

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

**CP (IB) No. 134/Chd/Hry/2021
Under Section 7 of IBC, 2016**

In the matter of C.P. (IB) No. 134/Chd/Hry/2021

- 1. Vikas Mittal**
S/o Late Shri. Hansraj Gupta
R/o 665, Saraswati Vihar
Gurugram- 122002, Haryana
- 2. Mr. Naveen Yadav**
S/o Shri. Narayan Jai
R/o 12/4, Acharya Puri
Gurugram- 122001, Haryana
- 3. Mr. Neelabh Agarwal**
S/o Shri Sushil Agarwal
R/o 261, Indira Nagar Colony
Dehradun- 248006, Uttarakhand
- 4. Mr. Lalit Kumar Grover**
S/o Late Shri I.C. Grover
R/o H.No.- 298, Sector 7
Gurugram- 122001, Haryana
- 5. Mr. Jayanta Kakoti**
S/o Shri Tilak Chandra Kakoti
R/o H. No.- 267, Ward No. 2, Howraghat
Distt. Karbi Anglong, Assam- 782481
- 6. Mr. Surender Kumar & Mrs. Poonam**
S/o Shri Patram Jangra
R/o H. No.- 28, Scheme No. 6, Model Town,
Hisar- 125005, Haryana
- 7. Mr. Yugesh Kumar**
S/o Shri Kapil Deo Kharwar
R/o Mohalla Sri Krishanapuri Colony, Post: Beekapur,
Distt. Gazipur, Uttar Pradesh- 233001

- 8. Mrs. Shweta Sahai**
W/o Mr. Bhagwan Sahai
R/o 194, Flat No. 15, Khasra No. 556
Village Sultanpur, Delhi- 110030
- 9. Mrs. Hemlata Sharma**
W/o Mr. Ajay Sharma
R/o C-49-D, Gali No. 4
Mahendru Enclave, Delhi- 110023
Also at:Princess Road, Model Town Part I,
Delhi- 110009
- 10. Mr. Bhavya Dang & Mrs Kartika Rai**
S/o Shri Baldev Raj Dang
R/o A-2102, Bhagwati Eleganza
Plot 12, Sector 11
Ghansoli, Navi Mumbai- 400701
- 11. Mr. Deveshwari Narender Kaithait**
S/o Shri Narendra Singh Kaithait
R/o B/703, Ramdev Road, Mira Road(E),
Mumbai, Maharashtra
- 12. Mr. Prabhanshu Gaur & Mrs. Bhavanshu Gaur**
S/o Shri Ravinder Kumar Gaur
R/o 415-1A/16, Near Water Works
Officers Colony No. 3, Civil Lines,
Gurgaon- 122001, Haryana
- 13. Mr. Chandra Mohan Bisht**
S/o Shri Khushal Singh Bisht
R/o C-4/13, 2nd Floor, Sector 5,
Rohini, New Delhi- 110085
- 14. Mrs. Monika Jain**
W/o Mr. Sanjeev Kumar Jain
R/o W/1- 301, Panchvati Angan
Swaminarayan Gurukul Road
Chala, Vapi, Distt. Valsad, Gujarat
- 15. Mrs. Ashima Shrivastava**
W/o Mr. Abhishek Shrivastava
R/o Flat No.- 1301, Artica-A, Lodha Aqua
Mira Road(E), Thane,
Maharashtra

