

**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH**

CP (IB) No.109/CHD/PB/2021

(An Application under Section 7 of the Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

PUNJAB NATIONAL BANK

having its Head Office at
Plot No. 4, Sector-10, Dwarka, New Delhi-110075
And Punjab National Bank, Branch Office,
Main Bazar, Faridkot, Punjab -151203
PAN: AAACP0165G

.... Applicant/ Financial Creditor

Versus

AMYRA FOODS PRIVATE LIMITED,

having its registered office at
Samra Industries, Sadiq Road,
Faridkot, Punjab-151203.
CIN U01403PB2016PTC040171

....Respondent/ Corporate Debtor

Order delivered on: 07.11.2025

**Coram: MR. KHETRABASI BISWAL, MEMBER (JUDICIAL)
MR. KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)**

Present:

For the Applicant : Mr. Arpit Singh Chawla, Advocate
For the Respondent : Mr. Rakshit Gupta, Advocate

ORDER

1. The present Application was filed on 03.04.2021 by **Punjab National Bank**, (hereinafter referred to as “Applicant”/ “Financial Creditor”) through its GPA holder and Principle officer Mr. Deepak Kumar Jha, under section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “Code”) for initiation of Corporate Insolvency Resolution Process (“CIRP”) against **Amyra Foods Private Limited** (hereinafter referred to as “Respondent”/“Corporate Debtor”), for the default amount of Rs. 35,19,53,795/- as on 22.02.2021. The date of default, as mentioned in Part IV of the Application, is 31.03.2018.

2. Brief averments of the case as stated in the Application by Applicant/Financial Creditor and presented/argued by its Counsel are summarised hereunder:

(i) The Corporate Debtor, Amyra Foods Private Limited, is a privately held company incorporated on 14.03.2016, under the provisions of the Companies Act. The Corporate Debtor, as per its stated objective, is engaged in the business of various kinds of food grains, inter alia, including rice, wheat, maize, grams, pulses, and other agricultural produce, apart from edible oils and oil seeds.

(ii) The Corporate Debtor approached the Applicant Bank in 2016 seeking sanction of various credit facilities, namely Fund-Based Working Capital (FBWC) limit of Rs. 800 lakhs, Cash Credit-Warehouse Receipt (CC-WHR) limit of Rs. 700 lakhs, Term Loan-I for Rice Sheller of Rs. 800 lakhs, and Term Loan-II for Sortex of Rs. 200 lakhs. Pursuant to the request, the Applicant Bank, vide

sanction letter dated 05.08.2016, sanctioned the aforesaid facilities.

(iii) The Corporate Debtor, through its directors duly authorized by Board Resolution dated 16.08.2016, executed necessary loan and security documents on 18.08.2016, including deeds of guarantee to secure repayment obligations. Several immovable properties were also mortgaged in favour of the Bank as detailed in Part V of the application.

(iv) Subsequently, at the request of the Corporate Debtor, the Bank enhanced the CC-WHR facility from Rs. 700 lakhs to Rs. 900 lakhs vide sanction letter dated 20.03.2018 and also sanctioned a temporary overdraft (T.O.D.) of Rs. 30 lakhs for seven days from 22.03.2017 to 28.03.2017. The FBWC limits were reviewed periodically on 05.08.2017, 05.11.2017, and 05.02.2018. To secure the enhanced limits, fresh loan and security documents, including guarantees, were executed on 30.03.2017, and the Corporate Debtor's stocks, book debts, plant, and machinery were hypothecated in favour of the Bank.

(v) Despite availing the aforesaid facilities, the Corporate Debtor failed to maintain financial discipline, and irregularities were noticed in the operation of its accounts. Consequently, the account was classified as Non-Performing Asset (NPA) on 31.03.2018, and a recall notice was issued on 04.05.2018. Thereafter, the Bank issued a demand notice under Section 13(2) of the SARFAESI Act, 2002, on 14.06.2018 to the Corporate Debtor and its guarantors, and in compliance with the Order of the Hon'ble Punjab and Haryana High

Court dated 02.09.2020, a fresh notice dated 22.09.2020 was issued and published in newspapers on 22.01.2021.

