



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
CUTTACK BENCH  
CUTTACK**

**CP (IB) No. 23/CB/2022**

*In the matter of:*

An Application filed under Section 10 of Insolvency and Bankruptcy Code, 2016;

**-And-**

*In the matter of:*

**Way Automotives Pvt. Ltd**, Near Bariniput N. H. – 43 Jeypore, Odisha-764006, CIN No. U50402OR2008PTC009913;

**... Corporate Applicant**

**Date of Order: 12.05.2022**

**Order pronounced on: 06.06.2022**

***Coram:***

Shri P. Mohan Raj	:	Member (Judicial)
Shri Satya Ranjan Prasad	:	Member (Technical)

***Appearances (through video conferencing)***

Mr. Aminesh Singh, Adv.

**ORDER**

***Per: Satya Ranjan Prasad Member (Technical)***

1. This application has been filed by **Way Automotives Pvt. Ltd.**, the Corporate Applicant herein under Section 10 of the Insolvency and Bankruptcy Code, 2016 to initiate Corporate Insolvency Resolution Process (CIRP) against itself as the Corporate Person is unable to pay the debt of ₹ 3,19,82,374/- (Rupees Three crore Nineteen Lakh Eighty-Two Thousand Three Hundred Seventy-Four only).

1. The Registered Office of the Corporate Debtor is Situated at: Near Bariniput N. H.– 43 Jeypore, Odisha- 764 006, CIN No.



U50402OR2008PTC009913. The Registered Office of the applicant is situated within the jurisdiction of this Adjudicating Authority.

2. The applicant was incorporated on 03.04.2008 as a Company limited by Shares, started its business on the main prospects of Tata Nano which was a mass market car for rural area. When the project got delayed it adversely effected its business projections in the initial years. But the Corporate Applicant/Company tried to stabilizes the business with the existing portfolio of vehicles. During the course of business from financial year 2013 onwards till 2016 there was no new products introduced in the market by Tata Motors and the sales of existing products steadily went down all over India across all the states. During the year 2013 to 2016 the Corporate Applicant tried hard to sustain the business but due to negative sales of vehicles it suffered into severe loss.
3. That in the total passenger car business ecosystem of Tata Motors, the Corporate Applicant was only a part and its responsibility was only towards sales and services of cars, and many important aspects of business was not under its direct control. On 11.08.2016 after careful consideration, the company formally resigned from Tata Motors Passenger Vehicle Business. Since the resignation of the company from Tata Motors Ltd. The Promoters tried to revive the business but during the year 2020 Covid-19 has taken a toll on the ability of the company to be a going concern.
4. Total amount of debts as on date is Rs. 3,19,82,374/- which is due and liable to be paid by the Corporate Applicant to the Operational and Financial Creditors.
5. Debt accrued against the following class of creditors: -
  - a) Debt against Standard Chartered Bank, (Financial Creditors) as per the books of accounts of the Corporate Applicant the total amount due and payable to Financial Creditor is INR 29,49,098/-.
  - b) Debt against Tata Motors Finance Limited, (Financial Creditor) as per the books of accounts of the Corporate



Applicant the total amount due and payable to Financial Creditor is INR 9,68,116/-.

c) Debt against Way Infra Projects Private Limited, (Operational Creditor) as per the books of accounts of the Corporate Applicant the total amount due and payable to Operational Creditor is INR 90,94,451/-.

d) Debt against CT-GST circle Koraput (Operational Creditor) as per the books of accounts of the Corporate Applicant the total amount due and payable to Operational Creditor is INR 1,56,96,336/-.