- 16. Mrs. Swecha Chandan & Mr. Jaideep Singh Dhaka**
W/o Rohit Chandan & S/o Dilbag Singh Dhaka
R/o C-24, Ramdutt Enclave, Uttam Nagar,
New Delhi- 110059
- 17. Mr. Debi Prasad Tripathy**
S/o Shri. Lingaraj Tripathy
R/o H. No - 81-B, 4 Marla, Sector 11, Near Tikona Park,
Gurgaon - 122001, Haryana
- 18. Mr. Praveen Kumar**
S/o Shri. Shyam Sunder
R/o Vpo. Pachgaon,
Gurgaon - 122001, Haryana
- 19. Mr. S. Balchandra Iyer**
S/o Late Shri. S. Subramoney Iyer
R/o A-4, Type 6, Tower 9
East Kidwai Nagar,
New Delhi - 110023
- 20. Mr. Anita Tuli**
W/o Mr. Dushyant Kumar Tuli
R/o 2916, DLF Phasde-IV,
Gurgaon- 122009, Haryana
- 21. Mrs. Sonia Lalit Narang**
W/o Mr. Lalit Narang
R/o H. No - 3, Road No. 63
Punjabi Bagh (West),
New Delhi - 110026
- 22. Mr. Surender Singh**
S/o Shri. Hari Singh
H. No - 773/21, Gandhinagar
Gurgaon - 122001, Haryana
- 23. Mrs. Deboshree Gill**
W/o Mr. Vinay Prateek Gill
R/o SG-9, Shiv Ganga Apartment, A-53,
Pochanpur Colony, Sec- 23
Dwarka, New Delhi - 110077
- 24. Mrs. Sangeeta Kathait & Mr. Jaikrishan Singh Kathait**
W/o Mr. Jaikrishan Singh Kathait & S/o Shri. Jagdish Singh

R/o Flat No. 1248, Sector - D-1,
Vasant Kunj, New Delhi - 110070

- 25. Mr. Ankush Sharma**
S/o Shri. Devender Sharma
R/o RZ-G Block, House No. 14B,
West Sagar Pur, New Delhi - 110046
- 26. Mr. Rupesh Singh**
S/o Shri. Daulat Ram
R/o H. No - 674,
Village & Post Office: Bijwasan,
New Delhi
- 27. Mr. Balinder Gautam**
S/o Inderjeet
R/o D-509, Gali No. 62, Mahavir Enclave, Part-3,
New Delhi - 110059
- 28. Mr. Sandeep Bhardwaj**
S/o Shri. Madan Lal Bhardwaj
R/o H. No - 1601, Pana Mamoorpur,
Narela - 110040, New Delhi
- 29. Mr. Prabhakar Wadibhasme**
S/o Kesharao Wadibhasme
R/o 262/2, Mathani Mauda
Nagpur, 441104, Maharashtra
- 30. Mr. Ranjeet S Thakur & Mrs. Sonam Thakur**
S/o Shri. Rajender Thakur & W/o Ranjeet S Thakur
R/o 3rd Floor, Plot No. 12, RK Enclave, Dharam Colony,
Behind Ompee Group, Palam Vihar,
Gurgaon, Haryana
- 31. Mr. Dilip Kumar**
S/o Bholu Parsad Roy
R/o H.No- 150, Sehaj Enclave, Dakala Road
Patiala Tehsil & Distt. Patiala, Punjab
- 32. Mr. Sanjay Kumar Jhamb**
S/o Shri. Kishan Chand
R/o H. No - 64, Third Floor,
Pocket - 16, Sector - 24, Rohini - 110085,
New Delhi

