



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-II
KOLKATA**

C.P. (IB) No 4/KB/2019

**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:

J.M. Financial Asset
Reconstruction Company Limited
A company incorporated under the
Companies Act 1956 having its
office address at 7th Floor,
Cnergy , Appasaheb Marathe Marg,
Prabhadevi, Mumbai-400025

.....Financial Creditor

Versus

Howrah Mills Company Limited
A company incorporated under the
Companies Act 1956 having its
registered office at:
Howrah House, 135 Foreshore Road,
Howrah 711102, West Bengal

.....Corporate Debtor



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

With

**An Applications under Section 60(5) of the
Insolvency and Bankruptcy Code, 2016 read along
with Rule 11 of the NCLT Rules,2016**

IA(IBC) No. 2425/KB/2024

In the matter of:

Abinandan Holdings Private Limited

having its registered office:

3-B, Darpanarayan Tagore Street

Kolkata, West Bengal-700006

Applicant

Vs.

J.M. Financial Asset

Reconstruction Company Limited

A company incorporated under the

Companies Act 1956 having its

office address at 7th Floor,

Cnergy , Appasaheb Marathe Marg,

Prabhadevi, Mumbai-400025

Respondent

And



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

**An Applications under Section 60(5) of the
Insolvency and Bankruptcy Code, 2016 read along
with Rule 11 of the NCLT Rules,2016**

IA(IBC) No. 2441/KB/2024

In the matter of:

Howrah Mills Company Limited

A company incorporated under the
Companies Act 1956 having its
registered office at:

Howrah House, 135 Foreshore Road,
Howrah 711102, West Bengal

Applicant

Vs.

J.M. Financial Asset

Reconstruction Company Limited

A company incorporated under the
Companies Act 1956 having its
office address at 7th Floor,
Cnergy , Appasaheb Marathe Marg,
Prabhadevi, Mumbai-400025

Respondent

And



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

**An Applications under Section 60(5) of the
Insolvency and Bankruptcy Code, 2016 read along
with Rule 11 of the NCLT Rules,2016**

IA(IBC) No. 1000/KB/2025

In the matter of:

Abinandan Holdings Private Limited

having its registered office:

3-B, Darpanarayan Tagore Street

Kolkata, West Bengal-700006

Applicant

Vs.

J.M. Financial Asset

Reconstruction Company Limited

A company incorporated under the

Companies Act 1956 having its

office address at 7th Floor,

Cnergy , Appasaheb Marathe Marg,

Prabhadevi, Mumbai-400025

Respondent

Date of Pronouncement:24.06.2026

Coram:

Labh Singh, Hon'ble Member (Judicial)

Rekha Kantilal Shah, Member (Technical)



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

Appearances (Physically/ via video conference)

Mr. Mainak Bose Ld. Sr. Advocate

Mr. Vikram Wadhera, Adv.

Mr. Indradeep Basu, Adv.

Mr. Mayukh Roy, Adv.] For the Financial Creditor

Mr. Abhrajit Mitra, Sr. Adv.

Mr, Dhirendranath Sharma, Adv.

Ms. Madhujā Barman, Adv.] For the Corporate Debtor

Mr. Joy Saha, Sr. Adv.

Mr. Shaunak Mitra, Adv.

Mr. Rishav Banerjee, Adv.

Mr. Patitīa Paban Bishwal, Adv.] For the Abinandan
Holidays (P) Ltd.

ORDER

Labh Singh Judicial Member

1. This common order of ours shall dispose of IA(IB) No. 2425/Kb/2024, IA(IB) No.2441/KB/2024, IA(IB) No. 1000/KB/2025 filed in the present Company Petition and the present Company Petition being C.P(IB) No. 04/KB/2019.

C.P(IB) No.04/KB/2019

2. The present Company Petition No. 4/KB/2019 has been filed by J.M. Financial Asset Reconstruction Company Limited, the Financial Creditor (hereinafter to be referred as 'Financial



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

Creditor'), under Section 7 of Insolvency and Bankruptcy Code 2016(for short '**the Code**') read with read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity '**the Rules**') to initiate Corporate Insolvency Resolution Process (for short "**CIRP**") against Howrah Mills Company Limited, the Corporate Debtor(hereinafter to be referred as "**the Corporate Debtor**").

3. Briefly stated the facts of the case are that the present company petition has been filed by the Financial Creditor for financial debt of Rs. 40,38,00,000/- as claimed to be disbursed on various dates as per sanction letters annexed as Annexure-D to the company petition. The amount claimed to be in default is Rs. 54,58,33,004.02(Rupees Fifty Four Crores Eight Lakh Thirty Three Thousand Four and Paisa Two Only) outstanding as on 15.12.2018.
4. It has further been claimed in part IV of the application that the account was classified as non performing asset on 31.12.2025. The details of the amount claimed to be in default are described in Annexure-E to the application. The particulars of financial debt including details of security held with date of creation is mentioned in part V of the present application.



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

- a. It has been submitted that consequent upon execution of a deed of assignment of financial assets of the Corporate Debtor, an agreement was executed between J.M Asset Reconstruction Company, the Financial Creditor/Intending Assignor, and Abhinandan Holding, the Intending Assignee, on 15.01.2020, and in compliance of the terms the same, the Financial Creditor preferred I.A. 123/KB/2020 to seek withdrawal of the C.P. (IB) No. 4/KB/2019 with liberty to pursue the same in the event of default by Abhinandan Holdings Pvt. Ltd, the intending assignee.
- b. Consequently, this Adjudicating Authority, vide order dated 23rd January, 2020, allowed withdrawal of the CP(IB) No. 123/KB/2020, with the following order:

“Ld. Sr. Counsel for the financial creditor appears. Ld. Counsel for the corporate debtor appears. Both of them submitted that matter is settled. For this purpose, CA(IB) 123/KB/2020 is filed for recording settlement. In view of this, this proceeding stands disposed of with liberty to the financial creditor to get the matter revived, if the settlement fails. CP along with all the CAs stand disposed off.”



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

- c. Thereafter, the settlement with the Corporate Debtor having failed, the Financial Creditor filed a Restoration Application being RST.A.842/KB/2020. The Corporate Debtor objected to the revival of the main Company Petition against it; however, this Tribunal allowed restoration application on 02.02.2021.
- d. The Corporate Debtor, being aggrieved with the order of restoration of the Company Petition, preferred an Appeal(AT) (Insolvency) No. 339 of 2021 before Hon'ble National Company Law Appellate Tribunal wherein Hon'ble NCLAT vide order dated 11.01.2023 dismissed the appeal with the following observations:

"We are of the considered view that no case for setting aside the order dated 02.02.2021 passed by the Adjudicating Authority (National Company Law Tribunal, Kolkata Bench, Kolkata) in RST. A. No. 842/KB/2020 in CP (IB) No. 04/KB/2019 is made out as the Section 7 Application bearing CP (IB) No. 04/KB/2019 filed by the Respondent No. 1 was directed to be listed for hearing on 16.03.2021 by the Adjudicating Authority, therefore, there is no ground for interference. However, we dispose of the instant Appeal with request to the Adjudicating



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

Authority (National Company Law Tribunal, Kolkata Bench, Kolkata) to hear all the parties i.e., Appellant, Respondent No. 1 & Respondent No. 2 and after hearing the parties, the Adjudicating Authority may pass appropriate orders in CP (IB) No. 04/KB/2019 in accordance with law expeditiously. Keeping in view that the matter is pending before the Adjudicating Authority since 2019, the parties are at liberty to raise all the relevant issues both in fact and in law before the Adjudicating Authority. We have not expressed any view on the merits of the matter and the Adjudicating Authority shall hear the matter afresh uninfluenced by any observations herein. With the aforesaid observations and directions, the instant Appeal is disposed of.

