty Dairy Specialities Limited” instead of the correct and legally registered name “TASTY DAIRY SPECIALITIES LIMITED”. Additionally, Part IV of the application is incomplete; it fails to provide necessary transaction details such as the nature of the debt, the circumstances under which the amount became due, and relevant supporting particulars. Merely stating the default amount and date is insufficient under the requirements of a valid application under Section 7 of the IBC.



ix. The proposed Interim Resolution Professional (IRP), Mr. Anish Agarwal, is no longer authorized as his term expired on 05.10.2024. Therefore, the application suffers from a procedural defect due to reliance on an IRP who currently lacks the requisite authority to act under the IBC framework.

10. The Respondent/Corporate Debtor has also filed an IA No. 432/2025 vide diary no. 1279 dated 02.07.2025 challenging the present application filed by the

CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 8 of 20

-Sd-

-Sd-

Financial Creditor Bank u/s 7 contending that this application is not maintainable either on facts or in law, and hence is not maintainable and is liable to be dismissed at the threshold. However, during the course of hearing held on 16.09.2025, the Ld. Counsel representing the Applicant/ Respondent/ Corporate Debtor at the outset on instructions stated that he was not pressing the present application, and therefore the same may be dismissed as withdrawn. Hence, in view of the prayer so made, IA No.432/2025 was dismissed as withdrawn.

11. Oral arguments were advanced by the Ld. Counsels for the Financial Creditors and Corporate Debtor on 16.09.2025

FINDING AND ORDER

12. We have heard the Ld. Counsel for the Applicant and the Respondent and perused the records, exhibits/annexures, and after considering arguments advanced by respective Learned Advocates, the main issues which are before us to be decided in respect of the present Application u/s 7 are:

- i. Whether the application is filed within the period of limitation.
- ii. Whether there is debt and default within the meaning of the I &B Code, 2016.

Whether the application is filed within the period of limitation.

13. We observe that the present application under Section 7 of the Code was instituted before this Tribunal on 29-05-2024. The cause of action for filing the present application arose on 28-12-2021 when the borrower failed in servicing interest and repayment of installments and also failed to repay the overdue amount hence defaulted on 28-12-2021. Consequently, account was stated to be classified as NPA on 29.12.2021. The date of default is found to be correct and is also referenced in Form D- Record of Default issued by National E-governance Services Limited (NeSL) and hence there is no ambiguity with regards to date of default and resulting limitation period. Accordingly, the filing of the present application on 29.05.2024 falls within the prescribed period of limitation of three years under Article 137 of the Limitation Act, 1963 from the date of default being on 28.12.2021.



Whether there is debt and default within the meaning of the I&B Code, 2016?

14. On the facts of the present case, there is no dispute that sums to the tune of Rs.72.59 crore have been disbursed by the Applicant to the Corporate Debtor, as reflected in the certified copies of Computation sheet related to outstanding amount as shown in accounts of Corporate Debtor. The cause of action for filing the present application arose on 28.12.2021 when the borrower failed in repayment of installments and interest and also failed to repay the overdue

CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 10 of 20

-sd-

-sd-

amount defaulted on 28.12.2021. Consequently, the Borrower's account was classified NPA on 29.12.2021. On 20.08.2022, the Corporate Debtor/Borrower while acknowledging their liabilities, submitted a proposal and requested for restructuring of the loan accounts with subsequent requests on 28.1.2022 and 30.06.2023 and further executed various documents regarding the Restructuring documents in this regard. However, restructuring was declared failed on 30.06.2023 by the bank, due to non-compliance with the terms and conditions of the restructuring proposal. Therefore, existence of a debt above a threshold limit of Rs. 1 crore and being under default of non-repayment is clearly established.

15. As far as objection of the Corporate Debtor regarding NPA for debt in default is taken 29.12.2021 just after one day of date of default taken as 28.12.2021 and not following the RBI guidelines is concerned, it would be immaterial for the date of default being 28.12.2021 as per the I&B Code, 2016 is concerned. Even we don't find any force in the argument of the Corporate Debtor regarding there being many dates of default due to various restructuring proposals of the Corporate Debtor having been accepted because such restructuring proposals/OTS, have ultimately failed on 30.06.2023. Therefore, the date of default for the purpose of I&B Code remained at 28.12.2021. This

CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 11 of 20

-Sd-

-Sd-

date is also mentioned in the Form D issued by the NeSL. Therefore, there is no ambiguity in the date of default being 28.12.2021.

16. As regards the argument of the Corporate Debtor about multiple proceedings initiated by the Financial Creditor against the Corporate Debtor for recovery of outstanding debts in contradiction of the objective of the resolution process under I&B Code is concerned, we don't find any force in this argument also. With regards to the pending SARFAESI proceedings, it has been established through various judicial precedents that there is no bar on filing an application under section 7 of IBC, 2016 during the pendency of SARFAESI proceeding. The Hon'ble Bench (NCLT Ahmedabad) in *Edelweiss Asset Reconstruction Co. Ltd Vs. Kalptaru Alloys Private Limited* admitted CIRP application holding that initiation of proceedings under SARFAESI Act by the Bank is no bar for initiation of insolvency proceedings under the Code in view of overriding effect given to Section 238. The Hon'ble NCLAT in *Rakesh Kumar Gupta Director, M/S Gupta marriage halls Pvt. Ltd Vs. Mahesh Bansal Interim Resolution Professional M/S Gupta Marriage Halls Pvt. Ltd.* clearly held that Insolvency & Bankruptcy Code 2016 is subsequent Code to SARFAESI Act of 2002 & Recovery of Debts Due to Banks & Financial Institution(RDDBFI) Act, 1993 with provision of Moratorium under Section 14 and Section 238 giving the Provisions of the Code overriding effect on other laws. The

CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 12 of 20

-Sd-

-Sd-

pendency of actions under the SARFAESI Act or actions under the RDDBFI Act 1993 does not create obstruction for filling an Application under Section 7 of Insolvency and Bankruptcy Code 2016, especially in view of Section 238 of IBC.

17. Thus, in view of the aforesaid analysis, the Applicant / Financial Creditor has proved that there is a 'debt' and 'default' on the part of the Corporate Debtor. Hence, as per Section 7(5) of IBC, 2016, the present application is found to be fulfilling all the conditions for admissions of the Application and initiation of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor i.e. M/s Tasty Dairy Specialities Ltd.

18. 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 Rs.1 crore applicable at present. The registered office of the Corporate Debtor is located in Kanpur and hence this Tribunal has jurisdiction to decide the matter. 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.

CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 13 of 20

-Sd-

-Sd-

19. Accordingly, this Tribunal allow this application and order to initiate the corporate insolvency resolution process against the corporate debtor.
20. We note that the Financial Creditor has proposed the name of IRP in Part-III of the Application, the Financial Creditor has proposed the name of Mr. Anish Agarwal as Interim Resolution Professional (IP Entity / Corporate IP) having Registration Number: IBBI/IPA-001/IP-P-01497/2018-2019/12256, Email ID: ip.cispl@gmail.com. The IRP has duly given the consent in Form No. 2 dated 19.03.2024 annexed as Annexure- B with the Application. The Law Research Associate of this Tribunal, Mr. Sarim Husain, has checked the credentials of Mr. Anish Agarwal, and found that there are no disciplinary proceedings pending against the proposed Insolvency Professional Entity (Corporate IP) and also there is nothing adverse against them. Upon verification from the website of IBBI, it is found that Insolvency Professional Entity (Corporate IP) holds valid authorization till 31.12.2025. After considering these details, we appoint Mr. Anish Agarwal having registration No. IBBI/IPA-001/IP-P-01497/2018-2019/12256, as Interim Resolution Professional (IRP).
21. Accordingly, this application is admitted u/s 7 of the Code, 2016, under the following terms and conditions.
- i. The application filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016 for initiating the Corporate



CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 14 of 20

-Sd-

-Sd-

Insolvency Resolution Process against the Corporate Debtor i.e., M/s Tasty Dairy Specialities Ltd. is hereby admitted.

- ii. We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
- iii. This Adjudicating Authority hereby appoints Mr. Anish Agarwal to act as the IRP under Section 13(1)(c) of the Code as decided by us in para 20 above.
- iv. The IRP shall cause a public announcement for the initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of the Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- v. Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 has commenced from the date of this order prohibiting the following:
 - 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



CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 15 of 20

-Sd-

-Sd-

including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 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.
- vi. Apart from above prohibitions in respect of the corporate debtor, 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.
- vii. 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.
- viii. 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.
- ix. 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.
- x. The IRP shall after collation of all the claims received against the Corporate Debtor and the determination of the financial position of the



CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 16 of 20

-Sd-

-Sd-

Corporate Debtor and to constitute a Committee of Creditors (hereinafter referred as “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 the report of the constitution of the COC.

- xi.** The COC in its first meeting shall appoint a Resolution Professional (hereinafter referred as “RP”) as per the provision of section 22(2) and file an application before this Tribunal for confirmation of the appointment of the RP.
- xii.** The Suspended Board of Directors of the corporate debtor is directed to give to IRP/RP 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 IRP/RP 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 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.



CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 17 of 20

-Sd-

-Sd-

- xiii.** 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.
- xiv.** The IRP/RP is directed to take custody and control of all the records of information relating to assets of the Corporate Debtor, its Books of Account in physical form or the computer systems storing the electronic records at the earliest in accordance with the provision of Regulation 3A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as "CIRP Regulations, 2016").
- xv.** The Operational Creditor shall also provide necessary assistance to IRP/RP in obtaining the necessary information about the Corporate Debtor as envisaged in Regulation 4(3) of the CIRP Regulations, 2016.
- xvi.** In case of any non-cooperation by the Suspended Board of Directors or the Statutory Auditors, IRP/RP 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 the retrieval of relevant information from the systems of the corporate debtor.
- xvii.** The IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench/IBBI/MCA for this purpose.



CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

Page 18 of 20

-Sd-

-Sd-

- xviii.** 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.
- xix.** The IRP/RP 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.
- xx.** The IRP/RP is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with requests for information/documents available with those authorities'/institutions/ others pertaining to the Corporate Debtor which would be relevant in the CIR proceedings.
- xxi.** The IRP/RP is directed to approach all the concerned Government Departments and authorities as discernible from the books of account of the Corporate Debtor requesting them to file claims if any amount is outstanding against the Corporate Debtor.
- xxii.** The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the IRP/RP to enable him to conduct the CIR Proceedings as per law.
- xxiii.** The IRP/RP shall collate the data obtained from (a) the claim(s) made before it and (b) information gathered from the records including those maintained by the Corporate Debtor.
- xxiv.** The IRP/RP is further directed to send regular progress reports to this Tribunal every month.



xxv. We direct the Operational Creditor to deposit a sum of Rs.2,00,000/- 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 Interim Resolution Professional on the conclusion of CIRP.

22. A certified copy of the order shall be communicated to both the Applicant Operational Creditor and the Respondent Corporate Debtor. The learned counsel for the Applicant Operational Creditor shall deliver a certified copy of this order to the IRP forthwith. The Registry is also directed to send a certified copy of this order to the IRP at his e-mail address forthwith.

23. List CP (IB) 84/ALD/2024 on 10.11.2025 for filing of the progress report/further proceeding.



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(Ashish Verma)

Member (Technical)

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(Praveen Gupta)

Member (Judicial)

Date: 07.10.2025

Compared by Me
Mahesh Sahai
13/10/2025

CERTIFIED TO BE TRUE COPY
OF THE ORIGINAL

FREE OF COST

CP (IB) No.84/ALD/2024

IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ

V. K. Asthana
Deputy Registrar
National Company Law Tribunal
Allahabad Bench, Prayagraj (U.P.)