- 33. Mrs. Sudha Mehta & Mr. Raj Kumar Mehta**
W/o Raj Kumar Mehta & S/o Shri. Jai Prakash
R/o 71/48, Prem Nagar,
Janakpuri - 110058, New Delhi
- 34. Mr. Sharjil Ahmed & Mrs. Reema Bedi**
S/o Ahmed Hussain & W/o Sharjil Ahmed
R/o 559A, Sector Floor, Orchid Island, Sector - 51
Gurgaon - 122001, Haryana
- 35. Mrs. Meenaskshi Sahuta**
W/o Mr. Ravi Sahuta
R/o B- 1001, Connoisseur Twin Tower
Ch-9, Sector - 43,
Gurgaon - 122002, Haryana
- 36. Mrs. Rekha Bajaj**
D/o Shri. Tejbhan Bajaj
R/o 159/21, Street No. 2, Madan Puri
Gurgaon - 122001, Haryana
- 37. Mrs. Nidhi Goel & Mr. Mohit Goel**
W/o Mr. Mohit Goel & Shri. Sashi Kumar
R/o Near Arya Samaj School, Balakram Street
Najibabad, Binjor, Uttar Pradesh
- 38. Mr. Munish Puri**
S/o D.P. Puri
R/o F-32, UG Floor,
Bali Nagar - 110015, New Delhi
- 39. Mr. Manoj Kumar Rawat**
S/o Shru. Radhey Shyam Rawat
R/o H. No - 13/1, Basai Enclave,
Near Green Field School Basai,
Gurgaon - 122001, Haryana
- 40. Mr. Nadeem Ahmed & Mrs. Tanveer Fatima**
S/o Late Shri. M.H. Siddique & W/o Nadeep Ahmed
R/o H. No - 633/28,
New Jyoti Park, Gali No. - 13,
Gurgaon - 122001, Haryana
- 41. Mrs. Bhavana**
W/o Mr. Manish Bansal
R/o Flat No. D- 1105, Chopal Marg

V.P.O. Bijwasan,
New Delhi - 110061

- 42. Mr. Anubhaw Kumar**
S/o Shri. Ishwari Sadan Srivastava
R/o H. No - 801, Stellar One,
Sector 1, Plot No. 9,
Greater Noida, Uttar Pradesh
- 43. Mr. Ashok Kumar & Mrs. Sarita**
S/o Shri. Mangat Rai & D/o Late Shri. Dhoop Singh
R/o RZ-A-58, Dabri Extn. Main Road
Dada Dev Hospital,
New Delhi - 110045
- 44. Mr. Sandeep Bhat & Mrs. Archana Takoo Bhat**
S/o Shri. Amar Nath Bhat & D/o Late Shri. Avtaar Krishan Takoo
R/o D-16/17, F.F., Ardee City, Sector 52
Gurgaon - 122003, Haryana
- 45. Mr. Suresh Kumar Meena**
S/o Rati Ram Meena
R/o B-285, Gali No 11
Ashok Nagar - 110093,
New Delhi
- 46. Mr. Satish Kumar**
S/o Late Shri. Kishori Lal
R/o WZ - 732/B, Nariana,
New Delhi - 110028
- 47. Mr. Anurag Garg & Mrs. Swati Garg**
S/o V.M. Gupta & W/o Mr. Anurag Garg
R/o D-415, GC, Centrum, Aminsia Khand -2
Indrapuram, Ghaziabad, Uttar Pradesh
- 48. Mr. Parag Kumar Bora**
S/o Late Shri. Prodip Bora
Through SPA: Mrs. Archana Takoo Bhat
W/o Mr. Sandeep Bhat
D-16/17, FF, Ardee City, Sector - 52,
Gurgaon, Haryana
- 49. Gautam Tripathi**
S/o Shri. Ram Surath Tripathi
R/o House No. 243A/12, Galo No. 6,

Krishna Colony,
Gurugram, Haryana

50. Mr. Amit Gupta and Mrs. Rohini Gupta

S/o Shri. S.P. Gupta
Through SPA: Mr. Amarnath Taneja
S/o Late Shri. Ram Chand
House No - 506/21-C,
Faridabad, Haryana

51. Mohit Mathur

S/o Shri. Nand Lal Mathur
House No. -214, Krishna Apartment,
Plot No. 13, Sector - 9,
Dwarka, New Delhi-110077

52. Mr. Ashish Setia

S/o Shri. Subhash Setia
R/o H. No- 1605-06, New Housing Board Colony
Sector 11/12,
Panipat, Haryana

53. Debashish Mishra & Swarnlata Mishra

S/o Shri. Seshadev Mishra
Flat No. 103, Dhabalgiri, Jaipur Road,
Odisha - 755019

54. Mr. Sandeep Kumar

S/o Shri. Surender Singh Gulati
R/o H. No - 227, Village Pillu Khera
Tehsil Safidon, Distt. Jind, Haryana

(Through Mr. Vikas Mittal, Petitioner No. 1)

...Financial Creditors/Petitioners

Vs.

