

**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)  
(Arguments through web-based video conferencing platform)**

**IA Nos.475/2021 & 595/2021  
And  
CP (IB) No.197/Chd/HP/2021**

**Under Section 10 of the IBC, 2016**

**In the matter of CP(IB) No. 197/Chd/HP/2021:**

UR Sinter Private Limited  
through its Director Sanjay Kumar,  
having its registered office at  
House No. 9-C, Rose Enclave,  
Basant City, Pakhowal Road Daad,  
Ludhiana, Punjab-141001

....Applicant/Corporate Debtor

And in the matter of:-

**IA No.475/2021 & IA No.595/2021**

UR Sinter Private Limited  
through its Director Sanjay Kumar,  
having its registered office at  
House No. 9-C, Rose Enclave,  
Basant City, Pakhowal Road Daad,  
Ludhiana, Punjab-141001

....Applicant/Corporate Debtor

Vs.

Office of State Taxes and Excise Department,  
having its registered office at  
Central Enforcement Zone, UNA,  
Himachal Pradesh-174303

...Non-Applicant/Respondent

**Order delivered on: 04.01.2023**

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

**Present:**

For the Applicant in :Mr. Nitin Kant Setia, Advocate  
IA No.475/2021 & 595/2021

For the Financial Creditor : Mr. Raghav Kapoor, Advocate

For the respondents : Mr. Neeraj Kumar, Advocate

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

### **ORDER**

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

2. The Corporate Debtor (hereinafter referred to as the 'corporate applicant') was incorporated on 19.10.2012 having been allotted CIN U26950HP2012PTC000261, its registered office is at village Bumblo Tehsil AMB opposite RTO Hoshiarpur Road Amb Una HP and therefore, the matter falls within the territorial jurisdiction of this Adjudicating Authority. Master Data and Memorandum of Association & Articles of Association of the corporate debtor are attached at Annexures A-15 & A-13 respectively.

3. The nominal share capital of the corporate debtor is ₹4,40,00,000/- divided into 44,00,000 shares of Rs. 10 each, and the paid-up share capital is ₹4,40,00,000/- divided into 44,00,000 shares of Rs. 10 each.

4. The petition has been filed by the corporate applicant through Mr. Sanjay Kumar, Director of the corporate applicant, who has been authorized

to file this petition under Section 10 of the 'Code' vide Board resolution dated 01.09.2021 (Annexure-16 of the petition). The petition has been filed in pursuance of the resolution passed with 100% votes in the meeting of members (EOGM) of the corporate applicant held on 01.09.2021 (Annexure A-14 of the petition). The contents of the application are supported by the affidavit of Mr Sanjay Kumar, Director which is on Page No. 13-14 of the paper book.

5. As per the Memorandum of Association of the corporate applicant (Annexure A-13), the main objects of the corporate applicant are:

*“To manufacture, produce, buy, sell, trade, import and export of all kinds of iron, steel iron, sinter, and pig iron.”*

6. It is stated that the company is engaged in the business of manufacturing and export of chaff cutter machines and spare parts. It is submitted that on 09.04.2015 Kangra Central Co-operative Bank Ltd. sanctioned a loan amount of 19.50 Cr in the form of a Composite Loan which comprises Rs. 4.50 Cr as a Term Loan and Rs. 15.00 Cr as CC Limit. Due to the recession in the business in the year 2019, the account of the Corporate Debtor with the Bank was declared NPA by the Bank vide NPA intimation letter dated 01.11.2019. Furthermore, orders of GST demand were also issued by the State Taxes and Excise Department, H.P. vide orders dated 20.05.2019 and 23.04.2021. Subsequently, the factory premises of the Corporate Debtor was sealed, and all the movable and immovable assets present there were attached vide order dated 30.07.2021. Thereafter a notice of the auction of the assets of the Corporate Debtor was issued by the State Taxes and Excise Department, H.P. vide order dated 03.09.2021 which will be

held on 16.09.2021. Hence, the applicant has no remedy left except coming to this Adjudicating Authority to seek appropriate relief as the corporate applicant is in a tight spot and genuinely unable to repay its liability. A copy of the Audited Financial Statements of the Corporate Applicant for the Financial Years 2018-19 and 2019-20 along with provisional financial statements up to 31.08.2021 is attached as Annexure A-12. The corporate debtor has filed an affidavit to the effect that there are no shareholders/stakeholders other than those mentioned in the petition and there is no balance sheet except the balance sheet dated 31.03.2021 filed through IA No. 131/2021.

7. In Part III of Form No. 6, the complete particulars including addresses of the financial and operational creditors have been given. The ledger account from 01.04.2021 up to 31.08.2021 and the statement of affairs of the corporate debtor from 01.04.2021 up to 31.08.2021 are attached as Annexure A-10 and A-11 respectively of the petition.

8. Further, the proposed Insolvency Professional has also filed Form-II stating that there is no disciplinary proceeding pending against him and the tenures as IP is continuing as of the date and is eligible to be appointed as IRP.

9. Notice of this petition was issued to all the financial and operational creditors by this Adjudicating authority vide order dated 15.09.2021. No response to the notices has been received.