4. Therefore, in view of aforesaid observation and direction of Hon'ble National Company Law Appellate Tribunal, this Adjudicating Authority permitted Abhinandan Holding, the intending assignee to be impleaded as party in the Company Petition and to file its reply affidavits.



5. This Tribunal, as per direction of Hon'ble NCLAT, heard the matter afresh and disposed of the Company Petition with the following observations:

- (i) *"The transfer or sale of financial assets of Howrah Mills (the borrower) to Abhinandan Holding which is in effect the dues of the borrower to JMFARC is still in force being not revoked, cancelled or rescinded. The JMFARC and Abhinandan Holding are still bound of the agreement to assign, but that does not bind the original borrower Howrah Mills. Such being the legal position, for all practical purposes JMFARC cannot proceed against Howrah Mills anymore. However, JMFARC can proceed against Abhinandan for any default committed by Abhinandan in terms of agreement but not against Howrah Mills, its financial assets being already purchased by Abhinandan as explained above.*
- (ii) *We would also note that the default against the 3rd and 4th trench falls within the bar of Section 10 A of IBC. Hence on that count also application under Section 7 of IBC that too against Howrah Mills for the said defaults is not maintainable. Hence, the*



instant Petition is not maintainable against Howrah Mills and stands dismissed.

(iii) It was further observed that Abhinandan had expressed its intention to settle the matter with the intending Assignor JMFARC when the matter was pending before the Appellate Forum which it can always explore. JMFARC will always be at liberty to pursue its remedies in accordance with law.

6. J.M Financial Asset Reconstruction Company Ltd preferred Company Appeal (AT) (Insolvency) No. 521 of 2024 before Hon'ble NCLAT against order dated 25.01.2024. Hon'ble NCLAT allowed the appeal and set aside the order dated 25.01.2024.
7. The Abinandan Holding Private Limited, Intending Assignee being aggrieved from the order dated 12th July 2024, preferred an appeal before Hon'ble Supreme Court. However, Hon'ble Supreme Court dismissed the said appeal and accordingly, the order dated 12.07.2024 attained finality. Therefore, the applicant is not entitled to any relief as prayed for in the present application and Company Petition requires it to be allowed and the Corporate Debtor should be admitted in the CIRP process.

IA(IBC) No. 2425/KB/2024



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

8. The present application has been filed by Abinandan Holding Private Limited, the Intending Assignee to stay proceedings of the Company Petition C.P(IBC) no. 04/KB/2019 and direct the Financial Creditor to grant a chance to the Corporate Debtor to discharge the debt and enter into settlement with the applicant in accordance with direction of Hon'ble NCLAT issued in Company Appeal No. 521 of 2024.
9. It has been submitted that Hon'ble NCLAT, vide order dated 12.07.2024, while admitting the appeal has directed the respondent to discharge the debt and enter into settlement with the Financial Creditor within a period of 30 days. The applicant preferred an appeal before Hon'ble Supreme Court against order dated 12.07.2024. Hon'ble Supreme Court disposed of the appeal vide order dated 10.12.2024 with observation that there is no reason to interfere with the order passed by the Hon'ble NCLAT.
10. Thus, the order passed by Hon'ble NCLAT has attained finality and as per order dated 12.07.2024, a direction was given to discharge the debt and enter into settlement with the applicant during 30 days. Therefore, respondent/Financial Creditor be directed to enter into settlement with the applicant for discharge of debt.



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

11. The Financial Creditor/Respondent filed its object to the present application that the applicant offered settlement for an amount of Rs. 19.5 crore on 02.01.2025 which has already been rejected vide email communication dated 20.01.2025 on the ground that the debt has not been assigned in favour of the applicant. The directions issued by the Hon'ble NCLAT are clear and unambiguous. Therefore, the present application deserves to be dismissed.

IA(IBC) No. 2441/KB/2024

12. The present application has been filed by Howrah Mill Company Limited, the Corporate debtor with a prayer to dismiss the CP(IB) No. 04/KB/2019 and defer the pronouncement of judgment and direct the respondents particularly respondent no. 2 to file a reply affidavit to the present application on the issue of lack of authorisation of respondent no. 1 to file and maintain the present petition.
13. 8. It has been submitted that on 10.12.2024, the applicant came to know that an inter-se agreement dated 01.12.2008, 29.09.2011, 13.03.2013, and 09.10.2013 executed between respondent no. 2 and Federal Bank, predecessor interest of respondent no. 1 whereby respondent no. 2 has been designated as lead Bank of the State Bank Consortium. The



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

said agreement further provides that power of attorney should be executed in favour of the lead bank/respondent no. 2 so as to enable respondent no. 2 to take all necessary steps. Thus, respondent no. 1 has no right to institute any proceedings against the applicant in relation to working capital facility agreement and it is only respondent no. 2 who are empowered to do so. Therefore, the Company Petition has been filed by respondent no. 1 without any authorisation.

14. Therefore, the present application deserves to be allowed and all proceedings arising out of C.P No. 04/KB/2019 be kept in abeyance pending disposal of the present application.
15. The respondent/Financial Creditor filed its reply opposing the present application and prayed for dismissal of the present application in view of order dated 121.07.2024 passed by the Hon'ble NCLAT.

IA(IBC) No. 1000/KB/2025

16. The present application has been filed by Abinandan Holding Private Limited, the Intending Assignee, under Section 60(5) of IBC Code 2016 with a prayer for dismissing the petition being CP(IB) No. 04/KB/2019 filed by the Financial Creditor against the Corporate Debtor.



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

17. It has been submitted that the applicant is willing to pay the balance of Rs. 19,51,00,000/- with simple interest from January 31, 2020 till date of acceptance of the applicant offer by the respondent. It is also further stated that an application being I.A. (IBCI/2425/KB/2024 is also pending before this Tribunal for adjudication with that effect.
18. It has further been submitted that the respondent is deliberately misconstruing and misinterpreting the clear and unambiguous terms of the judgment passed by the Hon'ble Appellate Tribunal by alleging that only the Corporate Debtor was permitted to discharge the debt as has been assigned to the applicant. Therefore, a prayer has been made
19. The Financial Creditor, being respondent in the said IA no. 1000/KB/2025, filed its objection stating therein that the applicant made an offer of Rs. 19.5 crore in favour of the respondent towards full and final settlement of claim against Howrah Mills Company Limited, ie. the Corporate Debtor on 2nd January 2025. Respondent, vide its email dated 20th January 2025 sent to the applicant, categorically denied the offer made by the applicant on the ground that the debt of the Corporate Debtor has not been assigned to the applicant and respondent continues to be the creditor. The applicant, by filing the present application, is seeking a



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

direction from this Tribunal on the respondent to provide a chance to discharge the debt and enter into settlement. The debt of the financial creditor/ Respondent i.e. JMFARC has not been assigned to the applicant and therefore respondent continues to be the secured financial creditor and Howrah Mills Company Limited is the Corporate Debtor. The debt on the part of Howrah Mills Company Limited continues and the Corporate Debtor does not stand absolved of its liabilities in favour of Respondent.