Swastik Homebuild Pvt Ltd.

Through its Director(s)
Having its registered office at:
01B122, Oakwood Estate
Akashneem Marg, DLF City
Phase-II, Gurugram- 122002

....Corporate Debtor/Respondent

Judgement delivered on: 19.12.2024

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

Present :

For the Petitioner : Mr. Rahul Bhardwaj, Advocate with Mr. Vikas Mittal

For the Respondent : Mr. Vishwajeet, proxy counsel for Mr. Akhil Shankwar,
Advocate

Per: Sh. Harnam Singh Thakur, Member (Judicial)

Sh. Umesh Kumar Shukla, Member (Technical)

JUDGEMENT

The present petition has been filed by 54 Petitioners, represented by Mr. Vikas Mittal (hereinafter referred to as the **“Petitioner” or “Petitioners”**) under Section 7 of the Insolvency and Bankruptcy Code, 2016, seeking initiation of Corporate Insolvency Resolution Process against M/s Swastik Homebuild Private Limited, (hereinafter referred to as the **“Respondent” or “Corporate Debtor”**), claiming a default of Rs.19,87,94,472/- (Rupees Nineteen Crores Eighty-Seven Lacs Ninety-Four Thousand Four Hundred and Seventy-Two only, inclusive of interest) on the part of the Respondent. The facts stated in the application are as under:

- i. The Petitioners booked the respective units in project ‘Genesis Sky-Heights’ with the Corporate Debtor by executing Builder Buyer Agreement (hereinafter referred to as the **“BBA”**) and made an advance payment of Rs. 11,03,72,021 to the Corporate Debtor.

- ii. As per the terms of the BBA, the Corporate Debtor was obligated to handover the possession of the units to the Petitioners within a period of 3 years from the date of execution of BBA. The due date for handing over the possession as per the agreement of the Petitioner, Mr. Vikas Mittal, expired on 06.11.2016. However, the Corporate Debtor despite guaranteeing the possession and taking advance payments from the Petitioners failed to handover the possession by the committed timeline, thus committing a default to the tune of Rs.19,87,94,472/- (Rupees Nineteen Crores Eighty-Seven Lacs Ninety-Four Thousand Four Hundred and Seventy-Two only).
- iii. Till date the project has not been completed and the Corporate Debtor is unable to complete it and handover the possession. Further, the condition of a total of 100 or 10% of home buyers of a project (whichever being less), which is required to file Section 7 petition under the Code is fulfilled as a total number of 54 home buyers have filed for default against the Corporate Debtor, whilst the total number of units in the project in question is 450 and the number of sold units is 350.
- iv. The date of default as mentioned in Part IV of the petition is 06.11.2016, when the timeline to handover the possession

of the unit expired as per the terms of executed BBA, which is annexed as Annexure A-3 to the petition..

2. The Respondent filed its reply through its authorised representative Pankaj Mehta, vide I.A. No. 2760/2023 dated 21.11.2023, diary no. 01318/2. A copy of the Board Resolution dated 03.10.2023 is annexed at page 38 of the reply. It is submitted by the Respondent that the delay was due to change in circumstances, including enactment of GST, Covid-19 pandemic apart from unforeseeable hurdles faced at the construction site. The Respondent further submitted that:

- i. The Respondent had applied for completion certificate and fire safety certificate and the Respondent is ready to provide possession of the flats, as when they would be ready to move in.
- ii. The Respondent couldn't fetch the raw material from the market due to the order passed by the Supreme Court in the matter of "**State of Rajasthan V/s Nature Club of Rajasthan**" **SLP (C) No.34134 of 2013**, which has effected to restrain all the 82 mining lease/quarry holders from carrying out mining of sand and bajri, unless a scientific replenishment study is completed and until the matter is fully and dispassionately considered by the Ministry of Environment, Forest and Climate Change and an environmental clearance is granted or rejected, which

resulted in delay in completion of construction, which was beyond the control of the Corporate Debtor.

