IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH, JAIPUR

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI RAJEEV MEHROTRA,
HON'BLE TECHNICAL MEMBER

Company Petition No. (IB)- 09/10/JPR/2023

IN THE MATTER OF:

M/S AMBITION INDO STEEL LLP
R/o: 103, Osho Tower,
Sardarpura, Jodhpur-342001
E-mail: sundharoad2011@gmail.com

...Corporate Applicant/ Debtor

VERSUS

1. **Kotak Mahindra Bank Ltd**
   27BKC, C 27, G Block Bandra Kurla Complex, Bandra (E). Mumbai Mumbai City, Maharashtra-India

   ...Respondent No. 1

2. **IDFC First Bank Ltd.**
   KRM Tower, 7th Floor, No. 1, Harrington Road, Chetpet, Chennai,
   Tamil Nadu, India -600031

   ...Respondent No. 2

3. **Lendingkart Finance Ltd.**
   A-303/304, Citi Point, Andheri-Kurla Road, Andheri (East) Mumbai, Mumbai City, Maharashtra- India-400059

   ...Respondent No. 3

4. **Axis Finance Ltd.**
   Axis House, Ground Floor, Wadia International Centre,
   Worli Mumbai, Maharashtra, India-400025

   ...Respondent No. 4

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5. **Aditya Birla Finance Limited**
Indian Rayon Compound, Veraval, Gujarat-362266

...Respondent No. 5

6. **Hero Fincorp Limited**
Community Centre, Basant Lok Vasant Vihar, New Delhi, India-110057

...Respondent No. 6

7. **Poonawalla Fincorp Limited**
601, 6th Floor, