

**IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH - I, CHENNAI**

**CP (IB)/215(CHE)/2023**

*(Filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 7 of the  
Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)*

*In the matter of R.K.K.R. Steels Private Limited*

**R.K.K.R. STEELS PRIVATE LIMITED**

[CIN: U2710TN1965PTC006069]

Registered Office: No.403A, Thiruvottiyur High Road,  
Chennai – 600 019.

Represented by its Director, Mr.Ritesh Rai

*... Corporate Applicant /Corporate Debtor*

Present:

*For Corporate Applicant* : Mr. S.R. Raghunathan, Advocate  
Mr. Alladi Rahul, Advocate

*For Objector* : Mr. J. Manivannan, Advocate

**CORAM:**

**SANJIV JAIN, MEMBER (JUDICIAL)  
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

*Order Pronounced on 21<sup>st</sup> November, 2025*

**ORDER**

**(Heard through Hybrid Mode)**

Under consideration is an Insolvency & Bankruptcy petition filed  
under Section 10 of the Insolvency & Bankruptcy Code, 2016 (“**Code**”)

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CP(IB)/215(CHE)/2023

*In the matter of RKKR Steels Private Limited*

and Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, I&B Rules 2016) by **RKKR Steels Private Limited** (in short, "**Corporate Applicant**") for initiation of Corporate Insolvency Resolution Process (CIRP) following a default in meeting the financial obligations to its Financial Creditors (Secured / Unsecured Creditors) and Operational Creditors as detailed in the Petition filed in Form-VI.

2. In **Part-I** of the petition, it is stated that the Corporate Applicant is a Private Limited Company incorporated on 18.09.1965 having its Registered Office at No.403 A, Thiruvottiyur High Road, Chennai – 600 019.
3. In **Part-II** of the petition, the Corporate Applicant has proposed the name of Mr. S. Kangayan as IRP with Registration No. IBBI/IPA-002/IP-N00866/2019-2020/12770. He has also filed his written consent in Form-2 vide Memo dated 31.07.2024. His AFA is valid till 31.12.2025.
4. **Part-III** of the petition discloses the amount in default with respect to Financial Creditors being **Rs.34,83,12,280.11/-** (Rupees Thirty Four Crore Eighty Three Lakhs Twelve Thousand Two Hundred and Eighty

and Eleven paise only), and with respect to Operational Creditors being **Rs.24,36,23,648** /- (Rupees Two Four Crore thirty six lakhs Twenty Three thousand and Six Hundred and Forty Eight only).

5. The petition contains a list of documents in support of existence of Financial Debts / Operational Debts as follows:

1. *Notice dated 24.04.2018 u/s 13 (2) of SARFAESI Act issued by Edelweiss Asset Reconstruction Company Limited to the Corporate Applicant in its capacity as Financial Creditor of RKKR Steels Private Limited.*
2. *Sanction Letter issued by Edelweiss Asset Reconstruction Company Limited vide ref No. EdelARC/3502/2020-21 dated 24.03.2021*
3. *Ledger of Cove Holdings Private Limited*
4. *Ledger of Rai Developers Private Limited*
5. *Ledger of Mrs.Rupal Rai*
6. *Ledger of Kumbhat & Co*
7. *Order passed in TA/54/2021 by the Hon'ble NCLAT, Chennai vide order dated 05.12.2022*
8. *Demand issued by the Income Tax Authorities*

6. As per the averments made, the Company was incorporated with an object to carry on business of Forge Masters & Drop Stampings, tool maker, shaping and treating of metals and Metal founders, spinners, Rollers, etc. It has filed its Memorandum of Association and Articles of Association including the Master Data.

7. It is stated that due to downfall in business, it is unable to pay the debts to the creditors. There is every possibility of revival of the Corporate Applicant during the CIRP. The matter was placed before the Board. The Board passed a Special Resolution on 07.10.2023 for initiating CIRP under Section 10 of IBC. It authorized Mr. Ritesh Rai, Director to file the petition in this regard. It is stated that the shareholders and the members also passed a special resolution on 07.10.2023 to file the petition under Section 10 of IBC.
  
8. The Petitioner has placed the documents showing the amount due to each creditor, notice issued under the SARFAESI Act by Edelweiss Asset Reconstruction Company Limited dated 24.04.2018, Ledger Account of Cove Holdings Private Limited, Rai Developers Private Limited, Mrs. Rupal Rai Kumbhat and Co and the order of the Hon'ble NCLAT in TA/54/21 dated 05.12.2022 in the case of Surana Industries Limited. It also placed the Balance Sheets for the Financial Years 2020-21, 2021-22, 2022-23 & 2023-24 and the provisional Balance Sheet upto 01.01.2025. It also filed the statement of affairs upto 31.03.2023 and statement of assets and liabilities as on 01.11.2023.