20. It has further been replied that the respondent aggrieved from the order of dismissal of the Company Petition, challenged the order before Hon'ble NCLAT, in Company Appeal (AT) (Ins.) No. 521 of 2024 wherein Hon'ble NCLAT set aside order dated 25.01.2024 vide order dated 12th July 2024. The directions in the order dated 12th July 2024 passed by the Hon'ble NCLAT setting aside the order dated 25.01.2024 are clear and unambiguous. Further, the order dated 12th July 2024 has not been interfered with by the Hon'ble Supreme Court of India.
21. Therefore, in view of the above, the applicant is not entitled to any relief as prayed for in the present application and the same liable to be dismissed with cost.



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

22. Heard Mr. Mainak Bose Learned Sr. Counsel appearing for the Financial Creditor, Mr. Joy Saha Learned Sr. Counsel appearing for the Abinandan Holding Private Limited, the applicant in IA No. 1000/KB/2025 and Learned Counsel appearing for Howrah Mill Company Limited, the Corporate Debtor. We have carefully gone through entire pleading and documentary evidence available on record of the present Company Petition, and the interim applications filed in the present company petition. We have duly appreciated the law applicable on the facts and circumstances of the present case.
23. Mr. Joy Saha Ld. Sr. Counsel argued that Abhinandan Holdings Private Limited, the Intending Assignee, had filed a suit no. 22 of 2023 before Ld. Commercial Court Rajarhat wherein an order of injunction dated 29.09.2021 has been passed restraining Financial Creditor from giving any effect or further effect or acting to the revocation letter dated March 2, 2020 and the said order has been extended from time to time. The said suit is still pending hearing of Ld. Commercial Court. The Corporate Debtor has also filed civil suit being T.S No.322/2020 before Learned Civil Judge(Sr. Division) Howrah wherein interim order dated 20.10.2020 has been passed restraining the Financial Creditor giving effect



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

to letter dated 02.03.2020. Therefore, in view of two restraint orders passed by two different Civil Courts one at the instance of Corporate Debtor and the other at the instance of Abinandan Holding Private Limited, the application filed under section 7 petition is not maintainable, so long as the revocation letter issued by FC dated March 20, 2020 remains stayed.

24. He further argued that in terms of the principles of comity of courts, this Tribunal cannot ignore the existence of the two restraint orders passed in two different civil suits by two different appropriate Civil Courts. So long as the revocation letter dated March 20, 2020 is stayed, the section 7 petition could not have been proceeded with by giving effect to the revocation notice dated March 20, 2020.
25. It is pertinent to note that the Abinandan Holding Private Limited is relying on an injunction order of Learned Commercial Court which is dated 29.09.2021. This issue has been agitated before Hon'ble NCLAT. Hon'ble NCLAT has observed that the injunction order did not interdict in any manner the proceeding filed under Section 7 of IBC and which has been initiated and revived by the appellant. This Tribunal has no right to adjudicate this issue in view of specific finding of the Hon'ble NCLAT.



26. Hon'ble NCLAT, while setting aside order dated 25.01.2024 passed by this Adjudicating Authority in the present company petition, allowed the Company Appeal (AT) (Insolvency) No. 521 of 2024 vide order dated 12.07.2024 with observation that the debt and default on the part of the Corporate Debtor has been established. Consequently, Hon'ble NCLAT has directed this Adjudicating Authority to pass an order of admission of the company petition within 30 days of the date of order and initiate CIRP process against the Corporate Debtor. Hon'ble NCLAT has kept open a window for the respondent to discharge the debt and enter into settlement agreement with appellant, if any during the said period of 30 days.

27. Therefore, the observation of Hon'ble NCLAT made in para no. 24 and 26 of order dated 12.07.2024 in Company Appeal (AT) (Insolvency) No. 521 of 2024 are crucial to decide the controversy involved in the present application. The relevant observation of Hon'ble NCLAT made in para no. 24 and 26 as follow:

"24. In view of the foregoing discussions, we are of the considered opinion that debt and default on the part of the corporate debtor still continues. The intending assignment having never taken place, the debt cannot be held to be assigned to Respondent No.2 so that the Respondent No.2 may



step into the shoes of the financial creditor of the corporate debtor. Adjudicating Authority committed error in dismissing Section 7 application filed by the financial creditor. Debt and default having been proved, we are of the view that the Adjudicating Authority ought to have admitted Section 7 application and initiated CIRP against the corporate debtor.

26. In result, we allow the appeal in following manner:-

- (i) The order dated 25.01.2024 is set aside.*
- (ii) The application under Section 7 filed by the appellant deserves to be admitted. Adjudicating Authority may pass an order of admission along with consequential order within 30 days from the date, copy of this order is produced before the Adjudicating Authority.*
- (iv).During the period of 30 days, it shall be open for the Respondent to discharge the debt and enter into any settlement with Appellant, if any”.*

28. It is further pertinent to note that Hon'ble NCLAT has not recognised the assignment of debt in favour of Abinandan Holding Private Limited, the respondent 2. Hon'ble NCLAT has further observed that the respondent no. 2 has not stepped into the shoes of respondent no.1, the Corporate Debtor.

29. Therefore, in view of the above, the contention the applicant, Abinandan Holding Private Limited in IA(IB) No. 1000/KB/2025 that the Financial Creditor had assigned the



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

debt with respect to the Corporate Debtor for a sum of Rs. 26,01,00,000/- does not survive as having been decided by the Hon'ble NCLAT. Furthermore, the contention of the applicant, Abinandan Holding Private Limited that after payment of Rs. 6,50,00,000/- in January 2018 and further submission of pay order of Rs. 1,00,00,000/- in pursuance of Agreement dated 15.01.2020, there is remaining balance of Rs. 19,51,00,000/- is contrary to order dated 12.07.2024 passed by Hon'ble NCLAT. Hon'ble NCLAT has specifically held that the debt cannot be held to be assigned to the respondent no. 2/the applicant herein so that respondent no. 2/the applicant can step into the shoes of the Corporate Debtor.

30. Mr. Joy Saha, Learned Sr. Counsel, appearing for Abhinandan Holdings Pvt. Ltd, the Intending Assignee, further argued that Hon'ble NCLAT has granted the opportunity to discharge the debt not only to the Howrah Mill Private Limited, the Corporate Debtor rather to Abinandan Holdings Pvt. Limited, the intending Assignee also. The intending assignee, the Abinandan Holding Private Limited is respondent no. 2 as clear from para no. 2.1 of the judgment dated 12.07.2024.

31. It is clear more than crystal from perusal of order dated 12.07.2024 passed by Hon'ble NCLAT that Hon'ble NCLAT has



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

not recognised the right of the Abinandan Holding Private Limited as intending assignee; and hence, the word used as respondent is limited to the Corporate Debtor and not Abinandan Holding Private Limited. Therefore, with utmost respect to the judgment of the Hon'ble NCLAT dated 12.07.2024, we are of the considered view that Hon'ble NCLAT has granted the opportunity to discharge the debt to the Corporate Debtor only and not to Abinandan Holding Private Limited.

32. Even otherwise, if we accept the contention of the applicant, Abinandan Holding Private Limited, being one of the respondents in Company Appeal and interested in making payment of the Corporate Debtor, it has also not tried to settle the matter for the entire debt payable by the Corporate Debtor. The applicant is insisting upon agreement dated 15.01.2020 and claiming payment of balance amount of Rs. 19,51,00,000/- which is contrary to judgment dated 12.07.2024 passed by the Hon'ble NCLAT.
33. In the facts and circumstances of the case where the debt and default has been established as decided by the Hon'ble NCLAT and on a bare perusal of Form - I filed under Section 7 of the Code read with Rule 4 of the Rules shows that the form is complete and there is no infirmity in the same. It



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

is also seen that there is no disciplinary proceeding pending against the proposed Interim Resolution Professional.

34. We are satisfied that the present application is complete in all respects and the applicant financial creditor is entitled to claim its outstanding financial debt from the corporate debtor and that there has been default in payment of the financial debt.
35. As a sequel to the above discussion and in terms of Section 7(5)(a) of the Code, the present company petition being **C.P(IB) No. 04/KB/2019** is allowed and the Corporate Debtor is admitted in the CIRP process with the following order:
 - i. Mr. Vinod Kumar Kothari, having registration number IBBI/IPA-002,/IP-N00019/2016-17/10033, residing at 1006-1009, Krishan Building, 224 AJC Bose Road, Kolkata-700017 having email id resolution@vinodkothari.com is appointed as an Interim Resolution Professional for the corporate debtor.
 - ii. In pursuance of Section 13(2) of the Code, We direct that public announcement shall be made by the Interim Resolution Professional immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations,



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

2016) with regard to admission of this application under Section 7 of the Insolvency and Bankruptcy Code, 2016.

iii. We direct the applicant Financial Creditor to deposit a sum of Rs. 3,00,000/- (Rupees Three Lakh) with the Interim Resolution Professional namely Mr. Vinod Kumar Kothari to meet out the expenses to perform the functions/duties assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Financial Creditor. The said amount however is subject to adjustment towards Resolution Process cost as per applicable rules.

iv. The moratorium is declared in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14(1)(a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

“(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;



- (b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of 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.”
- v. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14(3)(b) of the Code.
- vi. The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18,



19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day to day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

- vii. The Registry is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

Resolution Professional and the Registrar of Companies, West Bengal at the earliest possible but not later than three days from today. The Registrar of Companies shall update its website by updating the status of the Corporate Debtor, and specific mention regarding admission of this petition must be notified.

viii. The Registry is further directed to send a copy of this order to the IBBI for its record.

36. In view of our aforesaid observation, the pending IA (IBC) No. 1000/KB/2025; IA(IBC) No. 2425/KB/2024 and IA(IBC) No. 2441/KB/2024 stands disposed of.

Rekha Kantilal Shah
Member(Technical)

Labh Singh
Member(Judicial)



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

**IN THE NATIONAL COMPANY LAW TRIBUNAL
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C.P. (IB) No 4/KB/2019

**An Application under Section 7 of the Insolvency
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In the matter of:

J.M. Financial Asset
Reconstruction Company Limited
A company incorporated under the
Companies Act 1956 having its
office address at 7th Floor,
Cnergy , Appasaheb Marathe Marg,
Prabhadevi, Mumbai-400025

.....Financial Creditor

Versus

Howrah Mills Company Limited
A company incorporated under the
Companies Act 1956 having its
registered office at:
Howrah House, 135 Foreshore Road,
Howrah 711102, West Bengal

.....Corporate Debtor



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

With

**An Applications under Section 60(5) of the
Insolvency and Bankruptcy Code, 2016 read along
with Rule 11 of the NCLT Rules,2016**

IA(IBC) No. 2425/KB/2024

In the matter of:

Abinandan Holdings Private Limited

having its registered office:

3-B, Darpanarayan Tagore Street

Kolkata, West Bengal-700006

Applicant

Vs.

J.M. Financial Asset

Reconstruction Company Limited

A company incorporated under the

Companies Act 1956 having its

office address at 7th Floor,

Cnergy , Appasaheb Marathe Marg,

Prabhadevi, Mumbai-400025

Respondent

And



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

**An Applications under Section 60(5) of the
Insolvency and Bankruptcy Code, 2016 read along
with Rule 11 of the NCLT Rules,2016**

IA(IBC) No. 2441/KB/2024

In the matter of:

Howrah Mills Company Limited

A company incorporated under the
Companies Act 1956 having its
registered office at:

Howrah House, 135 Foreshore Road,
Howrah 711102, West Bengal

Applicant

Vs.

J.M. Financial Asset

Reconstruction Company Limited

A company incorporated under the
Companies Act 1956 having its
office address at 7th Floor,
Cnergy , Appasaheb Marathe Marg,
Prabhadevi, Mumbai-400025

Respondent

And



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

**An Applications under Section 60(5) of the
Insolvency and Bankruptcy Code, 2016 read along
with Rule 11 of the NCLT Rules,2016**

IA(IBC) No. 1000/KB/2025

In the matter of:

Abinandan Holdings Private Limited

having its registered office:

3-B, Darpanarayan Tagore Street

Kolkata, West Bengal-700006

Applicant

Vs.

J.M. Financial Asset

Reconstruction Company Limited

A company incorporated under the

Companies Act 1956 having its

office address at 7th Floor,

Cnergy , Appasaheb Marathe Marg,

Prabhadevi, Mumbai-400025

Respondent

Date of Pronouncement:24.06.2026

Coram:

Labh Singh, Hon'ble Member (Judicial)

Rekha Kantilal Shah, Member (Technical)



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

Appearances (Physically/ via video conference)

Mr. Mainak Bose Ld. Sr. Advocate

Mr. Vikram Wadhera, Adv.

Mr. Indradeep Basu, Adv.

Mr. Mayukh Roy, Adv.] For the Financial Creditor

Mr. Abhrajit Mitra, Sr. Adv.

Mr, Dhirendranath Sharma, Adv.

Ms. Madhujā Barman, Adv.] For the Corporate Debtor

Mr. Joy Saha, Sr. Adv.

Mr. Shaunak Mitra, Adv.

Mr. Rishav Banerjee, Adv.

Mr. Patitia Paban Bishwal, Adv.] For the Abinandan
Holidays (P) Ltd.

O R D E R

(Amended as per order dated 17.07.2026)

Labh Singh Judicial Member

1. This common order of ours shall dispose of IA(IB) No. 2425/Kb/2024, IA(IB) No.2441/KB/2024, IA(IB) No. 1000/KB/2025 filed in the present Company Petition and the present Company Petition being C.P(IB) No. 04/KB/2019.

C.P(IB) No.04/KB/2019

2. The present Company Petition No. 4/KB/2019 has been filed by J.M. Financial Asset Reconstruction Company Limited, the Financial Creditor (hereinafter to be referred as 'Financial



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

Creditor'), under Section 7 of Insolvency and Bankruptcy Code 2016(for short '**the Code**') read with read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity '**the Rules**') to initiate Corporate Insolvency Resolution Process (for short "**CIRP**") against Howrah Mills Company Limited, the Corporate Debtor(hereinafter to be referred as "**the Corporate Debtor**").

3. Briefly stated the facts of the case are that the present company petition has been filed by the Financial Creditor for financial debt of Rs. 40,38,00,000/- as claimed to be disbursed on various dates as per sanction letters annexed as Annexure-D to the company petition. The amount claimed to be in default is Rs. 54,58,33,004.02(Rupees Fifty Four Crores Eight Lakh Thirty Three Thousand Four and Paisa Two Only) outstanding as on 15.12.2018.
4. It has further been claimed in part IV of the application that the account was classified as non performing asset on 31.12.2025. The details of the amount claimed to be in default are described in Annexure-E to the application. The particulars of financial debt including details of security held with date of creation is mentioned in part V of the present application.