(vi) As per the accounting procedures, post-NPA interest is recorded separately in memorandum accounts. The total outstanding as on 22.02.2021 amounts to Rs. 35,19,53,795/-. The loan transactions being commercial in nature, the Bank is entitled to interest till admission of the Application under the Code.

(vii) The cause of action against the Corporate Debtor arose time to time when the directors of Corporate Debtor and its guarantors executed loan and security documents in favour of the applicant bank, it also arose when the credit and debit entries were made in the loan and limit accounts of the Corporate Debtor, it was made lastly by way of credit entries on 11.04.2018 in account no.3442008700004464, on 31.03.2018 in account 3442008700004446, on 22.05.2018 in account no. 344300SG00000063 and 344300SG00000072, it further arose as at the date of default, i.e., the date of classification of the account as N.P.A viz. 31.03.2018. The application is within the limitation as per the Limitation Act, 1963, and is well within the prescribed period.

(viii) In view of the Corporate Debtor's default exceeding Rs. 1 crore, the matter squarely falls within the ambit of Part II of the Insolvency and Bankruptcy Code, 2016, warranting initiation of the Corporate Insolvency Resolution Process.

3. The Applicant further averred that the instant Application has been duly filed under the extant provisions of the Code and also suggested the

name of an eligible IRP as per law, who has duly filed a suitable declaration furnishing necessary details. Therefore, the Learned Counsel has urged the Tribunal to initiate CIRP with appropriate directions, as prayed for.

4. The Application has been opposed by the Corporate Debtor by filing a Reply, vide Diary No. 00465/2 dated 04.09.2022, and as further argued by their counsel, Mr. Rakshit Gupta. The defense as taken in the reply and also argued by their counsel are briefly summarised as under:-

(i) The Corporate Debtor submitted that it had approached the Applicant Bank in 2016 for financial assistance consisting of a Fund-Based Working Capital (FBWC) limit of Rs. 800 lakhs, CC-WHR limit of Rs. 700 lakhs, Term Loan-I of Rs. 800 lakhs for Rice Sheller, and Term Loan-II of Rs. 200 lakhs for Sortex. These facilities were sanctioned vide letter dated 05.08.2016.

(ii) As per the sanctioned memorandum, the Term Loan-I and II were to be repaid in 28 graduated installments w.e.f 31.3.2018 and the installments of the Term Loan were to commence after a period of moratorium i.e. after the industry was set-up by the Corporate Debtor from 31.3.2018 but the Applicant/Financial Creditor has categorically stated in Part-IV clause 2 of the prescribed Form C that the date of default is 31.3.2018. Hence, the Corporate Debtor contends that the Bank's claim of default as on 31.03.2018 is untenable, since that date marks the commencement of repayment and not the date of default.

(iii) The Respondent further asserts that it maintained financial discipline in all accounts and that the Bank itself enhanced the

financial limits on 20.03.2018, only eleven days before the alleged date of default, which shows that the accounts were regular. The copy of the sanction letter dated 20.3.2018 has been attached as Annexure R-2 to the Reply.

(iv) The classification of the account as NPA on 31.03.2018 is alleged to be arbitrary and contrary to the RBI Master Circular dated 01.07.2015 on “Prudential Norms for Income Recognition and Asset Classification” dated 01.07.2015 and nor followed the methodology indicated by the Hon'ble Apex Court in the case of **“Mardia Chemicals ltd versus Union of India and Ors” 2004 (4) SCC 311**”. The Applicant Bank has acted contrary to Clause 2.1, read with Clause 2.2 of the master circular dated 01.7.2015, which allows NPA classification only after 90 days of default. Hence, the date of default is disputed, and a separate application challenging the same has been filed before the Debt Recovery Tribunal. The Copy of IA in the OA No. 1817/2018 filed before the Hon'ble DRT is attached as Annexure R-4.