9. Notice of the petition was given to the Operational and Financial Creditors.
10. The Liquidator of the Operational Creditor, Surana Industries Limited filed the counter alleging that the Corporate Applicant is liable to pay substantial debt of Rs.24,36,00,048/- with applicable interest to the liquidation estate of Surana Industries Limited. This liability was established and confirmed by the Tribunal vide an order dated 19.02.2020 in MA/114/2019 in TCP/95/2017. An appeal was filed by the Corporate Applicant against the order before the Hon'ble NCLAT which was dismissed vide an order dated 05.12.2022 granting four weeks time to the Corporate Applicant to make the payment. The Corporate Applicant then preferred an appeal before the Hon'ble Supreme Court where also the appeal was dismissed vide an order dated 06.10.2023 and the Corporate Applicant was granted time to make the payment upto 30.11.2023. It is stated that the Corporate Applicant until 31.03.2023, did not show such liability in the audited Balance Sheet. The audited financials filed with the petition do not align with the accounting standards prescribed under the Companies Act, 2013. The Petitioner has approached this Tribunal with unclean

hands. At page-82 of the petition, it has shown an amount of Rs.30.65 Crores still payable to Edelweiss Asset Reconstruction Company (EARC) as on 02.01.2023, although note 6 to the audited Balance Sheet for the Financial Year 2021-22 at page-166 of the petition shows that an amount of Rs.35.0 Crores was paid to EARC in terms of letter dated 24.03.2021 issued by EARC for getting released 4.11 acres of land. It is stated that Rs.5.0 Crores is payable to EARC but in the audited Balance Sheet for the Financial Year 2022-23, no liability was shown as payable to EARC. List of Creditors shows that Rs.30.65 Crores are still payable to EARC.

11. It is stated that other creditors Cove Holdings Private Limited, Rai Developers Limited and Rupal Rai are the related parties of the Corporate Applicant. Another major creditor is the Income-Tax Department to whom Rs.63.09 Crores is payable by the Corporate Applicant. It is stated that the audited financials of the Corporate Applicant show that the Corporate Applicant entered into various transactions in collusion with the related parties to defraud the unrelated creditors which included transfer of assets to a related party Cove Holdings Private Limited. It is stated that Execution Petition has

been filed before the Tribunal against the Corporate Applicant and its Director.

12. It is stated that this application has been filed not for the resolution of the Corporate Applicant's insolvency but to scuttle the efforts of the Liquidator and the Income-Tax Department in their pursuits for recovery of the dues. It is a fit case to invoke Section 65 of IBC. Reference is made of the case *Monotrone Leasing (P) Ltd. v PM Cold Storage (P) Ltd. in Company Appeal (AT) (Insolvency) No. 99 of 2020 reported in 2020 SCC Online NC LAT 581.*
13. The Petitioner / Corporate Applicant filed the Rejoinder stating that the Petitioner had raised several objections on the application filed by the Liquidator of Surana Industries Limited that the amount of Rs. 24,36,00,048/- was settled by way of inter-company transfer where Tribovan Enterprises Private Limited, sister concern of Surana Industries Limited owed money to the Corporate Applicant which stood adjusted.
14. It is stated that in the present case, the Liquidator has not made out any ingredients of fraud or malicious intent and the present petition is

based on the genuine debts which the Petitioner is not in a position to pay. It is clarified that the liability on the Petitioner was fastened on the basis of the order dated 06.09.2023 passed by Hon'ble Supreme Court and for this reason it was not reflected in the audited balance sheet upto 21.03.2023. This liability has been reflected in the balance sheet as on 01.11.2023 at page 194 of the petition. Reference is made of the case *Asset Reconstruction Company (India) Limited Vs. Bishal Jaiswal and Anr (2021) 6 SCC 366* to state that inclusion of a debt in balance sheet prepared and authenticated would amount to admission of liability. The Petitioner made the entries in the balance sheet only after the said liability was fastened and not at the stage when the appeal was pending.

15. It is stated that the demand notice sent by Edelweiss Asset Reconstruction Company (EARC) under Section 13(2) of the SARFAESI Act at page 83 shows that a total of Rs. 70,65,40,759/- was claimed by EARC. Part dues of Rs. 40.0 Crores were paid to EARC and mortgage of the land to that extent was released by the EARC. The same was accounted in the balance sheets as on 31.03.2021 and 31.03.2022. The settlement was not an OTS. The remaining dues are in the nature of

interest payable to EARC which are disputed and for this reason, the same were not shown in the balance sheet. At page 186 of the petition, it is recorded that no provision has been made in the books for the interest liability as the same is not ascertained as on date. The Petitioner in Note 6 of the balance sheet as on 31.03.2023 has shown the EARC claim.

16. It is stated that the balance sheet as on 01.11.2023 at page 204 reflects the list of related parties of the Petitioner. Questioning the transactions carried out by the Petitioner with the related parties can be made in the applications under Section 43 and 66 of IBC by the RP, if found credible after the initiation of CIRP.
17. It is stated that the Liquidator has filed the contempt application before the Tribunal for the alleged violation of the order dated 19.02.2020. Since the Petitioner has genuine difficulty to pay the said amount, the present petition has been filed. The Liquidator despite being aware of this petition has filed the Contempt Application before this Tribunal purely for the purpose of harassing the Petitioner. It is stated that the Petitioner does not dispute its liability in terms of the order dated

19.02.2020 but is not in a position to discharge the liability.