- iii. The Pollution Control Department through its notices for pollution control exercises, also periodically every year restrained ongoing construction activities in Delhi and NCR including Rajasthan, which also contributed to the delay in carrying out construction works of the Opposite Party firm.
- iv. The demonetization made by the Government of India on 08.11.2016, declaring the currencies of Rs.500 and Rs.1000 notes as invalid, (ii) enactment of Real Estate Regulation Act, 2016, which came into force in the State of Rajasthan w.e.f. 01.05.2017, and later, (iii) GST law, coming into force w.e.f. 01.07.2017 imposing GST @ 12% as against 4.5% service tax, delaying construction by 5-6 years or more and undergoing drastic action etc.
- v. Even after making efforts to timely complete the project, the project got delayed due to the sudden outbreak of Covid-19 pandemic. Conversely, due to the restriction put in place by the Government, all the construction activity across the country has halted.
- vi. The timely payment is critical for construction of project and nonpayment leads delay in construction activity. It is a matter of fact and record that unit holders as a group have

defaulted in making timely payment, which has caused major setback to the development work.

- vii. The bona fide conduct of Respondent is evident from the fact that Hon'ble Real Estate Regulatory Authority, Rajasthan had given extension to the Respondent for completion of the project vide order dated 25.06.2021 based upon the prevailing situation and unforeseen circumstances. (Copy of order is annexed with the reply as AnnexureR-1). Further, Clause 14 of the BBA contains provisions that the developer is entitled to extension of time due to unforeseeable circumstances.
- viii. A settlement has been reached with the Petitioner no. 48 Parag Kumar Bora with the Respondent and settlement agreement is annexed with the reply.
- ix. The Special Window for Affordable & Mid-Income Housing (SWAMIH") Investment Fund is a government backed fund, which is formed to complete construction of stalled, RERA-registered affordable and mid-income category housing projects, which are stuck due to paucity of funds. The funds so disbursed is mandated to be used in completion of the projects. The Corporate Debtor had applied and present project has been approved to be

covered under the said scheme on 31st August 2020 and the project has been completed.

3. The Petitioner vide I.A. No. 4741/2021 dated 09.09.2021; diary no. 01094, placed on record letter dated 21.11.2019, annexed as Annexure A-2 of the said I.A, sent by Corporate Debtor to the Petitioner, Mr. Vikas Mittal, wherein the Corporate Debtor stated:

'We will start offering possession tower wise very soon. We promise to handover your unit as early as possible.'

The Petitioner also placed another letter from Corporate Debtor dated 10.03.2021, wherein the Corporate Debtor mentioned that the project has been considered by Swamih Investment Fund-I and the first disbursement had also happened and requested the Petitioner, Mr. Vikas Mittal to get the BBA registered in accordance with Rajasthan RERA as below:

We have mobilized our team and have started talking to the contractors and the consultants to start the project subject to weather conditions and restrictions imposed by Covid 19 pandemic. We shall resume the work in a short time and are hopeful to complete it in revised timelines. We shall share the plan of action for construction once we resume back with full fledge activity at site.

4. Written submissions dated 19.04.2023 vide diary nos. 00631/4 were filed by the Petitioner, wherein it is submitted that the Application is filed by 53 Petitioners, who are home buyers of the Corporate Debtor and are the financial creditors under Section 5(8) of the Code. The application is well within the period of limitation of three years, as the

non-completion of the project at present amounts to a continuous cause of action.