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

- a. It has been submitted that consequent upon execution of a deed of assignment of financial assets of the Corporate Debtor, an agreement was executed between J.M Asset Reconstruction Company, the Financial Creditor/Intending Assignor, and Abhinandan Holding, the Intending Assignee, on 15.01.2020, and in compliance of the terms the same, the Financial Creditor preferred I.A. 123/KB/2020 to seek withdrawal of the C.P. (IB) No. 4/KB/2019 with liberty to pursue the same in the event of default by Abhinandan Holdings Pvt. Ltd, the intending assignee.
- b. Consequently, this Adjudicating Authority, vide order dated 23rd January, 2020, allowed withdrawal of the CP(IB) No. 123/KB/2020, with the following order:

“Ld. Sr. Counsel for the financial creditor appears. Ld. Counsel for the corporate debtor appears. Both of them submitted that matter is settled. For this purpose, CA(IB) 123/KB/2020 is filed for recording settlement. In view of this, this proceeding stands disposed of with liberty to the financial creditor to get the matter revived, if the settlement fails. CP along with all the CAs stand disposed off.”



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

- c. Thereafter, the settlement with the Corporate Debtor having failed, the Financial Creditor filed a Restoration Application being RST.A.842/KB/2020. The Corporate Debtor objected to the revival of the main Company Petition against it; however, this Tribunal allowed restoration application on 02.02.2021.
- d. The Corporate Debtor, being aggrieved with the order of restoration of the Company Petition, preferred an Appeal(AT) (Insolvency) No. 339 of 2021 before Hon'ble National Company Law Appellate Tribunal wherein Hon'ble NCLAT vide order dated 11.01.2023 dismissed the appeal with the following observations:

"We are of the considered view that no case for setting aside the order dated 02.02.2021 passed by the Adjudicating Authority (National Company Law Tribunal, Kolkata Bench, Kolkata) in RST. A. No. 842/KB/2020 in CP (IB) No. 04/KB/2019 is made out as the Section 7 Application bearing CP (IB) No. 04/KB/2019 filed by the Respondent No. 1 was directed to be listed for hearing on 16.03.2021 by the Adjudicating Authority, therefore, there is no ground for interference. However, we dispose of the instant Appeal with request to the Adjudicating



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

Authority (National Company Law Tribunal, Kolkata Bench, Kolkata) to hear all the parties i.e., Appellant, Respondent No. 1 & Respondent No. 2 and after hearing the parties, the Adjudicating Authority may pass appropriate orders in CP (IB) No. 04/KB/2019 in accordance with law expeditiously. Keeping in view that the matter is pending before the Adjudicating Authority since 2019, the parties are at liberty to raise all the relevant issues both in fact and in law before the Adjudicating Authority. We have not expressed any view on the merits of the matter and the Adjudicating Authority shall hear the matter afresh uninfluenced by any observations herein. With the aforesaid observations and directions, the instant Appeal is disposed of.

4. Therefore, in view of aforesaid observation and direction of Hon'ble National Company Law Appellate Tribunal, this Adjudicating Authority permitted Abhinandan Holding, the intending assignee to be impleaded as party in the Company Petition and to file its reply affidavits.



5. This Tribunal, as per direction of Hon'ble NCLAT, heard the matter afresh and disposed of the Company Petition with the following observations:

(i) *"The transfer or sale of financial assets of Howrah Mills (the borrower) to Abhinandan Holding which is in effect the dues of the borrower to JMFARC is still in force being not revoked, cancelled or rescinded. The JMFARC and Abhinandan Holding are still bound of the agreement to assign, but that does not bind the original borrower Howrah Mills. Such being the legal position, for all practical purposes JMFARC cannot proceed against Howrah Mills anymore. However, JMFARC can proceed against Abhinandan for any default committed by Abhinandan in terms of agreement but not against Howrah Mills, its financial assets being already purchased by Abhinandan as explained above.*

(ii) *We would also note that the default against the 3rd and 4th trench falls within the bar of Section 10 A of IBC. Hence on that count also application under Section 7 of IBC that too against Howrah Mills for the said defaults is not maintainable. Hence, the*



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

instant Petition is not maintainable against Howrah Mills and stands dismissed.

(iii) It was further observed that Abhinandan had expressed its intention to settle the matter with the intending Assignor JMFARC when the matter was pending before the Appellate Forum which it can always explore. JMFARC will always be at liberty to pursue its remedies in accordance with law.

6. J.M Financial Asset Reconstruction Company Ltd preferred Company Appeal (AT) (Insolvency) No. 521 of 2024 before Hon'ble NCLAT against order dated 25.01.2024. Hon'ble NCLAT allowed the appeal and set aside the order dated 25.01.2024.
7. The Abinandan Holding Private Limited, Intending Assignee being aggrieved from the order dated 12th July 2024, preferred an appeal before Hon'ble Supreme Court. However, Hon'ble Supreme Court dismissed the said appeal and accordingly, the order dated 12.07.2024 attained finality. Therefore, the applicant is not entitled to any relief as prayed for in the present application and Company Petition requires it to be allowed and the Corporate Debtor should be admitted in the CIRP process.

IA(IBC) No. 2425/KB/2024



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

8. The present application has been filed by Abinandan Holding Private Limited, the Intending Assignee to stay proceedings of the Company Petition C.P(IBC) no. 04/KB/2019 and direct the Financial Creditor to grant a chance to the Corporate Debtor to discharge the debt and enter into settlement with the applicant in accordance with direction of Hon'ble NCLAT issued in Company Appeal No. 521 of 2024.
9. It has been submitted that Hon'ble NCLAT, vide order dated 12.07.2024, while admitting the appeal has directed the respondent to discharge the debt and enter into settlement with the Financial Creditor within a period of 30 days. The applicant preferred an appeal before Hon'ble Supreme Court against order dated 12.07.2024. Hon'ble Supreme Court disposed of the appeal vide order dated 10.12.2024 with observation that there is no reason to interfere with the order passed by the Hon'ble NCLAT.
10. Thus, the order passed by Hon'ble NCLAT has attained finality and as per order dated 12.07.2024, a direction was given to discharge the debt and enter into settlement with the applicant during 30 days. Therefore, respondent/Financial Creditor be directed to enter into settlement with the applicant for discharge of debt.



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

11. The Financial Creditor/Respondent filed its object to the present application that the applicant offered settlement for an amount of Rs. 19.5 crore on 02.01.2025 which has already been rejected vide email communication dated 20.01.2025 on the ground that the debt has not been assigned in favour of the applicant. The directions issued by the Hon'ble NCLAT are clear and unambiguous. Therefore, the present application deserves to be dismissed.

IA(IBC) No. 2441/KB/2024

12. The present application has been filed by Howrah Mill Company Limited, the Corporate debtor with a prayer to dismiss the CP(IB) No. 04/KB/2019 and defer the pronouncement of judgment and direct the respondents particularly respondent no. 2 to file a reply affidavit to the present application on the issue of lack of authorisation of respondent no. 1 to file and maintain the present petition.
13. 8. It has been submitted that on 10.12.2024, the applicant came to know that an inter-se agreement dated 01.12.2008, 29.09.2011, 13.03.2013, and 09.10.2013 executed between respondent no. 2 and Federal Bank, predecessor interest of respondent no. 1 whereby respondent no. 2 has been designated as lead Bank of the State Bank Consortium. The



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

said agreement further provides that power of attorney should be executed in favour of the lead bank/respondent no. 2 so as to enable respondent no. 2 to take all necessary steps. Thus, respondent no. 1 has no right to institute any proceedings against the applicant in relation to working capital facility agreement and it is only respondent no. 2 who are empowered to do so. Therefore, the Company Petition has been filed by respondent no. 1 without any authorisation.