18. The Petitioner pursuant to the observations made in the order dated 15.09.2025 filed the memo vide Sr. No. 4065 dated 25.09.2025 stating that the Board of Directors in the meeting held on 07.10.2023 had recorded the reasons in the minutes for such a resolution for initiating CIRP under Section 10 of IBC. The primary reason is to prevent multiple proceedings by the Creditors which could result in fragmented asset realization. Such piecemeal recovery may diminish the overall value of the assets compared to a consolidated sale under the resolution process. The Petitioner has attached the minutes. Relevant portion of the minutes is extracted as under.

**Approval for initiating Corporate Insolvency Resolution process u/s 10 of The Insolvency and Bankruptcy Code, 2016 before the Hon'ble National Company Law Tribunal (NCLT) Chennai.**

The Chairman placed before the Board the current financial position of the Company and apprised the members of the following:

**1. Existence of Defaults:**

- The Company has committed defaults in repayment of its dues to its financial creditor - Edelweiss Asset Reconstruction Company (ARC).
- In addition, there exists a decree in favour of an operational creditor, which has further crystallised the liability of the Company.

2. **Legal and Commercial Risk:**

- The continuing default and decree expose the Company to enforcement and recovery proceedings, which may adversely impact the residual value of its assets and the interests of stakeholders.
- Multiple proceedings by creditors may lead to piecemeal actions, which would erode value and weaken the Company's ability to reorganise.

3. **Objective of Section 10 Filing:**

- Section 10 of the IBC, 2016 enables a corporate debtor to voluntarily initiate the **Corporate Insolvency Resolution Process (CIRP)**.
- The intent of such filing is to bring the Company under a structured resolution mechanism supervised by an Insolvency Professional and the Hon'ble NCLT.
- This process provides an opportunity to **revive the Company**, protect assets / brand value and maximise value for creditors and stakeholders.

4. **Best Interest of the Company and Stakeholders:**

- The Board, after careful consideration, noted that a resolution under the IBC framework would ensure a transparent and time-bound process.
- This is considered preferable over uncoordinated enforcement actions, as it enhances the possibility of attracting new investors, restructuring debt, and sustaining the Company's business.
- Accordingly, initiation of CIRP is in the **best interest of the Company, its creditors, members, and other stakeholders**.

The Board discussed the matter and passed the following resolution unanimously: -

**"RESOLVED THAT** approval of the board of Directors be and is hereby accorded for initiating a Corporate Insolvency Resolution process u/s 10 of The Insolvency and bankrupt Code, 2016 before the Hon'ble National Company Law Tribunal (NCLT), Chennai Bench, Tamil Nadu and Mr. Ritesh Rai, Director of the company, be and is hereby authorized to sign and file necessary application on their behalf before the Hon'ble NCLT, Chennai Bench, Tamil Nadu."

19. We have heard Ld. Counsel for the Petitioner, Ld. Counsel for the Liquidator of Surana Industries Limited.

20. Ld. Counsel for the Petitioner argued on the lines of the petition and the Rejoinder and referred a memo filed vide Sr. No. 5078 dated 18.10.2024 enclosing an e-mail dated 27.07.2024 issued by EARC where it was confirmed by EARC that RKKR Steels Limited continues to be a Debtor of EARC with respect to the financial facilities availed by the Company from Indian Bank since assigned to EARC. Post assignment, a settlement was agreed between EARC and RKKR Steels Limited that was limited to the extent of release of charge by EARC over the secured assets and for release of guarantees. EARC continues to be a Creditor of RKKR Steels Limited for the balance debt adjusting the payments received under the statement. Ld. Counsel contends that the lone objector, the Liquidator of Surana Industries Limited has filed a contempt petition and execution petition which establish the existence of default which is a valid ground for initiation of CIRP. Ld. Counsel submits that the transaction entered by the Petitioner with coe-holding, a related party entity was a genuine transaction which was at a price higher than the failed auction price for the assets by the lenders. Ld. Counsel submits that the transaction for which the application was filed by the Liquidator seeking Rs. 24,36,00,048/- was under a tri-partite

agreement between the Petitioner, Surana Industries and sister concern of Surana Industries i.e. Tribovan Enterprises Limited wherein amount due and payable to Surana Industries and receivable from Tribovan Enterprises were set off by Surana Industries and Tribovan Enterprises. SFIO has initiated the proceedings against Surana Industries leveling the allegations against the Petitioner that the transaction in question never happened; no inventory is available and it is only a transaction on paper without apparent sale of any goods by Surana Industries. Ld. Counsel submits that the Petitioner has been facing two contradictory proceedings / orders for the very alleged transaction. After the order passed by the Tribunal attained finality, the Petitioner showed the amount in the balance sheet due to Surana Industries as trade payable at page 186 and the amount accrued as trade receivable from Tribovan Enterprises at page 187. Ld. Counsel submits that the proceeds of the sale with Cove Holdings Pvt Ltd, a related party were completely utilized to pay off the secured charge holder only. The balance sheets of the year 2021-22 include the entries for the factory land under the column depletion / deletion of assets. Capital gains were recorded in the computation of income for the AY 2121-22 and Income Tax returns.

TDS was also paid as reflected in 26AS. Ld. Counsel submits that there is no malicious intent on the part of the Petitioner to file the petition under Section 10 of IBC. The Petitioner has genuine inability to pay the debt to the Creditors.

