

NATIONAL COMPANY LAW TRIBUNAL
INDORE SPECIAL BENCH
COURT NO. 1

ITEM No.202
CP(IB)/18(MP)2024
&
IA/98(MP)2025

Order under Section 7 IBC
IN THE MATTER OF:

Bank of Baroda
V/s
Extol Industries Ltd

.....Applicant

.....Respondent

Order delivered on 24/03/2025

Coram:

Shammi Khan, Hon'ble Member(J)
Sanjeev Kumar Sharma, Hon'ble Member(T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-

SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Neeraj

Sd/-

SHAMMI KHAN
MEMBER (JUDICIAL)

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH AT INDORE**

**CP (IB) No.18/MP/2024
And
IA 98 of 2025**

(An application 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 Extol Industries Limited

Bank of Baroda

(CIN: U99999MH1911PLC007676)

Registered Office: Bank of Baroda,
Baroda House, Near Mandvi,
P.B. No. 506, Vadodara – 390005.

Branch Address: 1489, Wright Town,
Near Manas Bhawan, Jabalpur M.P. (India)

...Applicant/Financial Creditor

VERSUS

Extol Industries Limited.

(CIN: U01122MP1997PLC012390)

Registered Office: Extol Tower,
Jahangirabad, Bhopal,
Madhya Pradesh – 462008.

...Respondent/Corporate Debtor

IA 98 of 2025

Extol Industries Limited

Extol Tower Jahangirabad Bhopal (M.P.)

...Applicant/ Corporate Debtor

VERSUS

Bank of Baroda

1489, Wright Town,
Near Manas Bhawan Jabalpur
M.P.

..... Respondent/ Financial Creditor

Order Pronounced On: 24.03.2025

CORAM:

SH. SHAMMI KHAN, MEMBER (JUDICIAL)

SH. SANJEEV KUMAR SHARMA, MEMBER (TECHNICAL)

APPEARANCE:

For the Applicant/FC : Mr. Madhav Lahoti, Advocate

For the Respondent/CD : Mr. Rohit Dubey, Advocate

O R D E R

CP (IB) No.18/MP/2024

1. The present Petition is filed on 20.02.2024 through e-mode by the Applicant- **Bank of Baroda** (hereinafter referred to as **“Financial Creditor”**) against the Respondent- **Extol**

Industries Limited. (hereinafter referred to as “**Corporate Debtor**”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “**IBC, 2016**”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as “**IB (AAA) Rules, 2016**”) for initiation of Corporate Insolvency Resolution Process (**CIRP**), to appoint Interim Resolution Professional (hereinafter referred to as “**IRP**”) and declare the moratorium for having defaulted payment of its outstanding dues of **Rs.47,60,78,224/-** including interest & other charges as on 30.12.2023.

2. On perusal of Part-I of the Form-1 reveals this Petition has been filed by the Financial Creditor i.e. Applicant Bank which is a body corporate constituted under the Banking Companies (Acquisition & Transfer of Undertakings) Act of 1970, though its Chief Manager by Mr. A.K. Sahu being authorized by Power of Attorney dated 12.10.2012 which is annexed at **Annexure-A.**
3. On perusal of Part-II of the Form-1 reveals that the Respondent/Corporate Debtor is one **Extol Industries Limited.** having CIN No. U01122MP1997PLC012390. The

Respondent/Corporate Debtor was incorporated on 17.10.1997 and having registered office at Extol Tower, Jahangirabad, Bhopal, Madhya Pradesh, Pin – 462008.

4. On perusal of Part-III of the Form-1 reveals that the Financial Creditor has named **Ms. Teena Saraswat Pandey** having Registration No. IBBI/IPA--001/IP-P00652/2017-2018/11126, having address: 387F, 114 Scheme Part-1, Behind Diksha Boys Hostel, Sant Nagar, Indore, Madhya Pradesh, 452010 (**e-mail:** teenasaraswat@yahoo.co.in) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). She has filed her written communication annexed with the Petition as **Annexure-B** as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Her AFA is valid from 01.01.2025 to 31.12.2025 as per data available on the official website of the IBBI ibbi.gov.in.
5. Part-IV of the Form-1 reveals that total dues as claimed by the Financial Creditor is Rs.47,60,78,224/- consisting of Rs.22,08,18,695/- being principal and amount of Rs.26,39,69,401/- as interest up-to 30.12.2023 and

amount of Rs.5,18,575/- being other charges and less Rs.92,28,447/- being recoveries made as per the Statement Showing total amounts of debt granted & amount outstanding as on 30.12.2023 as well as A/c Statement annexed with the Petition as **Annexure-D** and **G Colly**. The date of default is stated to be as 31.03.2016.