(v) The Respondent relied upon the Supreme Court judgment in **Laxmi Pat Surana v. Union Bank of India (2021) 8 SCC 481**, which has categorically held that Section 7 comes into play only when the Corporate Debtor commits default and not the date of notifying the loan account of the corporate person as NPA. It is contended that since there was no default on 31.03.2018, the present Application under Section 7 is not maintainable.

(vi) The Applicant/Financial Creditor in Part-III of Form-C has recommended the name of Sh. Naveen Singal as the proposed Interim Resolution Professional. However, the authorisation of the proposed Interim Resolution Professional expired on 03.12.2021, making the recommendation invalid.

(vii) The Respondent contends that the Applicant bank has wrongfully classified its account as a Non-Performing Asset in violation of statutory principles and the RBI Master Circular dated 01.07.2015. It is submitted that the recall notice dated 04.05.2018, relied upon by the bank, erroneously referred to M/s. Golden Agrarian Private Limited as a sister concern of the respondent, whereas both entities are distinct and have different directors. The copies of the master data of the Respondent/Corporate Debtor and M/s. Golden Agrarian Private Limited has been attached as Annexure R-5 with the Reply.

(viii) The Respondent further submits that the Applicant initially sanctioned a Warehouse Receipt facility of Rs. 7 crores vide sanction letter dated 05.08.2016, which was subsequently enhanced to Rs. 9 crores vide sanction letter dated 30.03.2017. In accordance with the terms of the sanction, the Respondent contributed a margin of 25 percent, investing Rs. 2.25 crores from its own funds, and purchased stock worth Rs. 11.25 crores, which was duly pledged to the Applicant bank under Section 176 of the Indian Contract Act, 1872. The said stocks were thereafter handed over to the Applicant's authorized agent, M/s StarAgri Warehousing and Collateral

Management Limited. The pledged stock, originally valued at Rs. 11.25 crores in 2017, is now worth over Rs. 15 crores, considering the increased market rates of rice and paddy. Under Sections 176 and 177 of the Indian Contract Act, the applicant, as pawnee, could have realized its dues by selling the pledged goods; however, it failed to exercise this right. The alleged default, therefore, cannot be attributed to the respondent, as the applicant's inaction in disposing of the pledged stock prevented recovery of the dues. Consequently, the claim of default stands falsified even from the applicant's own documents, and the present application is devoid of merit and liable to be dismissed.

(ix) Further, it is categorically denied by the Respondent/Corporate Debtor that they have created a mortgage over the following properties:

- a. Land measuring 5K-4M comprised in Khewat NO. 250, Khatoni No. 449, M.No. 42, Killa No. 17/1(5-4) situated in the village Lambi, Tehsil Malout, District Mukstar vide title deed no. 654 dated 8.8.2016
- b. Land measuring 0K-17-1/2 Marla comprised in Khewat No. 250, Khatoni No. 449, M.No. 37, Killa No. 21/2 mm situated in Village Lambi, Tehsil Malout, District Muktsar vide title deed no. 655 dated 8.8.2016
- c. Land measuring 59K-02M comprised in Khewat No. 254, Khatoni No. 453, M.No. 42, Killa No. I mm situated in Village

Lambi, Teshil Malout, District Muktsarvide title deed no. 656 dated 8.8.2016

The sanction letter dated 05.08.2016 issued by the Applicant/Financial Creditor does not record any such mortgage, which clearly establishes that no intention or act of mortgage existed. Once the sanction letter shows that the properties are not mortgaged, the bank cannot, with mala fide intent, include such properties to be mortgaged.

