

**IN THE NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH, COURT – II**

C.P.(IB)/33(MB)/2023

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudication Authority) Rule 2016)

In the matter of

Gatik Conglomerate Private Limited

Having Registered Office at: Diamond Heritage, Room No. 904, 16, Strand Road, Kolkata- 700001.

.....Financial Creditor

Vs

Taurian Engineering Private Limited

Having Registered Office at: 63, 3rd Floor, 107, Anand Ashram, Dr. R.G. Thandani Marg, Poddar Hospital, Worli, Mumbai-400018, Maharashtra.

.....Corporate Debtor

Order delivered on: 09.02.2023

Coram:

Hon'ble Member (Judicial) : Justice P.N. Deshmukh (Retd.)

Hon'ble Member (Technical) : Shri Shyam Babu Gautam

Appearances:

For the Operational Creditor : Adv. Amit Tungare

For the Corporate Debtor : Adv. Heena Vichare

ORDER

Per- Shyam Babu Gautam, Member Technical

1. The Present Application is filed under section 7 of Insolvency and Bankruptcy Code, 2016 (for brevity 'IBC, 2016') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity 'the Rules') by Gatik Conglomerate Private Limited (for brevity 'Financial Creditor') through its Authorised Signatory, Mr. Arvind Kumar Kayan, who has been duly authorised vide board resolution dated 24.02.2022 for initiating Corporate Insolvency Resolution Process (CIRP) against Taurian Engineering Private Limited (for brevity 'Corporate Debtor') for default in repaying an amount of **₹3,00,00,000** together with interest @ 12% p.a. of **₹12,00,000**, aggregating to **₹3,12,00,000** as on 07.12.2022.
2. On reading the application and other material placed before this Bench, it reveals that on 06.05.2022, the Financial Creditor filed a Company Petition No. 658 of 2022 before this Tribunal under section 7 of the Insolvency and Bankruptcy Code, 2016 for initiation of corporate insolvency resolution process against the Corporate Debtor and the same was admitted by this Tribunal vide order dated 11.07.2022.

After the admission of the CIRP against the Corporate Debtor, one of the directors filed a Company Appeal (AT) (Insolvency) No. 931 of 2022 against the admission order dated 11.07.2022. Meanwhile, the Financial Creditor and the Corporate Debtor entered into Consent Terms dated 01.08.2022, wherein the Corporate Debtor agreed and consented to pay a sum of Rs. 3,00,00,000 (Rupees Three Crore Only) to the Financial Creditor. In view of Consent Terms, the Hon'ble National Company Law Appellate Tribunal vide order dated 05.08.2022 in Company Appeal (AT) (Insolvency) No. 931/2022 allowed I.A. No. 2632/2022 and permitted the Corporate Debtor and Financial Creditor herein to withdraw C.P.(IB)/658/2022. Thus, the process of CIRP against the Corporate Debtor was withdrawn.

3. As per clause 2 and Table-I (Schedule of Payments) of Consent Terms dated 01.08.2022, the Corporate Debtor was liable to pay a sum of Rs. 3,00,00,000/- (Rupees Three Crore only) in three instalments of Rs. 1,00,00,000/- (Rupees One Crore only) each on 07.08.2022, 07.09.2022 and 07.10.2022 respectively. Further, clause 6 and 9(b) of the said consent terms records that in case of non-payment, all the due and undue instalments shall become the principal amount thereon and further interest @12% p.a. will be charged from the date of default. The said consent terms were breached and the Corporate Debtor committed default in repayment and did not adhere to Table -I (Schedule of Payment). Further, as per Schedule of Payment (Table-I) of the said Consent Term, 1st

Instalment of Rs. 1,00,00,000/- (Rupees One Crore only) was to be paid on or before 07.08.2022, same is to be considered as date of default, as the Corporate Debtor failed to pay any of the instalments. In such circumstances, the Financial Creditor has filed the present application before this Tribunal on 18.01.2023.

4. In addition to the copy of consent terms dated 01.08.2022, the Financial Creditor has also filed a copy of “**computation chart of debt along with interest**”; copy of “**Bank Certificate evidencing no payment has been received**”; copy of “**admission order passed by this Tribunal**” as well as copy of “**withdrawing admission order, passed by Hon’ble NCLAT**”.

5. The Corporate Debtor has not submitted anything or raised any objection to the present application. Moreover, the Corporate Debtor has accepted the breach of consent terms. In view of the same, this Bench is of the view, the material on record has proved the ‘existence of debt’ and ‘default’ on the part of the Corporate Debtor. Moreover, the date of default as per the breach of consent terms is 07.08.2022, which is very much within the limitation to file the present application. Under the said circumstances, since the debt and default on the part of the Corporate Debtor being proved and also by looking at the consent given by an Insolvency Professional, we hereby admit this petition by appointing **Mr. Neehal Mahamulal Pathan** (Insolvency Professional) as IRP with a

direction to the IRP to compute this claim by deducting the payments made by the Corporate Debtor, if any. The Petitioner shall pay the remuneration of the IRP as well as initial costs to the IRP until constitution of the Committee of Creditors. Accordingly, this petition is admitted with the direction as follows: -

a. The above Company Petition (IB) 33(MB)/2023 is hereby allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against ***Taurian Engineering Private Limited.***

b. This Bench hereby appoints ***Mr. Neehal Mahamulal Pathan, having Registration No: IBBI/IPA-001/IP-P-01561/2018-2019/12406; email: ca.neehal@gmail.com; address: RS No. 825, Plot No. 27, Sahjeevan Parisar, Karande Mala, Near TPM Church behind Circuit House, Kolhapur, Maharashtra, 416003;*** as the Interim Resolution Professional to carry out the functions as mentioned under the Insolvency & Bankruptcy Code, 2016.

c. The Financial Creditor shall deposit an amount of Rs. 2 Lakh towards the initial CIRP cost by way of a Demand Draft drawn in favour of the Interim Resolution Professional appointed herein, immediately upon communication of this Order.

d. That this Bench hereby prohibits 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, transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover 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; 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. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

f. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

g. That the order of moratorium shall have effect from the date of pronouncement 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 corporate debtor under section 33, as the case may be.

h. That the public announcement of the corporate insolvency resolution process shall be made immediately as specified under section 13 of the Code.

i. During the CIRP period, the management of the corporate debtor will vest in the IRP/RP. The suspended directors and employees of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP/RP.

j. Registry shall send a copy of this order to the concerned Registrar of Companies for updating the Master Data of the Corporate Debtor.

6. The Registry is hereby directed to communicate this order to both the parties and to IRP immediately.

Sd/-

SHYAM BABU GAUTAM
(MEMBER TECHNICAL)

Sd/-

JUSTICE P.N. DESHMUKH
(MEMBER JUDICIAL)