10. A reference is made to sub-section (4) of Section 10 of the Code which states that the Adjudicating Authority by an order:-

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

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

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

11. In order to comply with the requirement of clause (a) of Section 10 (3) of the Code the petitioner has placed on record all the necessary documents to prove the existence of financial/operational debt and the amount as required in column 3 of Part-III of the Application Form. The details of the operational debt in default have also been provided. The petitioner has also filed its audited financial statements for the years 2018-19 and 2019-20 along with the provisional financial statements up to 31.08.2021 which is at Annexure A-13.

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

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

- a) The information relating to its books of account and such other documents for such period as may be specified;*
- b) The information relating to the resolution professional proposed to be appointed as an interim resolution professional; and*
- c) The special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.”*

13. Under Clause (b) of Section 10(3), the corporate applicant is bound to propose the name of a registered Resolution Professional to be appointed as Interim Resolution Professional. We have perused the written communication in Form No.II at Annexure A-16 furnished by Mr Vikas Aggarwal, a registered

Resolution Professional with IBBI. This Form contains all the particulars provided in the Form. He has furnished his written consent and has also certified that no disciplinary proceedings are pending against him with the IBBI or the Indian Institute of Insolvency Professionals of ICAI of which he is a member. His Registration number is IBBI/IPA-001/IP-P-02126/2020-21/13313. We find that the written consent furnished by the proposed Interim Resolution Professional is in order.

14. We have perused the provisional balance sheet as of 31.03.2021, indicating a complete erosion of the net worth of the corporate applicant for the financial year 2020-21. Also, as stated above, the provisional balance sheet for the financial year 2020-2021 clearly indicates that the corporate applicant has failed to pay its debt and has thus committed default. It is thus competent to set in motion the Insolvency Resolution Process under the Code to ensure the maximum value of assets which is in the interest of all the stakeholders.

15. In this context, we find it relevant to discuss the replies filed by the State Taxes and Excise Department in related IAs, i.e., IA No. 475/2021 and IA No. 595/2021 by Diary No. 01110/01 dated 21.03.2022 and 01316/2 dated 07.04.2022 and the replies filed by the Kangra Central Cooperative Bank Limited (objector) in IA No. 595/2021 by Diary No. 01316/4 dated 13.06.2022 and in IA No. 475/2021 by Diary No. 01316/2 dated 02.05.2022, being closely connected with the insolvency proceedings of the corporate debtor.

16. The State Taxes and Excise Department in the aforementioned replies have stated that vide order dated 23.04.2021 has fastened the liability of Rs.

30,40,72,355.065/- on the applicant company towards GST for the years 2018-19, 2019-20, 2020-21. Further, the factory premises of the applicant has been sealed by the State Taxes and Excise Department, and the department has issued a notice dated 03.09.2021 for the auction of goods under Section 79 (1)(b) of the HPGST Act, 2017. It is further averred that the company was inspected by the State GST Department on 11.08.2020. During the inspection, it was found that the suppliers of the corporate debtor were shell companies and non-existent entities. The respondent-Excise Department has relied on the Forensic Audit Report furnished by Kangra Central Cooperative Bank (objector/answering bank). The respondent is seeking dismissal of the main company petition on the ground of the fraudulent and malicious initiation of proceedings by the applicant in the main petition and vacation of ad interim stay order dated 15.09.2021.

17. The Kangra Central Cooperative Bank (objector/answering bank) has stated that the bank holds the first charge on primary security consisting of factory land and hypothecation of stocks of raw material, semi-finished and finished goods and book debts. It is further prayed that the State Taxes and Excise Department be restrained from taking any steps for recovery of debt till the main petition filed under Section 10 of the Code is decided by this Adjudicating Authority.

18. We have heard the learned counsels for the corporate applicant as well as the financial and operational creditors and have gone through the records. The issue for adjudication is whether, on the basis of the information submitted by the State Taxes and Excise Department indicating gross violations by the corporate debtor, this Adjudicating Authority can deny the

admissions of the corporate debtor to CIRP under Section 10 of the Code.

19. In this context, reference is made to the decision of the Hon'ble NCLAT in the matter of **Leo Duct Engineers & Consultants Limited Vs. Canara Bank [2017]** ibclaw.in 58 NCLAT held that :

*4. Similar question fell for consideration before this Appellate Tribunal in "M/s. Unigreen Global Private Limited vs. Punjab National Bank and others" – Company Appeal (AT) (Insolvency) 81/2017. In the said case, this Appellate Tribunal by its judgement dated 1st December, 2017 held as follows : "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. 22. Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under Section 10 and the informations as required to be submitted in Form 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 subject to ineligibility prescribed under Section 11. If all informations are provided by an applicant as required under Section 10 and Form 6 and if the Corporate Applicant is otherwise not ineligible under Section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground. 23. Any fact unrelated or beyond the requirement under I & B Code or Forms prescribed under Adjudicating Authority Rules (Form 6 in the*