14. Therefore, the present application deserves to be allowed and all proceedings arising out of C.P No. 04/KB/2019 be kept in abeyance pending disposal of the present application.
15. The respondent/Financial Creditor filed its reply opposing the present application and prayed for dismissal of the present application in view of order dated 121.07.2024 passed by the Hon'ble NCLAT.

IA(IBC) No. 1000/KB/2025

16. The present application has been filed by Abinandan Holding Private Limited, the Intending Assignee, under Section 60(5) of IBC Code 2016 with a prayer for dismissing the petition being CP(IB) No. 04/KB/2019 filed by the Financial Creditor against the Corporate Debtor.



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

17. It has been submitted that the applicant is willing to pay the balance of Rs. 19,51,00,000/- with simple interest from January 31, 2020 till date of acceptance of the applicant offer by the respondent. It is also further stated that an application being I.A. (IBCI/2425/KB/2024 is also pending before this Tribunal for adjudication with that effect.
18. It has further been submitted that the respondent is deliberately misconstruing and misinterpreting the clear and unambiguous terms of the judgment passed by the Hon'ble Appellate Tribunal by alleging that only the Corporate Debtor was permitted to discharge the debt as has been assigned to the applicant. Therefore, a prayer has been made
19. The Financial Creditor, being respondent in the said IA no. 1000/KB/2025, filed its objection stating therein that the applicant made an offer of Rs. 19.5 crore in favour of the respondent towards full and final settlement of claim against Howrah Mills Company Limited, ie. the Corporate Debtor on 2nd January 2025. Respondent, vide its email dated 20th January 2025 sent to the applicant, categorically denied the offer made by the applicant on the ground that the debt of the Corporate Debtor has not been assigned to the applicant and respondent continues to be the creditor. The applicant, by filing the present application, is seeking a



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

direction from this Tribunal on the respondent to provide a chance to discharge the debt and enter into settlement. The debt of the financial creditor/ Respondent i.e. JMFARC has not been assigned to the applicant and therefore respondent continues to be the secured financial creditor and Howrah Mills Company Limited is the Corporate Debtor. The debt on the part of Howrah Mills Company Limited continues and the Corporate Debtor does not stand absolved of its liabilities in favour of Respondent.

20. It has further been replied that the respondent aggrieved from the order of dismissal of the Company Petition, challenged the order before Hon'ble NCLAT, in Company Appeal (AT) (Ins.) No. 521 of 2024 wherein Hon'ble NCLAT set aside order dated 25.01.2024 vide order dated 12th July 2024. The directions in the order dated 12th July 2024 passed by the Hon'ble NCLAT setting aside the order dated 25.01.2024 are clear and unambiguous. Further, the order dated 12th July 2024 has not been interfered with by the Hon'ble Supreme Court of India.
21. Therefore, in view of the above, the applicant is not entitled to any relief as prayed for in the present application and the same liable to be dismissed with cost.



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

22. Heard Mr. Mainak Bose Learned Sr. Counsel appearing for the Financial Creditor, Mr. Joy Saha Learned Sr. Counsel appearing for the Abinandan Holding Private Limited, the applicant in IA No. 1000/KB/2025 and Learned Counsel appearing for Howrah Mill Company Limited, the Corporate Debtor. We have carefully gone through entire pleading and documentary evidence available on record of the present Company Petition, and the interim applications filed in the present company petition. We have duly appreciated the law applicable on the facts and circumstances of the present case.
23. Mr. Joy Saha Ld. Sr. Counsel argued that Abhinandan Holdings Private Limited, the Intending Assignee, had filed a suit no. 22 of 2023 before Ld. Commercial Court Rajarhat wherein an order of injunction dated 29.09.2021 has been passed restraining Financial Creditor from giving any effect or further effect or acting to the revocation letter dated March 2, 2020 and the said order has been extended from time to time. The said suit is still pending hearing of Ld. Commercial Court. The Corporate Debtor has also filed a civil suit being T.S No.322/2020 before Learned Civil Judge(Sr. Division) Howrah wherein an interim order dated 20.10.2020 has been passed restraining the Financial



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

Creditor giving effect to letter dated 02.03.2020.

Therefore, in view of two restraint orders passed by two different Civil Courts one at the instance of Corporate Debtor and the other at the instance of Abinandan Holding Private Limited, the application filed under section 7 petition is not maintainable, so long as the revocation letter issued by FC dated March 20, 2020 remains stayed.

24. He further argued that in terms of the principles of comity of courts, this Tribunal cannot ignore the existence of the two restraint orders passed in two different civil suits by two different appropriate Civil Courts. So long as the revocation letter dated March 20, 2020 is stayed, the section 7 petition could not have been proceeded with by giving effect to the revocation notice dated March 20, 2020.
25. It is pertinent to note that the Abinandan Holding Private Limited is relying on an injunction order of Learned Commercial Court which is dated 29.09.2021. This issue has been agitated before Hon'ble NCLAT. Hon'ble NCLAT has observed that the injunction order did not interdict in any manner the proceeding filed under Section 7 of IBC and which has been initiated and revived by the appellant. This Tribunal has no right to adjudicate this issue in view of specific finding of the Hon'ble NCLAT.



26. Hon'ble NCLAT, while setting aside order dated 25.01.2024 passed by this Adjudicating Authority in the present company petition, allowed the Company Appeal (AT) (Insolvency) No. 521 of 2024 vide order dated 12.07.2024 with observation that the debt and default on the part of the Corporate Debtor has been established. Consequently, Hon'ble NCLAT has directed this Adjudicating Authority to pass an order of admission of the company petition within 30 days of the date of order and initiate CIRP process against the Corporate Debtor. Hon'ble NCLAT has kept open a window for the respondent to discharge the debt and enter into settlement agreement with appellant, if any during the said period of 30 days.

27. Therefore, the observation of Hon'ble NCLAT made in para no. 24 and 26 of order dated 12.07.2024 in Company Appeal (AT) (Insolvency) No. 521 of 2024 are crucial to decide the controversy involved in the present application. The relevant observation of Hon'ble NCLAT made in para no. 24 and 26 as follow:

"24. In view of the foregoing discussions, we are of the considered opinion that debt and default on the part of the corporate debtor still continues. The intending assignment having never taken place, the debt cannot be held to be assigned to Respondent No.2 so that the Respondent No.2 may



step into the shoes of the financial creditor of the corporate debtor. Adjudicating Authority committed error in dismissing Section 7 application filed by the financial creditor. Debt and default having been proved, we are of the view that the Adjudicating Authority ought to have admitted Section 7 application and initiated CIRP against the corporate debtor.

26. In result, we allow the appeal in following manner:-

- (i) The order dated 25.01.2024 is set aside.*
- (ii) The application under Section 7 filed by the appellant deserves to be admitted. Adjudicating Authority may pass an order of admission along with consequential order within 30 days from the date, copy of this order is produced before the Adjudicating Authority.*
- (iv).During the period of 30 days, it shall be open for the Respondent to discharge the debt and enter into any settlement with Appellant, if any”.*

28. It is further pertinent to note that Hon'ble NCLAT has not recognised the assignment of debt in favour of Abinandan Holding Private Limited, the respondent 2. Hon'ble NCLAT has further observed that the respondent no. 2 has not stepped into the shoes of respondent no.1, the Corporate Debtor.