6. The Financial Creditor has placed the facts through this Petition along-with supporting documents in the following manner: -

(i) The Corporate Debtor through its Directors approached the Financial Creditor for a grant of financial assistance in the shape of Term Loan-I of **Rs.1272.96 Lacs** as well as a Cash Credit Limit of **Rs.1500.00 Lakh** and submitted a loan application. Financial Creditor after considering the request on 30.04.2011 sanctioned a Term Loan-I of **Rs.1272.96 Lakh**. On 03.05.2011 sanctioned a Cash Credit Limit of **Rs.1500.00 Lakh** for Working Capital against primary security of hypothecation of entire stocks, Book Debts, Plant & Machinery and other fixed assets, personal guarantees of the Directors and Corporate Guarantees of Extol Winds Limited and collateral security by way of equitable mortgage of immovable

properties in favour of Financial Creditor which is annexed with the Petition as **Annexure-C Colly**.

- (ii) The Term Loan-I was repayable in 16 quarterly installments of Rs.79.56 Lakh each commencing w.e.f. 31.12.2011. The rate of interest for Term Loan-I was agreed between the parties @6.25% above Base Rate, applicable at that time @15.75% per annum with monthly rests plus penal interest @2.00% per annum subject to change from time to time as per RBI Guidelines.
- (iii) The Cash Credit Limit was repayable on demand. The rate of interest for Cash Credit Limit was agreed between the parties @5.50% above Base Rate, applicable at that time @15.00% per annum with monthly rests plus penal interest @2.00% per annum subject to change from time to time as per RBI Guidelines.
- (iv) The Term Loan-II was repayable in 12 monthly instalments. The rate of interest for Term Loan-II was agreed between the parties @3.00% above Base Rate, applicable at that time @13.35% per annum with monthly resets plus penal interest @2.00% per annum subject to change from time to time as per RBI Guidelines.
- (v) The Corporate Debtor through its Directors again approached the Financial Creditor for restructuring of the existing balance outstanding Term Loan-I of

Rs.1034.28 Lacs, renewal Cash Credit Limit of **Rs.1500.00 Lakh** as well as grant of fresh Term Loan-II Facility of **Rs.200.00 Lakh** and submitted loan application.

- (vi) The Financial Creditor, after considering the request on 26.06.2013, sanctioned restructured existing balance outstanding of Term Loan-I of **Rs.1034.28 Lacs** to be repayable in 18 quarterly installments along-with applicable interest commencing w.e.f. 31.10.2014 till 31.03.2019. The rate of interest for Term Loan-I was agreed between the parties @3.00% above Base Rate plus tenor premium of 0.20%, applicable at that time @13.45% per annum with monthly rests plus penal interest @2.00% per annum subject to change from time to time as per RBI Guidelines.
- (vii) The existing Cash Credit Limit of **Rs.1500.00 Lakh** for Working Capital was also renewed for 12 months. The rate of interest for Cash Credit Limit was agreed between the parties @3.00% above Base Rate, applicable at that time @13.25% per annum with monthly rests plus penal interest @2.00% per annum subject to change from time to time as per RBI Guidelines.
- (viii) Further, the Financial Creditor sanctioned a fresh Term Loan-II of **Rs.200.00 Lakh** against primary security of hypothecation of entire stocks, Book Debts, Plant

& Machinery and other fixed assets, personal guarantees of the Directors and Corporate Guarantees of Extol Winds Limited and collateral security by way of equitable mortgage of immovable properties in favour of Financial Creditor.

- (ix) The fresh Term Loan-II was agreed to be repayable in 10 quarterly instalments along-with applicable interest, commencing w.e.f. 31.10.2014 till 31.03.2017. The rate of interest for Term Loan-I was agreed between the parties @3.00% above Base Rate plus tenor premium of 0.10%, applicable at that time @13.35% per annum with monthly rests plus penal interest @2.00% per annum subject to change from time to time as per RBI Guidelines.
- (x) The Corporate Debtor and others executed and signed various loan and security documents on 03.05.2011, 26.06.2013, 28.06.2013, 04.08.2013, 21.10.2013 as well as Letters of Acknowledgment of Debt on 22.06.2015 and 13.11.2015 in favour of Financial Creditor which are annexed with the Petition as **Annexure-C Colly** and **Annexure-F Colly**.
- (xi) The Financial Creditor has also created its charge on the Corporate Debtor by way of filing Form creation of Charge before the Registrar of Companies. The said charge is already reflected in the Master Data of the Corporate Debtor. A Copy of Certificates of Registration of Charge dated 03.05.2011 & 30.10.2013 is annexed

with the Petition as **Annexure-E Colly** at Page No.34 to 47.