21. Ld. Counsel for the Liquidator of Surana Industries Limited reiterated what was stated in the reply. Ld. Counsel submits that until 31.03.2023, the amount was not reflected as liability in the audited balance sheet despite the Tribunal order dated 19.02.2020. There was no stay from Hon'ble NCLAT on the order. The Petitioner should have recognized its liability in the financials of 2019-20 itself. Thus the financials filed with the petition do not comply with the provisions of Companies Act, 2013.
22. Ld. Counsel submits that in the application at page 82, the Petitioner has shown an amount of Rs. 30.65 Crores still payable to EARC as on 02.11.2023. However, in Note 6 to the audited balance sheet for FY 2020-21 at page 166, the amount of Rs. 35.0 Crores has been shown to have already been paid to EARC in terms of the letter dated 24.03.2021 and only Rs. 5.0 Crore is payable to EARC. In the audited balance

sheet for FY 2021-22, no liability was shown as payable to EARC. The auditor report at page 159 for FY 2021-22 confirms that the Company has not defaulted in repayment of loans, or other borrowings or the payment of interest thereon to any lender during FY 2021-22, however, the list of creditors shows that Rs. 30.65 Crores are still payable to EARC. The books of accounts do not reflect any debt owed to EARC. Ld. Counsel submits that the major creditor is Income Tax Department whom Rs. 63.09 Crores are payable by the Petitioner which has not been disclosed in the audited financials.

23. Ld. Counsel submits that the audited financials for the last four financial years show that the Petitioner was engaged into the transactions with the related parties to defraud unrelated Creditors. The Company had no business or assets since 2020. This petition has been filed to obstruct the recovery efforts put in by the Liquidator of Surana Industries. The Company was classified as NPA in 2014. Ld. Counsel referred the case of *S.P. Chengalvaraya Naidu Vs. Jagannath*, the *Supreme Court*, in the words of *Kuldip Singh J*, AIR1994SC853, to contend that the courts of law are meant for imparting justice between the parties. One who comes to the Court must come with clean hands. A person whose case is based on falsehood has no right to approach the Court. He can be summarily thrown out at any stage of litigation. Ld. Counsel submits that this petition does not aim to provide a genuine resolution but serves malicious purposes as Section 65 of the IBC outlines.
24. We have given our thoughtful consideration to the rival contentions and perused the record and the written submissions filed by the parties.

25. Section 10 of IBC provides for Initiation of Corporate Insolvency

Resolution Process by Corporate Applicant. It reads as under:

- 1) *Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.*
- 2) *The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.*
- 3) *The corporate applicant shall, along with the application, furnish-*
  - (a) *the information relating to its books of account and such other documents relating to 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.*
- 4) *The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, 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.*

26. As per Section 10, a Corporate Debtor which has committed a default can file a petition for initiating CIRP along with the information relating to its books of accounts and such other documents relating to such period supported by a special resolution passed by the Shareholders of the Corporate Debtor or the resolution passed by atleast  $\frac{3}{4}$  of the total numbers of the Shareholders of the Corporate Debtor as the case may be approving the filing of the petition.
27. Hon'ble Supreme Court of India, in *Unigreen Global Private Limited vs. Punjab National Bank and Ors. Company Appeal (AT) (Insolvency) No. 81 of 2017*, noticing similarities between Section 7 and Section 10 of the IBC held that, two factors are common i.e, the debt must have fallen due and there must be a default in debt. In paragraphs 20 and 21, following has been held:

*20. Under both Section 7 and Section 10, the two factors are common i.e. the debt is due and there is a default. Sub-section (4) of Section 7 is similar to that of sub-section (4) of Section 10. Therefore we, hold that the law laid down by the Hon'ble Supreme Court in "Innoventive Industries Ltd. (Supra) is applicable for Section 10 also, wherein the Hon'ble Supreme Court observed as "The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority.*

*21. In an application under Section 10, the 'financial creditor' or 'operational creditor', may dispute that there is no default or that debt is not due and is not payable in law or in fact. They may also oppose admission on the ground that the Corporate Applicant is not eligible to make application in view of ineligibility under Section 11 of the I & B Code. The Adjudicating Authority on hearing the parties and on perusal of record, if satisfied that there is a debt and default has occurred and the Corporate Applicant is not ineligible under Section 11, the Adjudicating Authority has no option but to admit the application, unless it is incomplete, in which case the Corporate Applicant is to be granted time to rectify the defects.*

28. A perusal of the documents reveals that the Corporate Debtor was incorporated on 18.09.1965 with an object to carry on the business of Forge Masters & Drop Stampings, tool maker, shaping and treating of metals and metal founders, spinners, rollers etc.,. Because of downfall in the business, it is unable to pay debts to the Creditors. The Petitioner has placed the documents showing the amount due to the Creditors, notice sent under the SARFAESI Act by Edelweiss Asset Reconstruction Company Limited dated 24.04.2018, Ledger Account of Cove Holdings Private Limited, Rai Developers Private Limited, Mrs. Rupal Rai Kumbhat and Co and the order of Hon'ble NCLAT in TA/54/21 dated 05.12.2022 in the case of Surana Industries Limited. It has also placed the Balance sheets for the FYs 2020-21, 2021-22, 2022-23 and 2023-24, provisional balance sheet upto 01.01.2025, statement