5. The Applicant, through its Rejoinder filed vide Diary No. 00465/5 dated 10.04.2023, has been briefly summarised as under:-

(i) The accounts of the Corporate Debtor were classified as Non-Performing Assets (NPA) in accordance with the guidelines, norms, and circulars issued by the Reserve Bank of India. The Corporate Debtor was duly informed of the reasons for such classification vide notice dated 04.05.2018. As per the RBI Master Circular dated 01.07.2015, classification of accounts as NPA is borrower-wise and not facility-wise. Since the sister concern, Golden Agrarian Private Limited, had already been declared NPA, the account of the Corporate Debtor was also required to be classified as such in terms of Clause 4.2.7(i) of the said circular.

(ii) It is further submitted that the Hon'ble Debt Recovery Tribunal-I, Chandigarh, has already issued a Recovery Certificate in OA No. 1818 of 2018 filed by the Applicant bank against the said sister concern, and despite repeated notices by the Recovery Officer, no payment has been made.

(iii) The credit facilities availed by the Corporate Debtor fall within the ambit of "Financial Debt" as defined under Section 5(8) of the Code. The Corporate Debtor has repeatedly admitted to availing the said financial assistance and has failed to repay the outstanding dues despite the recall notice dated 04.05.2018, the demand notice dated 22.09.2020 under Section 13(2) of the SARFAESI Act, and the summons issued in OA No. 1817 of 2018 before DRT, Chandigarh. Such continued non-payment establishes default under the provisions of the Code, thereby satisfying the conditions for initiation of the Corporate Insolvency Resolution Process.

(iv) It is also submitted that a criminal complaint has been filed by the financial creditor with the Central Bureau of Investigation against the Corporate Debtor, registered as CBI v. Amyra Foods Private Limited (PC No. 42 of 2022), before the Hon'ble Special Judge, CBI, Punjab. The financial creditor's proceedings against the sister concern, Golden Agrarian Private Limited, are also pending before this Tribunal in CP (IB) No. 118/Chd/PB/2021.

(v) The reliance placed by the Corporate Debtor on judicial precedents is misplaced, as the NPA classification has been made in strict compliance with RBI guidelines. Further, the Authorization for Assignment (AFA) of the proposed Interim Resolution Professional was valid and has since been duly renewed in accordance with IBBI guidelines, as evidenced by Annexure A-57.

(vi) Further, the AFA appended to the Application was fully enforceable at the time of filing of the present application. The

proposed interim resolution professional has already taken the renewed AFA as per the guidelines of IBBI, and the same is appended as Annexure A-57.

6. It is noted that the short written Submission was filed by the Financial Creditor vide Diary No. 00465/9 dated 05.08.2025, and the Corporate Debtor filed its written submission 00465/8 dated 04.08.2025.

7. We have heard the submissions made by the learned counsels of Applicant's Financial Creditor as well as the Respondent's Corporate Debtor and have gone through the material available on record carefully, along with the extant provisions of the Code and the settled position of law on the subject issue.

8. The issue for consideration is whether the present Application is filed within the limitation. It can be seen from the records that the date of default is 31.03.2018, i.e., when the Corporate Debtor was classified as a Non-Performing Asset. The present Application is filed vide diary No.00465 dated 03.04.2021. In ***Suo Moto Writ Petition (Civil) No(s).3/2020 in Reference: cognizance for extension of limitation, the Hon'ble Supreme Court of India*** has extended the limitation period during the COVID-19 pandemic w.e.f. 15.03.2020, and as such, the present Application is well within the period of limitation.

9. Another issue for consideration is whether there is a default in payment or not. The Corporate Debtor has contended that sub-section (12) of section 3 of the Code makes it evident that the debt should become due and payable and not paid, to constitute a default. It was argued that no such debt was due on 31.03.2018, the date alleged by the Financial

Creditor as the date of default was actually the date when the CD was declared as NPA. The Corporate Debtor relied on the recall notice dated 04.05.2018 (Annexure A-47), asserting that its account was classified as NPA solely because the account of an alleged sister concern, M/s Golden Agrarian Pvt. Ltd., had been declared NPA, and not due to any default by the Corporate Debtor itself. It was further submitted that M/s Golden Agrarian Pvt. Ltd. was not its sister concern, as evidenced by the master data of both entities.