6. Record of default in respect of Financial Debt and Operational Debt have been Annexed respectively at Annexure I/A and Annexure II/A of the petition. Copy of ledger evidencing default to creditors have been Annexed at Annexure IV/A. The Corporate Applicant has also enclosed with the petition copies of the audited financial statements of the Corporate Debtor for 2019-2020 and 2020-2021 and the provisional financial statements for 2021-22.
7. It is further contended that Reserves & Surplus of the Corporate Debtor is in the negative to the tune of (-) Rs. 2,30,31,562.90 and Other Current Liabilities amounting to Rs. 1,80,57,058.81 and Trade payable of Rs.1,38,57,885.53 in the financial year ending 31/03/2021. It is observed that the above figures are same in the provisional Balance Sheet for 2021-22.
8. The Board of Directors' meeting was held on 08.01.2022 wherein resolution was passed to approach this Adjudicating Authority for initiation of Corporate Insolvency Resolution Process. Copy of resolution has been annexed with the application and marked as Annexure-C.
9. Financial statements of the Company reveal that it is a loss-making Company and financially it is not sound to repay its loans and other financial obligations.



10. The Corporate Applicant has suggested name of Mr. Ardhendu Shekhar Raut of At- Plot No-N/3, Lane-2, SBI Colony, Soubhagyanagar, Siripur, Bhubaneswar- 751 003 having E-mail Id- [ipasraut@gmail.com](mailto:ipasraut@gmail.com) for appointment as Insolvency Resolution Professional, who is registered with the ICSI Insolvency Professionals Agency having **Registration No. IBBI/IPA-002/IP-N00024/2016-17/10051**. There is nothing on record to show that any disciplinary proceeding is pending against the proposed IRP.
11. This application is **ADMITTED** by following order.

**ORDER**

- 1) The application filed by the Corporate Applicant under Section 10 of the Insolvency & Bankruptcy Code, 2016 is hereby admitted for initiating the Corporate Insolvency Resolution Process against **Way Automotives Pvt. Ltd.** (Corporate Applicant/Corporate Debtor) Moratorium order is passed for a public announcement as stated in Sec.13 of the IBC, 2016.
- 2) The moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The IRP shall cause a public announcement of the initiation of Corporate Insolvency Resolution Process and call for the submission of claims under Sec.15. The public announcement referred to in clause (b) of sub-Section (1) of Insolvency & Bankruptcy Code, 2016 shall be made immediately.
- 3) Moratorium under Sec.14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following: -
  - 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 (54 of 2002);
  - d) The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.
- 4) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during the moratorium period.
  - 5) The provisions of sub-Section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
  - 6) The order of moratorium shall affect the date of admission till the completion of the Corporate Insolvency Resolution Process. Provided that where at any time during the corporate insolvency resolution process period, if the Adjudicating Authority approves the resolution plan under sub-Section (1) of Sec.31 or passes an order for liquidation of Corporate Debtor under Sec.33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
  - 7) Necessary public announcement as per Sec.15 of the IBC, 2016 may be made by the resolution professional upon receipt of the copy of this order.
  - 8) Mr. Ardhendu Shekhar Raut, At- Plot No- N/3, Lane-2, SBI Colony, Soubhagyanagar, Siripur, Bhubaneswar-751 003 having E-mail Id- [ipasraut@gmail.com](mailto:ipasraut@gmail.com) is appointed as Interim Resolution Professional/Resolution Professional registered with the ICSI Insolvency Professionals Agency having **Registration No. IBBI/IPA-002/IP-N00024/2016-2017/10051** for ascertaining the



particulars of creditors and convening a meeting of Committee of Creditors for evolving a resolution plan.

- 9) The Resolution Professional shall conduct CIRP in time bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- 10) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors.
- 11) Registry is hereby directed to communicate the order to the Corporate Applicant/Corporate Debtor and to the Interim Resolution Professional/ Resolution Professional by Speed Post as well as through E-mail.
- 12) Interim Resolution Professional to file 1<sup>st</sup> progress report on 06.07.2022.
- 13) List the matter on 06.07.2022.
- 14) Let the certified copy of the order be issued upon compliance with requisite formalities.

**SATYARANJAN PRASAD**  
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**Satya Ranjan Prasad**  
Member (Technical)

**PANDIAN MOHAN RAJ**  
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**P. Mohan Raj**  
Member (Judicial)

Signed this 6<sup>th</sup> day of June, 2022.

Kaushal