of affairs upto 31.03.2023 and statement of assets and liabilities as on 01.11.2023. It has placed the special resolution passed by the Board on 07.10.2023 for initiating CIRP under Section 10 of IBC. The current financial position of the Company was apprised to the Board i.e. existence of defaults in repayment of dues to Edelweiss Asset Reconstruction Company Limited, decree in favour of an Operational Creditor, adverse impact on the residual value of the assets and the interest of the Stakeholders and the multiple proceedings initiated by the Creditors eroding the value and weakening of the Corporate Debtors availability to reorganize, possibility of attracting new Investors, restructuring and sustaining the Company's business were also discussed. It was resolved that initiation of CIRP would be in the best interest of the Company, its Creditors, members and other Stakeholders. In the petition, the Corporate Debtor has disclosed the amount in default with respect to the Financial Creditors as Rs. 34,83,12,280.11 and to the Operational Creditors as Rs. 24,36,23,648/-. The amount of Rs. 24,36,00,048/- along with applicable interest payable to the Liquidator of Surana Industries Limited is also included in the debt in default. This liability was confirmed by the

Tribunal vide an order dated 19.02.2020, affirmed by Hon'ble NLCAT vide an order dated 05.12.2022 and by Hon'ble Supreme Court vide an order dated 06.10.2023. The time was granted to the Corporate Debtor to make the payment upto 30.11.2023. When the Corporate Debtor failed to make the payment owing to financial constraints, it filed the petition on 07.11.2023.

29. It may be true that the Corporate Debtor until 31.03.2023 had not shown such liability in the audited balance sheet and the audited financials do not align with the accounting standards and in the petition, it has shown an amount of Rs. 30.65 Crores still payable to Edelweiss Asset Reconstruction Company Limited as on 02.11.2023 and the note 6 to the audited balance sheet for the FY 2021-22 at page 166 of the petition shows that an amount of Rs. 35.0 Crores was paid to Edelweiss Asset Reconstruction Company Limited in terms of the letter dated 24.03.2021 issued by Edelweiss Asset Reconstruction Company Limited for releasing 4.11 acres of land and in the balance sheet for the FY 2022-23, Rs. 5.0 Crore was shown as payable to Edelweiss Asset Reconstruction Company Limited but to this effect the Petitioner has given an explanation referring a memo filed vide Sr.

No. 5078 dated 18.10.2024 enclosing an email dated 27.07.2024 sent by the Edelweiss Asset Reconstruction Company Limited where Edelweiss Asset Reconstruction Company Limited has confirmed that the Corporate Debtor is still a Debtor of Edelweiss Asset Reconstruction Company Limited with respect to the financial facilities availed from the Indian Bank assigned to it. It was clarified that a settlement was agreed between them which was limited to the release of charge of EARC over the secured assets and for release of guarantee and Edelweiss Asset Reconstruction Company Limited still continues to be a Creditor of the Corporate Debtor for the balance debt. It is stated that the demand notice of Edelweiss Asset Reconstruction Company Limited under the SARFAESI Act at page 83 shows a debt of Rs. 70,65,40,759/-. Rs. 40.0 Crores were paid to the Edelweiss Asset Reconstruction Company Limited and mortgage of land was got released which was accounted in the balance sheet as on 31.03.2021 and 31.03.2022. This was not an OTS. It is stated that since the remaining dues were in the nature of interest payable to Edelweiss Asset Reconstruction Company Limited which were disputed, the same were not shown in the balance sheet. However,

the Petitioner in Note 6 of the balance sheet as on 31.03.2023 has showed the Edelweiss Asset Reconstruction Company Limited claim.

30. It is not in dispute that the Tribunal vide an order dated 19.02.2020 has established the liability of the Corporate Debtor for an amount of Rs. 24,36,00,048/- along with interest payable to the Liquidator of Surana Industries Limited which liability has been affirmed by Hon'ble NCLAT and Hon'ble Supreme Court. The Petitioner has explained the reasons for not showing the liability in the financial statements stating that the Petitioner had raised objections on the application claiming that the above amount was settled by way of inter-company transfer where Tribovan Enterprises Private Limited, sister concern of Surana Industries Limited owed money to the Corporate Applicant. It is clarified that the said liability was finally fastened on the Corporate Debtor on the basis of the order dated 06.09.2023 passed by Hon'ble Supreme Court. It has been stated that this liability has been shown in the balance sheet as on 01.11.2023 at page 194 i.e. at the time of filing of the petition.