*present case) are not required to be stated or pleaded. Non-disclosure of any fact, unrelated to Section 10 and Form 6 cannot be termed to be suppression of facts or to hold that the Corporate Applicant has not come with clean hand except the application where the 'Corporate Applicant' has not disclosed disqualification, if any, under Section 11. Non-disclosure of facts, such as that the 'Corporate Debtor' is undergoing a corporate insolvency resolution process; or that the 'Corporate Debtor' has completed corporate insolvency resolution process twelve months preceding the date of making of the application; or that the corporate debtor has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under the said Chapter; or that the corporate debtor is one in respect of whom a liquidation order has already been made can be a ground to reject the application under Section 10 on the ground of suppression of fact/not come with clean hand.*

*5. In the present case, it has not been pleaded that the appellant – Corporate Debtor is ineligible in terms of Section 11 of the I & B Code. The Adjudicating Authority has noticed unrelated facts which are not required to be disclosed in terms of Section 10 or Form 6 and as the case also relates to third party suit or proceeding, and not the Corporate Debtor. In the circumstances, the Adjudicating Authority was not correct in rejecting the application on the ground of suppression of relevant facts. 6. The Adjudicating Authority, having held that otherwise the application under Section 10 is complete and in absence of any ineligibility of appellant, it was incumbent on the part of the Adjudicating Authority to admit the appeal, having no jurisdiction to notice unrelated facts beyond the requirement under the I & B Code and the Forms prescribed under the Adjudicating Authority Rules.*

*(Emphasis Supplied)*

20. In the present case, we note that in the application, all the information required in terms of Section 10 or Form 6 has been disclosed, and there is no pleading that the applicant is barred under Section 11 to file this application. In view of such facts, we are of the considered view that we have no jurisdiction to go beyond the requirement under the I&B Code and Forms prescribed under the relevant Rules and deny admission of the corporate debtor to insolvency resolution proceedings.

21. In view of the above facts, the petition is admitted. 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 applicant including the execution of any judgment, decree, or order in any court of law, tribunal, arbitration panel or other authority;
- b) transferring, encumbering, alienating or disposing of by the corporate applicant 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 applicant 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 possession of the corporate applicant.
- e) It is further directed that the supply of essential goods or services to the corporate applicant as may be specified, 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 financial sector regulator and to a surety in a contract of guarantee to a corporate applicant.
- f) The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the resolution plan under sub-section (1) of

Section 31 or passes an order for liquidation of the corporate applicant under Section 33 as the case may be.

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

23. In view of the above, we appoint Mr Vikas Aggarwal, Insolvency Professional, bearing registration no.IBBI/IPA-001/IP-P-02126/2020-21/13313, Email Id: [ipvikas.aggarwal@gmail.com](mailto:ipvikas.aggarwal@gmail.com), Mobile No. 9988811795, address: SCO 21, First Floor, Sector 33-D, Chandigarh as an Interim Resolution Professional, with the following directions:-

- i. The term of appointment of Mr Vikas Aggarwal shall be in accordance with the provisions of Section 16(5) of the Code;
- ii. In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended, and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate applicant 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 applicant has ownership rights recorded in the balance sheet of the Corporate applicant, 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 applicant;

- iii. The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government, and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and morals;
- iv. The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate applicant;
- v. It is hereby directed that the Corporate applicant, 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 Applicant as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Applicant;
- 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 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 address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. The statutory auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI. The IRP/Resolution Professional is directed to take possession of the Books of Account in physical form or the computer systems storing the electronic records at the earliest. In case of any non-cooperation by the Suspended Board of Directors or the statutory auditors, he may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order for retrieval of relevant information from the systems of the corporate debtor, the IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The

Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances. The Interim Resolution Professional is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.

- vii. The Interim Resolution Professional/ Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies, and other entities with a request for information/documents available with those authorities/institutions/others pertaining to the corporate debtor which would be relevant in the CIR proceedings. The Government Departments, Banks, Corporate Bodies, and other entities are directed to render the necessary information and cooperation to the Interim Resolution Professional/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 applicant and the determination of the financial position of the corporate applicant 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.

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

25. Accordingly, the present petition is admitted.

26. 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.

**IA No. 475/2021 and IA No. 595/2021**

27. Both these applications i.e., IA No. 475/2021 and IA No. 595/2021 have been filed by the corporate debtor seeking inter alia protection from the recovery actions of the creditors especially the State Taxes and Excise Department. It is noted that this Adjudicating Authority has already given a stay on the attachment order dated 30.07.2021 passed by the said department against the corporate debtor. In view of the moratorium coming into operation by virtue of our order in the main petition, no coercive action can be initiated against the corporate debtor, and these prayers are rendered infructuous. However, the State Taxes and Excise Department is directed to

hand over the possession of the factory back to the corporate debtor for the effective completion of the Corporate Insolvency Resolution Process.

28. In the result, these applications are disposed of with the aforementioned directions.

Sd/-  
**(Subrata Kumar Dash)**  
**Member (Technical)**

Sd/-  
**(Harnam Singh Thakur)**  
**Member (Judicial)**

January 04, 2023  
PB/ASH