- (xii) However, after availing the aforesaid Term Loans & Cash Credit Facilities, the Corporate Debtor failed to maintain financial discipline as per the terms and conditions of the loan agreement due to which the loan account became irregular and committed default in repayment of instalments as well as servicing interest. Consequently, the said accounts of the Corporate Debtor were classified as NPA on 31.03.2016 and recalled by the Financial Creditor. Thereafter, the Financial Creditor served Final Recall Notice dated 22.01.2018 to the Corporate Debtor and others to repay the outstanding dues, but the Corporate Debtor and others failed to make the payment of outstanding dues, which is annexed with Petition as **Annexure-I** at Page No.581-585.
- (xiii) The Financial Creditor has also placed on record Statement of Accounts along-with Certificate as per provisions of Bankers' Books Evidence Act, 1891 of the Corporate Debtor as **Annexure-D** at page No.33 and **Annexure-G Colly** at page No.586 to 670 as well as **Balance Sheets** of the Corporate Debtor from the F.Y. 2022-23 to 2015-16 wherein Long-Term Borrowings availed from the Bank clearly reflects i.e. the Term Loan Liabilities of the Cooperate Debtor for the purpose of acknowledgment of the debt liability for the

purpose of limitation which are annexed as **Annexure-J Colly** at Page No.676-1221.

- (xiv) The Financial Creditor has also filed Form-D being record of debt and default issued by National E-Governance Services Limited ("**NeSL**") in which date of default is reordered as 16.05.2016 with status "**Deemed to be Authenticated**". A copy of the same is filed separately on 10.04.2024 in the Petition.
- (xv) It is stated by Financial Creditor that the Petition is not barred by law of limitation as Corporate Debtor has acknowledged the debt in their financial statements 2015 to 2023 under the head long term borrowings.

7. The Financial Creditor has relied upon the following documents: -

- i. Sanction Letters dated 30.04.2011 & 26.06.2013
- ii. ROC charge forms Charge Certificate & Search Report
- iii. Various Financial Contract/documents
- iv. Loan Recall Notice
- v. Default available with Information Utility
- vi. The Bank Statement
- vii. Balance Sheet of the Corporate Debtor

8. It is noted that advance notice and copy of the Petition in terms of Rule 4(3) of IB (AAA) Rules, 2016 was already

served on 16.02.2024 through e-mode upon the Corporate Debtor as per proof of email service filed along-with Petition on 20.02.2024. However, despite advance notice by the Financial Creditor & Service of the Petition none has appeared on behalf of the Corporate Debtor on 26.04.2024.

- 9.** Therefore, a formal notice in the Petition was also issued on 26.04.2024 to the Corporate Debtor. The Corporate Debtor was served on 03.05.2024, through e-mode and registered post, on 06.05.2024 as per the Service Report Affidavit filed on 22.05.2024. Thereafter, on various dates i.e. 15.07.2024, 07.08.2024, 07.10.2024, 27.11.2024, 22.01.2025, 11.03.2025, the matter was listed, but no reply was filed by the Corporate Debtor despite the multiple adjournments/dates. Therefore, vide order dated 11.03.2025 the right to file the reply of the Corporate Debtor was closed.
- 10.** That on 11.03.2025 we heard the oral submissions of Ld. Counsel for the Financial Creditor, Ld. Counsel for the Corporate Debtor as well as perused the material available on record and order was reserved.

11. Thereafter, on 17.03.2025 the Corporate Debtor filed I.A. 98 of 2025 under Rule 11 r.w. Rule 49 of the NCLT Rules, 2016 for seeking deferment of pronouncement of orders in CP(IB) No. 18 of 2024 and reopening of the right to file a reply. Accordingly, on 17.03.2025, the pronouncement of order in the main case was deferred and I.A. was ordered to be listed for hearing.

12. The Corporate Debtor in I.A. 98 of 2025 cited reasons including medical exigencies, lack of proper notice of the proceedings, discrepancy in date of default and limitation in the following manner: -

- i. The Corporate Debtor was never properly served with a notice or copy of the petition thereof by the Financial Creditor. The Corporate Debtor only became aware of the proceedings through informal sources, including **friends and relatives**.
- ii. The Corporate Debtor was unable to submit its response in time due to unavoidable circumstances, including: Medical emergencies in the family of the company's management (severe illness of Ms. Sheela Bhatnagar).