31. It is true that in the balance sheet as on 01.11.2023, some related party claims have been shown but it cannot be said that the Corporate Debtor did not owe debt to the related parties. Even during CIRP, these transactions can be questioned by the RP and the same cannot be taken as a ground for rejecting the petition filed under Section 10 of IBC.
32. As regards proceeds of sale with Cove Holdings Private Limited, a related party, it is stated that the proceeds were completely utilized to pay the secured charge holder. The statement of affairs as on 31.03.2024 submitted by the Corporate Debtor / Petitioner is as under:

**RKKR STEELS PRIVATE LIMITED**

NO. 491-A, T H ROAD, TIRUVOTTIYUR, CHENNAI 600 019

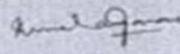
CIN: U27101TN1965PTC006069

**BALANCE SHEET As at 31st March 2024**

Particulars	Notes No	As at 31st March 2024	As at 31st March 2023
		Amount (Rs lakhs)	Amount (Rs lakhs)
<b>I. EQUITY AND LIABILITIES</b>			
<b>(1) Shareholders' funds</b>			
(a) Share Capital	1	407.85	407.85
(b) Reserves & Surplus	2	(833.69)	(830.03)
		(425.84)	(422.18)
<b>(2) Non-Current Liabilities</b>			
(a) Long Term Borrowings	3	-	-
(b) Long Term Provisions	7	-	-
(c) Deferred Tax Liability	4	236.34	236.34
		236.34	236.34
<b>(3) Current Liabilities</b>			
(a) Short Term borrowings	5	-	-
(b) Trade Payables	6	0.24	0.24
(c) Other Current Liabilities	6	2,900.16	2,896.76
(d) Short Term Provisions	7	24.47	24.47
		2,924.87	2,921.46
<b>TOTAL</b>		<b>2,735.37</b>	<b>2,735.62</b>
<b>II. ASSETS</b>			
<b>(1) Non-current Assets</b>			
(i) Tangible assets		-	-
(ii) Intangible assets		-	-
(b) Investments	8	18.01	18.01
(c) Long Term loans and Advances	9	1.98	1.98
		19.98	19.98
<b>(2) Current assets</b>			
(a) Inventories	10	-	-
(b) Trade Receivables	11	1.15	1.15
(c) Cash & Bank balances	12	0.40	0.65
(d) Short Term Loans and Advances	13	2,713.84	2,713.84
		2,715.39	2,715.64
<b>TOTAL</b>		<b>2,735.37</b>	<b>2,735.62</b>
		0	-

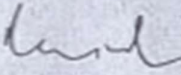
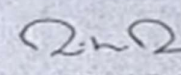
Summary of Significant accounting policies & the accompanying notes form an integral part of the financial statements.  
As per our report of even date

**For KUMBHAT & CO**  
Firm Registration Number : 001609S  
Chartered Accountants

  
Partner  
Membership Number : 022965  
UDIN : 24022965BKAQKG8151



For on behalf of the board of directors of  
**RKKR STEELS PRIVATE LIMITED**

   
(Rajiv Rai) (Ritesh Rai)  
Director Director  
DIN : 00003092 DIN : 00003084

Place : Chennai  
Date: 05-08-2024

Note : 3 LONG TERM BORROWINGS				
Particulars	As at 31.03.2024		As at 31.03.2023	
	Current Maturity	Non Current	Current Maturity	Non Current
(A) SECURED LOANS				
From Banks				
- Term Loan	-	-	-	-
<b>Total of Long Term Borrowings</b>	-	-	-	-
Note : 4 DEFERRED TAX				
	As at 31.03.2024		As at 31.03.2023	
Deferred Tax (net)				
Deferred Tax liability				
Opening Balance		236.34		236.34
Arising from timing difference		-		-
Gross deferred tax liability		236.34		236.34
Deferred Tax Assets				
Opening Balance		-		-
Arising from timing difference		-		-
Arising from loss in tax books		-		-
Gross deferred tax asset		-		-
Current year Deferred Tax Asset / (Liability)		-		-
Reversal of Deferred Tax (liability)/Asset		-		-
Net deferred tax asset		-		-
Net deferred tax liability		236.34		236.34
Note : 5 SHORT TERM BORROWINGS				
	As at 31.03.2024		As at 31.03.2023	
Particulars	Current Maturity		Current Maturity	
- Cash credit from bank (Secured)		-		-
		-		-
Note : 6 CURRENT LIABILITIES				
	As at 31.03.2024		As at 31.03.2023	
Particulars	Current Maturity	Non Current	Current Maturity	Non Current
Trade Payables	0.24		0.24	-
Other Liabilities				
- Term Loan*	-		-	-
- Advance from directors	-		-	-
- Advance received from customer	-		-	-
- Statutory Liabilities	20.49		20.41	
- Other Payables	2,879.68		2,876.34	
	<b>2,900.16</b>	-	<b>2,896.76</b>	-
<b>I. Term Loan:-*</b>				
i) Indian Bank had assigned the loan given by it, to M/s Edelweiss Asset Reconstruction Company Ltd (in its capacity as Trustee of EARC Trust SC-221)				
ii) Vide their sanction letter dated 24.03.2021 from M/s Edelweiss Asset Reconstruction Company Ltd (in its capacity as Trustee of EARC Trust SC-221), the Company paid a sum of Rs. 35 crores to them in consideration for release of mortgage of land of the Company admeasuring 4.11 acres situated at Thiruvttiyur Village and Taluk, Chennai 600019;				
iii) As per the said sanction letter, balance amount of Rs. 5 crores was paid by the Company along with interest at 12% p.a.				
iv) The balance loan of Rs. 5 crores is secured by mortgage of land belonging to Director and a Group Company in Survey No.517/2A (0.8 acres) and No.517/2B (0.28 acres) situated at Thiruvttiyur Village and Taluk, Chennai 600019 which has been released				
v) The term loans were further secured by way of Personal guarantee of Mr. Rajiv Rai & Mr. Ritesh Rai which has been released				
vi) The charge created on immovable properties and book debts of the Company have not been released by the lender pending settlement of interest dues claimed by them. No provision has been made in the books for the interest liability and the same is not ascertained as on date				