9.1 We are not satisfied with such an explanation from the Respondent/Corporate Debtor. The account of the Corporate Debtor was not classified as NPA merely due to the status of Golden Agrarian Pvt. Ltd., but owing to multiple factors, including non-renewal of the account by the CD, non-adjustment of a Temporary Overdraft (TOD) of Rs. 200 lakhs, expiry of the majority of stock receipts in the WHR account, and the NPA classification of the sister concern. The statutory auditor accordingly marked the Corporate Debtor's account as NPA.

9.2 It is further observed that Golden Agrarian Pvt. Ltd. and Amyra Foods Pvt. Ltd. have common shareholding as on 31.03.2017, as evidenced in the Statement of Written Submissions filed by the Applicant/Financial Creditor. It is also noted that the guarantors, namely Harjinder Singh (s/o Bachittar Singh) and Bhupinder Kaur (w/o Harinder Singh), were common to both accounts. Thus, applying the ratio of clause 4.2.7(i) of Reserve Bank of India Master Circular dated 01.07.2015, the accounts are classified as NPA 'borrower-wise wise not facility-wise'. Clause 4.2.7 (i) of

Reserve Bank of India Master Circular dated 01.07.2015 is reiterated below: -

“4.2.7 Asset Classification to be borrower-wise and not facility-wise

(i) It is difficult to envisage a situation when only one facility to a borrower/one investment in any of the securities issued by the borrower becomes a problem credit/investment and not others. Therefore, all the facilities granted by a bank to a borrower and investment in all the securities issued by the borrower will have to be treated as NPA/NPI and not the particular facility/investment or part thereof which has become irregular.”

As per the RBI Master Circular dated 01.07.2015, an account may be classified as a Non-Performing Asset (NPA) for both financial and non-financial reasons. In the present case, the account of the Corporate Debtor was declared NPA due to various defaults and contraventions detailed in the recall notice dated 04.05.2018. Furthermore, the Corporate Debtor failed to adhere to the repayment schedule for Term Loan-I of Rs. 2,00,00,000 and Term Loan-II of Rs. 8,00,00,000 sanctioned vide letter dated 05.08.2016, thereby justifying the classification of the account as NPA.

10. It is noted that this Tribunal has already initiated CIRP of Golden Agrarian Pvt. Ltd. vide Order dated 24.05.2023 in CP(IB)No.118/Chd/Pb/2021. Furthermore, even a recovery certificate has already been issued by the Hon'ble Debt Recovery Tribunal-I, Chandigarh, in the OA filed by the Financial Creditor against the sister concern- Golden Agrarian Private Limited, bearing OA No. 1818 of 2018. The contention of the Corporate Debtor that the recommendation of Mr. Naveen Singal as the proposed Interim Resolution Professional is invalid on account of the expiry of his Authorization for Assignment (AFA) on 03.12.2021 is

untenable, as the AFA has been duly renewed in compliance with the IBBI guidelines, as evidenced by Annexure A-57 to the Application.