5. The Petitioner vide I.A. No. 2199/2024 dated 01.10.2024; diary no. 03070 to place on record documents including recent invoices and notices received from the Corporate Debtor to substantiate the continuing cause of action. Demand cum offer for possession dated 08.09.2022 and invoices have been placed on record.
6. We have heard the arguments by the Ld. Counsels for both parties and pursued the records carefully. The points for determination in the case at hand are as follows:

- i. Whether the present petition is filed within the period of limitation.

As stated by the Petitioner in Part IV of the petition, the date of default is 06.11.2016, when the possession of the units purchased could not be handed over in time, i.e., 2016 till the filing of the present petition.

It may be seen that the Corporate Debtor issued letters dated 21.11.2019 and 10.03.2021 to the Petitioner, wherein it has promised to handover the possession of the units soon. Further, the Corporate Debtor also issued Demand cum offer of possession to the Petitioners/buyers on various occasions in the year 2022 and 2023, the last letter for

intimation of interest and holding charge dated 28.07.2023, annexed as Annexure-1 (Colly) with I.A. No. 2199 of 2024.

As per the records available with us, the Corporate Debtor issued a letter dated 05.12.2019 to the Petitioner promising him to handover the possession of his unit. The petition was filed on 17.06.2021, which is within the period of limitation of three years from 05.12.2019.

- ii. Whether the Petitioners have the locus standi to file the present petition under Section 7 of the Code.

The petition is filed by the Petitioner/buyer along with 53 other Petitioners/buyers, who have given their consent affidavits to file the present petition. The said consent affidavits are also attached with the petition. Thus, the present petition is maintainable, as it is supported by the consent affidavits of the 54 allottees, i.e. more than 10% of the total 450 units and 350 allottees of the said real estate project.

- iii. Whether the price of flats/units deposited by the Petitioners with the Respondent amount to debt and the Respondent defaulted in repayment of the same.

As claimed by the Petitioners that the possession of the units was to be offered by the Respondent/Corporate Debtor by 06.11.2016 as stipulated in the BBA (Annexure

A-3 of the petition) duly executed between the Respondent and the Petitioners, but the same has not been handed over to the Petitioners till the date of filing of the present Petition. The Respondent in its letters dated 21.11.2019 and 10.03.2021 issued to one of the Petitioners has duly acknowledged its default by admitting delay on its part in handing over the possession of the units. The sales price paid by the Petitioners to the Respondent as per the payment schedule falls under the definition of financial debt as defined under Section 5(8)(f) of the Code, which reads as follows:

(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;

Explanation. -For the purposes of this sub-clause: -

- i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and*
- ii) the expressions, "allottee" and "real estate project" shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);]*

The Respondent/Corporate Debtor has not denied the amount deposited by the Petitioner Allottees, rather, admitted that the project could not be completed due to some unforeseen events and developments, including introduction of the GST regime, outbreak of Covid-19 etc.

Thus, it can be safely concluded that the Respondent/Corporate Debtor has committed default while accepting the price of the flats/units, but failed to deliver the possession of the flats/project.

The Supreme Court of India in the case of ***Pioneer Urban Land and Infrastructure Limited & Anr vs Union of India & Ors Writ Petition (Civil) No. 43 of 2019***, decided on 09.08.2019, also known as the flat buyers case, held that the IBC amendment makes and clarifies that allottees of real estate projects are covered under the definition of financial creditors under the IBC.

7. As a sequel to the above discussion and reasons recorded hereinbefore, we find that the present petition is maintainable and the Petitioner has been able to establish the debt and default of the Corporate Debtor beyond doubt.
8. In the given facts and circumstances, the present application is admitted in terms of Section 7(5) of the IBC. Vide I.A. No. 941 of 2024, Mr. Suman Kumar Verma, Interim Resolution Professional (IRP) has been proposed by the the Petitioners. Form 2 dated 13.03.2024 along with the certificate of IBBI issued in favour of the proposed Interim Resolution Professional i.e. Mr. Suman Kumar Verma is attached with I.A. No. 941 of 2024. The Law Research Associate of this Tribunal has checked the credentials of Mr. Suman Kumar Verma and there is

nothing adverse against him. The AFA Certification is valid upto 30.06.2025.