29. Therefore, in view of the above, the contention the applicant, Abinandan Holding Private Limited in IA(IB) No. 1000/KB/2025 that the Financial Creditor had assigned the



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

debt with respect to the Corporate Debtor for a sum of Rs. 26,01,00,000/- does not survive as having been decided by the Hon'ble NCLAT. Furthermore, the contention of the applicant, Abinandan Holding Private Limited that after payment of Rs. 6,50,00,000/- in January 2018 and further submission of pay order of Rs. 1,00,00,000/- in pursuance of Agreement dated 15.01.2020, there is remaining balance of Rs. 19,51,00,000/- is contrary to order dated 12.07.2024 passed by Hon'ble NCLAT. Hon'ble NCLAT has specifically held that the debt cannot be held to be assigned to the respondent no. 2/the applicant herein so that respondent no. 2/the applicant can step into the shoes of the Corporate Debtor.

30. Mr. Joy Saha, Learned Sr. Counsel, appearing for Abhinandan Holdings Pvt. Ltd, the Intending Assignee, further argued that Hon'ble NCLAT has granted the opportunity to discharge the debt not only to the Howrah Mill Private Limited, the Corporate Debtor rather to Abinandan Holdings Pvt. Limited, the intending Assignee also. The intending assignee, the Abinandan Holding Private Limited is respondent no. 2 as clear from para no. 2.1 of the judgment dated 12.07.2024.

31. It is clear more than crystal from perusal of order dated 12.07.2024 passed by Hon'ble NCLAT that Hon'ble NCLAT has



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

not recognised the right of the Abinandan Holding Private Limited as intending assignee; and hence, the word used as respondent is limited to the Corporate Debtor and not Abinandan Holding Private Limited. Therefore, with utmost respect to the judgment of the Hon'ble NCLAT dated 12.07.2024, we are of the considered view that Hon'ble NCLAT has granted the opportunity to discharge the debt to the Corporate Debtor only and not to Abinandan Holding Private Limited.

32. Even otherwise, if we accept the contention of the applicant, Abinandan Holding Private Limited, being one of the respondents in Company Appeal and interested in making payment of the Corporate Debtor, it has also not tried to settle the matter for the entire debt payable by the Corporate Debtor. The applicant is insisting upon agreement dated 15.01.2020 and claiming payment of balance amount of Rs. 19,51,00,000/- which is contrary to judgment dated 12.07.2024 passed by the Hon'ble NCLAT.
33. In the facts and circumstances of the case where the debt and default has been established as decided by the Hon'ble NCLAT and on a bare perusal of Form - I filed under Section 7 of the Code read with Rule 4 of the Rules shows that the form is complete and there is no infirmity in the same. It



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

is also seen that there is no disciplinary proceeding pending against the proposed Interim Resolution Professional.

34. We are satisfied that the present application is complete in all respects and the applicant financial creditor is entitled to claim its outstanding financial debt from the corporate debtor and that there has been default in payment of the financial debt.
35. As a sequel to the above discussion and in terms of Section 7(5)(a) of the Code, the present company petition being **C.P(IB) No. 04/KB/2019** is allowed and the Corporate Debtor is admitted in the CIRP process with the following order:
 - i. Sh. Sanjai Kumar Gupta, Insolvency Professional* having registration no. IBBI/IPA-001/IP-P00592/2017-2018/11045 residing at 153A, A.P.C Road, Kolkata, West Bengal now residing at 5A, Akama Heights, 27A, Bagmari Road, Near Punjabi Garage, Kolkata-700054 with email ID: casanjaigupta@gmail.com is appointed as an Interim Resolution Professional for the corporate debtor.
 - ii. In pursuance of Section 13(2) of the Code, We direct that public announcement shall be made by the Interim Resolution Professional immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations,



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

2016) with regard to admission of this application under Section 7 of the Insolvency and Bankruptcy Code, 2016.

iii. We direct the applicant Financial Creditor to deposit a sum of Rs. 3,00,000/- (Rupees Three Lakh) with the Interim Resolution Professional namely Mr. Sanjai Kumar Gupta* to meet the expenses to perform the functions/duties assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Financial Creditor. The said amount however is subject to adjustment towards Resolution Process cost as per applicable rules.

iv. The moratorium is declared in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14(1)(a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

“(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;



- (b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;
 - (c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitization and Reconstruction of 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.”
- v. It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government or the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14(3)(b) of the Code.
- vi. The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18,



19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day to day affairs of the 'Corporate Debtor'. In case there is any violation committed by the ex-management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Tribunal with a prayer for passing an appropriate order. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of its obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.

- vii. The Registry is directed to communicate a copy of the order to the Financial Creditor, the Corporate Debtor, the Interim



CP(IBC) No.4/KB/2019
with
IA.2425 & 2441 of 2024 with IA No. 1000/KB/2025

Resolution Professional and the Registrar of Companies, West Bengal at the earliest possible but not later than three days from today. The Registrar of Companies shall update its website by updating the status of the Corporate Debtor, and specific mention regarding admission of this petition must be notified.

viii. The Registry is further directed to send a copy of this order to the IBBI for its record.

36. Accordingly, CP (IB)/340/KB/2024 stands admitted. A certified copy of the order may be issued, if applied for, upon compliance with all requisite formalities.

Rekha Kantilal Shah
Member(Technical)

Labh Singh
Member(Judicial)

(*Appointed as per order dated 17.07.2026)



IA(IBC) No.902/KB/2026
In
CP(IB) No. 04/KB/2019

DIVISION BENCH
COURT-II

NATIONAL COMPANY LAW TRIBUNAL
KOLKATA BENCH-II
KOLKATA

IA No.902/KB/2026

In

CP(IB) No. 04/KB/2019

Date of Order: 17.07.2026

IN THE MATTER OF:

J.M Financial Asset
Reconstruction Company Limited
Creditor

Financial

Vs.

M/s Howrah Mills Company Limited

Corporate Debtor

And

In the matter of:

J.M. Financial Asset
Reconstruction Company Limited
A company incorporated under the
Companies Act 1956 having its
office address at 7th Floor,
Cnergy , Appasaheb Marathe Marg,
Prabhadevi, Mumbai-400025

Applicant



O R D E R

Labh Singh Member(Judicial)

1. The present application has been filed by the applicant/Financial Creditor for the following relief:
 - (a) The judgment and order dated 24th June 2026 be modified in the manner as indicated in paragraph 8 hereto;
 - (b) The name of Vinod Kumar Kothari appearing in the judgment and order dated 24th June 2026 be substituted and/or replaced with GT Restructuring Services LLP, having IBBI registration no. IBBI/IPE-0110/IPA-1/2023-2024/50057, having its office at L-41, Connaught Circus, New Delhi-11001, having email ID: ashish.c@in.gt.com;
 - (c) Such further order or orders and/or directions as this Tribunal may deem fit and proper.
2. It has been submitted that Company Petition No. 04/KB/2019 was filed under Section 7 of Insolvency and Bankruptcy Code 2016(for short 'the Code') wherein order of admission was passed by this Tribunal and the Corporate Debtor admitted in the Corporate Insolvency Resolution Process(for short 'CIRP') vide order dated 24.06.2026.



3. The Financial Creditor, in its company petition, proposed the name of one Mr. Vinod Kumar Kothari as in Insolvency Professional along with the requisite Form and the Certificate confirming the eligibility of the proposed Insolvency Professional for appointment as Resolution Professional in accordance with the Insolvency and Bankruptcy Board of India(Insolvency Resolution Process for Corporate Person) Regulation 2016. Consequently, Mr. Vinod Kumar Kothari has been appointed as Insolvency Professional for the Corporate Debtor.
4. It has further been submitted that after passing of the order dated 24.06.2026, it transpired that during pendency of the proceedings sometime in the year 2019, Mr. Vinod Kumar Kothari expressed his inability to act as Insolvency Professional. Therefore, in these circumstances, it appears that an application was taken out to have the same recorded and an order was passed to take the same on record.
5. It has further been submitted that due to inadvertence at the time of hearing of the IA applications and the Company Petition which was heard in pursuance of order of Hon'ble NCLAT dated 12.07.2024, the aforesaid fact was not brought to the notice of this Tribunal.