- iii. Lack of timely access to petition documents, as the Corporate Debtor had to retrieve copies through the NCLT's Digital Management System (DMS), where annexures were illegible.
- iv. There are serious discrepancies in the Date of Default mentioned by the Petitioner. The Financial Creditor has stated that the Date of Default in Part IV of the Petition is 31.03.2016 whereas the date of default as per the **NeSL** Certificate is 16.05.2016.
- v. The Financial Creditor claims that the default occurred on 31.03.2016 (**NPA date**). However, the Debt Recovery Tribunal (DRT) in SA No. 250 of 2018 (Order dated 09.12.2024) ruled that the NPA classification was illegal, thereby invalidating the claim.
- vi. The petition filed on 20.02.2024, is beyond the three-year limitation period under Article 137 of the Limitation Act, 1963, making it time-barred as no proper acknowledgement is annexed with the Petition of the Corporate Debtor.
- vii. The Corporate Debtor asserts that denying them a chance to respond would violate audi alteram partem (right to be heard) and result in the miscarriage of justice.

- 13.** We heard the oral submissions on 11.03.2025 of Ld. Counsel for the Financial Creditor as well as Ld. Counsel for the Corporate Debtor and perused the material available on record.
- 14.** On perusal of the records, it is found that initially on 30.04.2011 the Financial Creditor had provided financial assistance in the shape of Term Loan-I of **Rs.1272.96 Lakh** to the Corporate Debtor. On 03.05.2011 provided financial assistance in the shape of Cash Credit Limit of **Rs.1500.00 Lakh** for Working Capital. The loan amounts were duly disbursed to the Corporate Debtor as reflects from the Term Loan-I Account Statement bearing A/c **No.12230600001554** as well as Cash Credit Limit Account Statement bearing A/c **No.12230500000094** which are annexed with the Petition as **Annexure-G Colly** at page 586 to 670.
- 15.** Thereafter, on the request of the Corporate Debtor, the Financial Creditor restructured the existing balance outstanding Term Loan-I of **Rs.1034.28 Lacs**, renewed the existing Cash Credit Limit of **Rs.1500.00 Lakh** as well as granted of fresh Term Loan-II Facility of **Rs.200.00 Lakh**

vide Sanction Letter dated 26.06.2013. The Term Loan-II amount of **Rs.1.00 Crore** was availed/ disbursed to the Corporate Debtor as reflects from the Term Loan-II Account Statement bearing A/c **No.12230600001910** which annexed with the Petition as **Annexure-G Colly** at page 586 to 670.

16. On perusal of Cash Credit Limit Account Statement bearing A/c **No.12230500000094**, the quarterly installments of both Term Loan accounts were being deducted form Cash Credit Limit /c **No.12230500000094**. However, the Corporate Debtor was **irregular** since beginning in **servicing the interest** in Cash Credit Limit A/c and committed default. Therefore, loan accounts were classified as NPA on 31.03.2016 and recalled by Financial Creditor vide Final Recall Notice dated 22.01.2018 which was served to the Corporate Debtor and Guarantors asking to repay the outstanding dues which is annexed with Petition as **Annexure-I**.

17. Though, there is a discrepancy in the records concerning the date of default with the National E-Governance Services Ltd. (NeSL) as in **Form-D** records the date of default as

16.05.2016. This anomaly suggests an error on the part of the Financial Creditor in data submission or recording with National E-Governance Services Ltd. (NeSL). The NeSL records are secondary data sources and cannot override primary banking records.

- 18.** Default had already persisted for 90 days before NPA classification. Partial delayed payments did not regularize the accounts, and thus, the Corporate Debtor remained in default. The Corporate Debtor's failure to service regularly interests in Cash Credit Limit A/c even prior to January 2016, as evidenced by the account statement of Cash Credit Limit annexed as **Annexure-G Colly** at page No.586 to 670, justifies the default on the part of the Corporate Debtor.
- 19.** The Financial Creditor has also presented evidence indicating that the Corporate Debtor consistently recorded the outstanding debt in its Balance Sheets for the financial years ending March 31, 2016, March 31, 2017, March 31, 2018, March 31, 2019, March 31, 2020, March 31, 2021, March 31, 2022 and March 31, 2023 which are annexed as **Annexure-J Colly** at Page No.676-1221. These entries serve as acknowledgements of the debt owed to the Financial

Creditor. Moreover, the same has not been disputed by the corporate debtor during the course of oral arguments.