The list of the Creditors of the Petitioner is as under:

**LIST OF AMOUNT DUE TO THE CREDITORS**

S.No.	NAME OF THE CREDITOR	AMOUNT DUE	NATURE OF CREDITOR																					
1.	Cove Holdings Pvt Ltd	Rs. 3,52,289.63	Financial Creditor																					
2.	Rai Developers Pvt Ltd	Rs. 3,51,643.51	Financial Creditor																					
3.	Mrs. Rupal Rai	Rs. 4,07,75,087.97	Financial Creditor																					
4.	Edelweiss Asset Reconstruction Company Pvt Ltd	Rs. 30,65,40,759.00	Financial Creditor																					
5.	Kumbhat & Co	Rs. 23,600/-	Operational Creditor																					
6.	Surana Industries Ltd Rep by Mr. Ramakrishan Sadasivan Liquidator for Surana Industries Ltd	Rs. 24,36,00,048/-	Operational Creditor																					
7.	<p>The Assistant Commissioner of Income Tax Central Circle 2 (3)</p> <p>The following income tax appeals are pending in CIT (A), Chennai</p> <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Sl.no</th> <th>AY</th> <th>Income tax demand</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>2008-2009</td> <td>1,73,22,792/-</td> </tr> <tr> <td>2</td> <td>2009-2010</td> <td>14,80,76,564/-</td> </tr> <tr> <td>3</td> <td>2010-2011</td> <td>1,63,25,076/-</td> </tr> <tr> <td>4</td> <td>2011-2012</td> <td>6,64,54,625/-</td> </tr> <tr> <td>5</td> <td>2012-2013</td> <td>6,60,80,308/-</td> </tr> <tr> <td>6</td> <td>2013-2014</td> <td>31,67,34,529/-</td> </tr> </tbody> </table>	Sl.no	AY	Income tax demand	1	2008-2009	1,73,22,792/-	2	2009-2010	14,80,76,564/-	3	2010-2011	1,63,25,076/-	4	2011-2012	6,64,54,625/-	5	2012-2013	6,60,80,308/-	6	2013-2014	31,67,34,529/-	Rs. 63,09,93,894/-	Operational Creditor
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33. It is thus seen from the record, list of creditors and the amount of debt payable to the Creditors, the debt payable by the Corporate Debtor is more than Rs. 1.0 Crore which is the threshold for initiating the insolvency proceedings by the Corporate Debtor under Section 10 of IBC. The petition has been filed within limitation. The alleged ledger

misstatements, qualifications in the audit report, irregular / missing income tax returns do not warrant rejection of the petition filed under Section 10 of IBC. Such defects pertaining to the books of the Corporate Applicant do not require the investigation by this Tribunal at the stage of admission of the petition. These aspects may be investigated, verified and reconciled by the Resolution Professional after the initiation of the CIRP process under the direction of the Committee of Creditors. Moreover, in case the Resolution Professional/ Liquidator finds that the directors of the Corporate Applicant have carried out any activities/ transactions that are harmful to the creditors or other stakeholders of the Corporate Applicant, the Resolution Professional/ Liquidator is at liberty to file PUFÉ applications.

34. The Hon'ble NCLAT in the case of *Getz Cables Pvt. Ltd. v. State Bank of India and Anr. Company Appeal (AT) (Insolvency) No.1953 of 2024* considered the scope of the terms fraudulent and malicious intent. Simply to put, fraud consists of elements of deceit coupled with injury whereas malice is a wrongful act done without lawful justification.

The relevant paragraphs of the order are extracted hereunder,

*“16. Necessary ingredients, which required to be proved under Section 65, sub-section (1) are that proceedings are initiated fraudulently or with malicious intent for any purpose other than for the resolution of insolvency. Both expression – fraudulent and malicious has definite connotation. The expression ‘fraudulently’ has been explained in Advanced Law Lexicon by P Ramanatha Aiyar 6th Edition in following words:*

*“Person does a thing fraudulently if he does it with an intent to defraud, and so to constitute fraud two elements are necessary – deceit, and injury and loss to some person.”*

*17. Another expression which occurs in Section 65 is ‘malicious intent’. Advanced Law Lexicon by P Ramanatha Aiyar define the word ‘malice’ in the legal sense in following words:*

*“1. The intent, without justification or excuse, to commit a wrongful act. 2. Reckless disregard of the law or of a person’s legal rights.”*

*There is also a second definition, which is as follows:*

*“Malice in the legal sense imports (1) the absence of all elements of justifications, excuse or recognized mitigation, and (2) the presence of either (a) an actual intent to cause to particular harm which is produced or harm of the same general nature, or (b) the wanton and wilful doing of an act with awareness of a plain and strong likelihood that such harm may result....*

*18. The Hon’ble Supreme Court has defined ‘malice’ in (2003) 8 SCC 567 – Chairman & MD. BPL Ltd. vs. S.P. Gururaja and Ors. in paragraph 21, in following words: “21. Malice in common law or acceptance means ill will against a person, but in the legal sense it means a wrongful act done intentionally without just cause or excuse.”*