6. Therefore, in view of the above, based on the name proposed by the Financial Creditor in the original application, has been appointed as Resolution Professional. After communication of the order of admission to the Resolution Professional, an email was received from Mr. Vinod Kumar Kothari indicating that he has surrendered his Authorisation for Assignment. Therefore, the present application has been filed for appointment of an Interim Resolution Professional in place of Mr. Vinod Kumar Kothari.
7. Mr. Rishav Banerjee Ld. Advocate appeared for the Corporate Debtor. He submitted that since the Financial Creditor is proposing a third name in the present application instead of earlier proposed name Mr. Sanjay Kumar Gupta and hence, the Bench should appoint any Insolvency Professional from the list of IBBI.
8. Heard Learned Sr. Counsel appearing for the Financial Creditor and Learned Counsel appearing for the Corporate Debtor. We have gone through the entire order sheet of the main Company Petition. We have also considered law applicable on the fact and circumstances of the present application.



9. The Financial Creditor could not point out the Tribunal about the proposed changed name of the Insolvency Resolution Professional during the hearing of the present matter. The applicant is also unable to point out the said proposed changed name of the Insolvency Resolution Professional in the present application.
10. This Tribunal, after going through an order dated 12th July 2019, noted that the Financial Creditor had filed CA(IB) No. 842/KB/2019 for replacing the IRP which was allowed by the Tribunal vide order dated 12th July 2019. It further transpires from conveyance note placed on order sheet of the file that Mr. Vinod Kumar Gupta(Kothari) vide his letter, has expressed his inability to continue and consequently CA(IB) No. 842/KB/2019 was filed proposing name of Mr. Sanjai Kumar Gupta Insolvency Professional to act as IRP.
11. We have perused the application CA(IB) No. 842/KB/2019 wherein a supplementary affidavit Annexure-‘A’ has been filed bringing on record a letter dated 29th May 2019 issued by Mr. Vinod Kumar Kothari and consent obtained from Sh. Sanjai Kumar Gupta, Insolvency Professional having registration no. IBBI/IPA-001/IP-P00592/2017-2018/11045 residing at 153A, A.P.C Road, Kolkata, West Bengal now



residing at 5A, Akama Heights, 27A, Bagmari Road, Near Punjabi Garage, Kolkata-700054 with email ID: casanjaigupta@gmail.com to act as IRP in the matter.

12. The applicant has annexed with supplementary affidavit the written communication in Form-2 dated 15th May 2019 issued under Rule 9 of the Insolvency and Bankruptcy(Application to Adjudicating Authority) Rules 2016 by Sh. Sanjai Kumar Gupta IRP addressed to this Bench. Mr. Sanjai Kumar Gupta has consented to act as IRP in the present matter. Mr. Sanjai Kumar Gupta is having valid AFA till 30th June 2027 as per data available with IBBI.
13. The provision of Section 10(3)(b) of the Code provides that the Corporate applicant shall, along with the application furnish the information relating to the resolution professional proposed to be appointed as an interim resolution professional.
14. The provision of Section 16 of the Code provides for appointment and tenure of interim resolution professional which read as under:

Section 16: Appointment and tenure of interim resolution professional



(1) The Adjudicating Authority shall appoint an interim resolution professional on the insolvency commencement date.

(2) Where the application for corporate insolvency resolution process is made by a financial creditor, the resolution professional, as proposed in the application under section 7, shall be appointed as the interim resolution professional, if no disciplinary proceedings are pending against him.

(3) Where the application for corporate insolvency resolution process is made by an operational creditor and—

(a) no proposal for an interim resolution professional is made, the Adjudicating Authority shall make a reference to the Board for the recommendation of an insolvency professional who may act as an interim resolution professional;

(b) a proposal for an interim resolution professional is made under sub-section (4) of Section 9, the resolution professional as proposed, shall be appointed as the interim resolution



professional, if no disciplinary proceedings are pending against him.

(3A) Where an application for the corporate insolvency resolution process is made under Section 10, the Adjudicating Authority shall make a reference to the Board for the recommendation of an insolvency professional who may act as an interim resolution professional.

(4) The Board shall, within ten days of the receipt of a reference from the Adjudicating Authority under sub-section (3) or sub-section (3A), as the case may be, recommend the name of an insolvency professional to the Adjudicating Authority against whom no disciplinary proceedings are pending.

(5) The term of the interim resolution professional shall continue till the date of appointment of the resolution professional under Section 22.

15. There is nothing on record that Mr. Sanjai Kumar Gupta proposed as IRP in the Company Petition filed under Section 7 of the Code has refused to act as IRP in the present matter or his AFA is not valid or he is ineligible for any



other reasons. Therefore, in presence of Mr. Sanjai Kumar Gupta, IRP name proposed by way of supplementary affidavit filed by the Financial Creditor in CA(IB) No. 842/KB/2019, there is no justification to appoint GT Restructuring Services LLP, having IBBI registration no. IBBI/IPE-0110/IPA-1/2023-2024/50057, having its office at L-41, Connaught Circus, New Delhi-11001, having email ID: ashish.c@in.gt.com as Interim Resolution Professional as proposed in the present interim application.

16. Insofar as argument of Mr. Rishav Banerjee Ld. Advocate that since the applicant is proposing another name of IRP instead of IRP named in the Section 7 application and hence, the Adjudicating Authority shall appoint any other IRP from the list of the IBBI, is concerned, we are having Mr. Sanjai Kumar Gupta, IRP proposed as IRP in the company petition by the Financial Creditor in term of Section 16(2) of the Code who is having a valid AFA and has not refused to act as IRP.
17. Hon'ble High Court of Madras in case of K.J Vinod Vs. Registrar of National Company Law Tribunal, 2025 SCC OnLine 484 held that:

“16. Hence and in regard to an application under Section 7 or under Section 10 of the Insolvency and



Bankruptcy Code, the professional recommended by the applicant must mandatorily be appointed as the interim resolution professional, the only caveat being that no disciplinary proceedings should be pending as against him. There is no elbowroom available for the National Company Law Tribunal to take a different view in this regard”.

18. Therefore, in view of the above, and law applicable thereon, we are of the considered view that Sh. Sanjai Kumar Gupta, Insolvency Professional having registration no. IBBI/IPA-001/IP-P00592/2017-2018/11045 residing at 153A, A.P.C Road, Kolkata, West Bengal now residing at 5A, Akama Heights, 27A, Bagmari Road, Near Punjabi Garage, Kolkata-700054 with email ID: casanjaigupta@gmail.com as proposed Interim Resolution Professional in the Company Petition deserves to be appointed as Interim Resolution Professional.
19. Consequently, the present Interim Application being IA(IBC) No. 902/KB/2026 stands disposed of in terms of our aforesaid order.
20. The necessary changes have been made typographically in the relevant paras no. 35(i) & (iii) of order dated 22.06.2026



IA(IBC) No.902/KB/2026
In
CP(IB) No. 04/KB/2019

passed in CP(IB) No. 04/KB/2019 and a corrected order is hereby issued today.

21. The rest of the order will remain unchanged.
22. Registry is hereby directed to issue free copies of the corrected order in terms of this corrigendum order.

Rekha Kantilal Shah
Member(Technical)

Labh Singh
Member(Judicial)