20. Under Section 18 of the Limitation Act, 1963, such acknowledgements result in the renewal of the limitation period, extending it by three years from the date of each acknowledgement. This legal principle has been upheld in various judicial pronouncements. In one of the landmark judgments in the matter of ***Asset Reconstruction Company (India) Limited v. Bishal Jaiswal & Anr.*** (2021) ibclaw.in 55 SC, the Hon'ble **Supreme Court** addressed the issue of whether entries in a company's balance sheet can constitute an acknowledgement of debt under Section 18 of the Limitation Act, 1963. The Court held that such entries do amount to an acknowledgement of liability, thereby extending the limitation period.

21. Therefore, in view of the consistent entries in a Corporate Debtor's Balance Sheets from the F.Y. 2015-16 to 2022-23 acknowledging debt, have effectively extended the limitation period in terms of section 18 of the Limitation Act, 1963. Accordingly, the present Petition filed on 20.02.2024 is

considered within Limitation in view of the series of events taken place between the actual date of default and the date of filing the present Petition.

22. The Financial Creditor has also placed on record Statement of Accounts along-with Certificate as per provisions of Bankers' Books Evidence Act, 1891 of the Corporate Debtor which shows that as on 31.03.2024, an outstanding amount of Rs. 47,60,78,224/- consisting of Rs.22,08,18,695/- being principal and amount of Rs.26,39,69,401/- as interest up-to 30.12.2023 and amount of Rs.5,18,575/- being other charges and less Rs.92,28,447/- being recoveries made remained payable to the Financial Creditor as per the Statement Showing total amounts of debt granted & amount outstanding as on 30.12.2023 as well as A/c Statements annexed with the Petition as **Annexure-D** and **G Colly**.

23. It can be seen from the judgment of the Hon'ble **Supreme Court** in the matter of **M. Suresh Kumar Reddy Vs Canara Bank & Ors. (Civil Appeal No. 7121 OF 2022** decided 11 May, 2023) stating that in the matter of Section

7, the only thing which is to be seen while ordering in Section 7 matters is whether there is debt and default.

24. It is also noted that the objection of the counsel for the Corporate Debtor regarding the findings of DRT having a bearing on the decision of this Adjudicating Authority does not sustain on merits. We are of the considered opinion that a case before DRT is not a bar to file a case before the Adjudicating Authority under the Code. The same has been reiterated by the Hon'ble NCLAT in its order dated 27.06.2023 in the case of **G. Sundaravadivelu Vs Indian Overseas Bank [Comp. App (AT) (CH) (INS) No. 143 of 2022]**. The relevant paragraphs are reproduced hereunder for ready reference:-

“95. What is essential is to exhibit that the ‘Debtor’, had committed a ‘Default’, after the ‘Debt’, had become ‘Due’ and ‘Payable’, by a ‘Debtor’ and no more.

96. It is pointed out that the pendency of proceedings before the ‘Debt Recovery Tribunal’, is not a bar, for the ‘Financial Creditor’, to initiate an action against the ‘Corporate Debtor’. That apart, an ‘Adjudicating Authority’, need not wait for the

decision of 'Debt Recovery Tribunal', while rendering its findings."

- 25.** Thus, plea of the Corporate Debtor that it was never properly served with a copy of the petition or notice thereof by the Financial Creditor is unsubstantiated. The company only became aware of the proceedings through informal sources, including friends and relatives is misconceived and rejected as official records confirm service of notice through registered post and e-mail. The Corporate Debtor had ample opportunity to respond but failed to do so.
- 26.** Further, plea of medical the Corporate Debtor is also not sustainable as The Corporate Debtor was granted multiple opportunities to file a reply but failed to do so. The proceedings have been ongoing since 16.02.2024. The matter was first listed on 26.04.2024 and after service of notice listed on various dates i.e. 15.07.2024, 07.08.2024, 07.10.2024, 27.11.2024, 22.01.2025 and lastly heard on 11.03.2025, whereupon the order was reserved. The Hon'ble Tribunal had previously granted sufficient time for appearance and filing the reply.