35. The Hon'ble NCLAT in the case of *Monotrone Leasing Pvt. Ltd. Vs. PM Cold Storage Pvt. Ltd. Company Appeal (AT) (Insolvency) No. 99 of 2020*, held that a petition under Sections 7, 9, or 10 of the IBC cannot be rejected solely on the ground of lack of intent for resolution, unless there is explicit documentary proof of fraudulent or malicious intent. Therefore, it is not enough that there is an absence of lack of intent for resolution of the corporate debtor but there is necessary mandate for fraud or malicious intent. The relevant paragraph is extracted hereunder:

*“34. Section 65 of the Code provides for penal action for initiating Insolvency Resolution Process with a fraudulent or malicious intent or for any purpose other than the resolution. However, the same cannot be construed to mean that if a petition is filed under Section 7, 9, or 10 of the Code without any malicious or fraudulent intent, then also such a petition can be rejected by the Adjudicating Authority on the ground that the intent of the Applicant/Petitioner was not resolution for Corporate Insolvency Resolution Process. As the proceedings under IBC are summary in nature, it is difficult to determine the intent of the Applicant filing an application under Section 7, 9, or 10 of the Code unless shown explicitly by way of documentary evidence. This situation may arise in specific instances where a petition is filed under IBC specifically with a fraudulent or malicious intent.*

36. The Hon'ble NCLAT in the case of *Amour Infrastructure LLP Vs. Digital Integrated Technologies Pvt. Ltd. (Company Appeal (AT) (Ins.) No. 884 of 2022 & I.A. No. 2458 of 2022)*, held that an Adjudicating Authority cannot make a finding of fraud/ malice unless it is specifically pleaded and backed by documentary evidence. The relevant paragraphs are extracted hereunder

*"5. Learned Counsel for the respondent has referred to the findings in paragraph 26 of the order which is to the following effect:*

*"From these facts, we have got reasonable basis to reach to a conclusion that application filed under Section 7 is a mechanism whereby financial creditor is trying to settle personal scores and put undue pressure on the corporate debtor. hence, we have no hesitation in holding that this application has been filed with malicious intent and for purposes other than the Resolution of Insolvency of the Corporate Debtor. We further find that corporate debtor is a solvent company"*

*8. Observations made in paragraph 26 is that Financial Creditor is trying to settle personal scores and put undue pressure on the Corporate Debtor. We are of the view that for proving the ingredient of Section 65 there has to be adequate pleadings and findings. Observations made in paragraph 26 does not fulfill the requirement of Section 65 so as to reject the Section 7 application."*

37. Based on the precedents discussed above, it is clear that Section 65 being penal in nature, requires strict proof to demonstrate such fraud or malicious intent, and cannot be invoked on the basis of suspicion,

technical irregularities, or unsubstantiated assertions.

38. In the present case, the Objectors/ Operational Creditors have not demonstrated any such deceit, ill will or lawfully unjust intention of the Corporate Applicant in initiating CIRP proceedings or corresponding injury suffered by such Objectors/ Operational Creditors. On the contrary, this Tribunal is of the view that admission of the Corporate Applicant will protect the rights of the creditors collectively.
39. This Tribunal is satisfied that the documents placed on record clearly establish that the Corporate Applicant is unable to discharge its admitted liabilities to its creditors. The requirement of existence of debt and default stands satisfied. We are of the view that the present petition is required to be admitted under Section 10 of the IBC, 2016. We order accordingly.
40. The Corporate Applicant has proposed the name of the Interim Resolution Professional (IRP) Mr. S. Kangayan. **We therefore appoint Mr. S. Kangayan having Registration No. IBBI/IPA-002/IP-N00866/2019-2020/12770 whose AFA is valid till 31.12.2025 (E-mail**

**ID: kangayan.s@gmail.com)** forming part of the Panel of IPs recommended by IBBI in accordance with, “Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2024” for the period of July 1, 2025 to December 31, 2025, as the IRP in the present application. The IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

41. The IRP/ RP is directed to update its registered office address with the MCA portal and ensure compliance under Section 12 of Companies Act, 2013.

42. As a consequence of the Application being admitted in terms of Section 10 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- 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.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

43. However, during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to

(a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;

(b) a surety in a contract of guarantee to a corporate debtor.

44. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

(4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate

Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

45. The Corporate Applicant is directed to pay a sum of **Rs. 3,00,000/- (Rupees Three Lakhs Only)** to the Interim Resolution Professional to meet out the expenses and to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
46. The Suspended Board of Directors is directed to give complete access to the Books of Accounts of the Corporate Applicant 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 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 Applicant, 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 noncompliance, if any, in this regard in his status report filed before this Tribunal immediately after a month of the initiation of the CIRP.

47. The Resolution Professional 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. 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.
48. Based on the above terms, the Petition stands admitted in terms of Section 10 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Corporate Debtor above named by the Registry. In addition, a copy of

the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned

**Sd/-**

**VENKATARAMAN SUBRAMANIAM**  
MEMBER (TECHNICAL)

**Sd/-**

**SANJIV JAIN**  
MEMBER (JUDICIAL)