9. In terms of Section 14 of the Code, we also order Moratorium as below:
 - i. Moratorium under Section 14(1) for prohibiting all of the following, namely:
 - a. The institution of suits or continuation of pending suits or proceedings against the Respondent 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 Respondent 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 Respondent 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 Respondent.
 - ii. It is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a

licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;

- iii. The provisions of sub-section of section 14(1) shall not apply to such transactions, agreements or other arrangement, as may be notified by the Central Government in consultation with any financial sector regulator or any other authority; and also to a surety in a contract of guarantee to a corporate debtor.
- iv. The supply of essential goods or services to the corporate debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances, as may be specified.

- v. The order of moratorium shall have effect from the date of this order till the completion of the corporate insolvency resolution process or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33 as the case may be.
10. In view of the above, we appoint Mr. Suman Kumar Verma, as IRP having Registration IBBI/IPA-003/IP-N00342/2021-2022/13657, Email: ipskverma@gmail.com, Mobile No. 9716633301, the Interim Resolution Professional with the following directions:-
- i. The term of appointment of Mr. Mr. Suman Kumar Verma, shall be in accordance with the provisions of Section 16(5) of the Code;
 - ii. In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested with Interim Resolution Professional and strictly perform all the duties as are enjoined on the Interim Resolution Professional under Section 18 and other relevant provisions

of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor, etc. as provided in Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of the inventory of assets of the Corporate Debtor;

- iii. The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government, and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and morals;
- iv. The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor;

- v. The IRP/RP shall prepare the Audited Financial Statements as on date of the CIRP and shall submit before the CoC for consideration.
- vi. The IRP/RP shall also ensure that all the assets appearing in the Financial Statements on the CIRP date have been considered in the valuation report and shall send a communication along with a copy of public announcement made under Regulation 6A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, to all the creditors as per the last available books of accounts of the corporate debtor through post or electronic means wherever the information for communication is available.
- vii. It is hereby directed that the Corporate Debtor, its Directors, personnel, and the persons associated with the management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;
- viii. The Suspended Board Of Directors is directed to give complete access to the Books of Accounts of the corporate debtor maintained under section 128 of the Companies Act.

In case the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the corporate debtor, then IRP/RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. The statutory auditor is directed to share with the Resolution Professional the audit documentation and the audit trails, which they are mandated to retain pursuant to SA-230 (Audit Documentation) prescribed by the Auditing and Assurance Standards Board ICAI. The IRP/Resolution Professional is directed to take possession of the Books of Account in physical form or the computer systems storing the electronic records at the earliest. In case of any non-cooperation by the Suspended Board of Directors or

the statutory auditors, he may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/RP in implementing this order for retrieval of relevant information from the systems of the corporate debtor, the IRP/RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the corporate debtor, particularly for government portals, for various compliances. The Interim Resolution Professional is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.

- ix. The Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with requests for information/documents available with those authorities/ institutions/ others pertaining to the corporate debtor which would be relevant in the CIR proceedings. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the

Resolution Professional to enable him to conduct the CIR Proceedings as per law.

- x. The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying the constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene the first meeting of the Committee within seven days of filing the report of the constitution of the Committee; and
 - xi. The Interim Resolution Professional is directed to send a regular progress report to this Tribunal every fortnight.
11. The Petitioners are directed to deposit Rs.3,00,000/- (Three Lakhs) only with the IRP to meet the immediate expenses in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The amount, however, will be subject to adjustment by the Committee of Creditors as to be duly accounted for by IRP on the conclusion of CIRP.
12. A copy of this Order shall be communicated to both parties. The learned counsel for the petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is

also directed to send a copy of this order to the Interim Resolution Professional at his email address forthwith.

13. The petition is admitted accordingly.

Sd/-
(Umesh Kumar Shukla)
Member (Technical)

December 19, 2024
ASG

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