- 27.** Judicial precedents emphasize that procedural delays must not obstruct insolvency resolution under the IBC. The provisions under the Insolvency and Bankruptcy Code (IBC), 2016, require adherence to strict timelines to avoid undue delay in adjudicating financial distress. The Corporate Debtor had sufficient opportunities to file a response but failed to do so.
- 28.** Further, the Applicant's contention regarding lack of proper notice is not supported by material evidence, as records indicate that notices were duly issued and the Corporate Debtor had knowledge of the proceedings. The argument based on medical grounds, though sympathetic, does not provide a sufficient legal basis for reopening the right to file a reply at this advanced stage.
- 29.** In view of the Financial Creditor establishing the existence of a legally enforceable debt and default, the present Petition under Section 7(5) of the Insolvency and Bankruptcy Code, 2016 is complete. The Financial Creditor is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. The outstanding financial debt is more

than rupees one crore which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present application as Balance Sheets from the F.Y. 2015-16 to 2021-23. Moreover, the said default is not covered under the period exempted under Section 10A of IBC, 2016.

30. Further, the Hon'ble **Supreme Court** in the case of ***Innoventive Industries Limited v. ICICI Bank Limited***, where it has discussed extensively the scope of the Adjudicating authority under section 7 of the IBC is limited to assessing the records provided by the financial creditor to satisfy itself that the default has occurred.:-

28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor – it need not be a debt owed to the financial creditor. Under Section 7(2), an application is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1

accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the “debt”, which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. 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. Under sub-section (7),

the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.

30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is “due” i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.

31. Given the circumstances and in view of the repeated adjournments granted earlier, the Tribunal finds no merit in the present interlocutory application filed on 17.03.2025. Allowing such an application at this stage would set a precedent of condoning unwarranted delays, contrary to the objectives of the IBC. Accordingly, the Interlocutory

Application being **IA 99 of 2025 in CP(IB) 18 of 2024** is misconceived and rejected accordingly.

32. Further, the Petition **CP(IB) 18 of 2024** filed under section 7(2) of the Insolvency and Bankruptcy Code for initiation of the corporate insolvency resolution process against the Respondent/Corporate Debtor deserves to be admitted.

33. Accordingly, in light of the above facts and circumstances, it is, **hereby ordered** as under: -

(i) The Respondent/Corporate Debtor **Extol Industries Limited** is **admitted** in the Corporate Insolvency Resolution Process (**CIRP**) under section 7 of the IBC, 2016.

(ii) As a consequence, thereof, an Interim Resolution Professional (**IRP**) is appointed, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the IBC, 2016.

a. *The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*

- b. *Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;*
 - c. *Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitisation 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 Corporate Debtor.*
 - e. *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements 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.*
- (iii) The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the corporate debtor under Section 33 of the IBC 2016, as the case may be.

- (iv) However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the corporate debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period. The corporate debtor to provide effective assistance to the IRP as and when she takes charge of the assets and management of the corporate debtor.
- (v) As proposed by the Financial Creditor, we appoint **Ms. Teena Saraswat Pandey** having Registration No. IBBI/IPA--001/IP-P00652/2017-18/11126, having address: 387F, 114 Scheme Part-1, Behind Diksha Boys Hostel, Sant Nagar, Indore, Madhya Pradesh, 452010 (**e-mail: teenasaraswat@yahoo.co.in**) under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). She shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.
- (vi) The IRP so appointed shall make a public announcement of the initiation of Corporate Insolvency Resolution Process and call for submissions of claims under section 15, as required by Section 13(1)(b) of the Code.
- (vii) The IRP shall perform all her functions as contemplated, *inter-alia*, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel

connected with the corporate debtor, its promoters, or any other person associated with the management of the corporate debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the corporate debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- (viii) The IRP is expected to take full charge of the corporate debtor's assets, and documents without any delay whatsoever. She is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- (ix) The IRP shall be under a duty to protect and preserve the value of the property of the 'corporate debtor company' and manage the operations of the corporate debtor company as a going concern as a part of obligation imposed by section 20 of the Code.
- (x) The IRP or the RP, as the case may be shall submit to this Adjudicating Authority periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.

- (xi) We direct the financial creditor to pay IRP a sum of **Rs.2,00,000/- (Rupees Two Lakh Only)** in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public notice and inviting claims etc. till the CoC decides about her fees/expenses.
- (xii) The Registry is directed to communicate this order to the financial creditor, corporate debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specific mention regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.
- (xiii) The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST (centre), State Trade Tax, Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/employees associations so that they are informed of the initiation of CIRP against the Corporate Debtor timely.

(xiv) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

25. Accordingly, this Application **CP(IB)/18/MP/2024** is hereby admitted. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-
SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Sd/-
SHAMMI KHAN
MEMBER (JUDICIAL)