11. It is observed from the record that the default in the present case is substantiated by documentary evidence, including the Sanction Letter dated 05.08.2016 (Annexure A-6), Board Resolution of the Corporate Debtor dated 16.08.2016 (Annexure A-7), Deeds of Hypothecation of Goods and Book Debts dated 18.08.2016 (Annexure A-8), Advances against Warehouse Receipts dated 18.08.2016 and 30.03.2017 (Annexures A-9 and A-14), Term Loan Agreements dated 18.08.2016 (Annexures A-9, A-10, and A-11), Computation Table (Annexure A-16), CIBIL Report (Annexure A-49), Statements of Account (Annexures A-50 to A-53), and Balance Sheet as on 31.03.2017 (Annexure A-54) filed with the main application. The financial records clearly reflect an outstanding amount of Rs. 35,19,53,795 as on 22.02.2021. The Corporate Debtor has failed to repay the outstanding dues despite the recall notice dated 04.05.2018, the demand notice dated 22.09.2020 under Section 13(2) of the SARFAESI Act. Such continued non-payment establishes default under the provisions of the Code, thereby satisfying the conditions for initiation of the Corporate Insolvency Resolution Process.

12. In the above circumstance, by exercising the powers conferred on this Adjudicating Authority, under the provisions of Section 7 of the Code, we admit the Application bearing **CP (IB) No.109/CHD/PB/2021** for initiating CIRP against Corporate Debtor **Amyra Foods Private Limited** with the following consequential directions:

(i) The moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Insolvency & Bankruptcy Code, 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 the 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 Order of moratorium shall have 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 the liquidation of the Corporate

Debtor Company under Section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be.

(ii) We appoint Mr. Naveen Singal, having Registration Number IBBI/IPA-001/IP-P01650/2019-2020/12520, having an address at 120, Vipul Business Park, Sector 48, Sohna Road, Gurgaon, Haryana, 122018, email id - naveen@rvalutech.com to act as an IRP under Section 13(1)(c) of the Insolvency & Bankruptcy Code, 2016. He shall conduct the Corporate Insolvency Resolution Process as per the provisions of the Insolvency & Bankruptcy Code, 2016, r.w. Regulations made thereunder. The IRP shall make a public announcement of the initiation of the Corporate Insolvency Resolution Process and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Insolvency & Bankruptcy Code, 2016.

(iii) The supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period. The Corporate Debtor is to provide effective assistance to the IRP as and when it takes charge of the assets and management of the Corporate Debtor.

(iv) The IRP shall perform all its functions as contemplated, inter alia, by sections 17, 18, 20 & 21 of the Insolvency & Bankruptcy Code, 2016. It is further made clear that all personnel connected with Corporate Debtor, its Promoter, or any other person associated with the management of the Corporate Debtor are under a legal obligation under Section 19 of the Insolvency & Bankruptcy Code,

2016, to extend every assistance and co-operation to the IRP. Where any personnel of the Corporate Debtor, its Promoter, or any other person, is required to assist or co-operate with the IRP, do not assist or co-operate, the IRP is at liberty to make an appropriate Application to this Adjudicating Authority with a prayer for passing an appropriate Order.

(v) 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 the obligation imposed by Section 20 of the Insolvency & Bankruptcy Code, 2016.

(vi) The Applicant/Financial Creditor is directed to pay an advance of Rs. 2,00,000/- (Rupees one lakh only) to the IRP within two weeks from the date of receipt of this order, for smooth conduct of Corporate Insolvency Resolution Process, and IRP to file proof of receipt of such amount to the Adjudicating Authority along with First Progress Report. Subsequently, the IRP may raise further demands for Interim funds, which shall be provided as per the Rules.

(vii) The IRP shall also serve a copy of this Order to the various departments, such as Income Tax, GST, State Trade Tax, and Provident Fund etc those who are likely to have their claim against Corporate Debtor as well as to the trade unions/employees associations so that they are timely informed about the initiation of CIRP against the Corporate Debtor.

(viii) The commencement of the Corporate Insolvency Resolution process shall be effective from the date of this Order.

13. The Registry is directed to communicate a copy of this Order immediately to both the Parties and also to IRP

14. As a result, the **CP (IB) No. 109/CHD/PB/2021** stands allowed and disposed of.

Sd/-
Kaushalendra Kumar Singh
Member (Technical)

Gitesh

Sd/-
Khetrabasi Biswal
Member (Judicial)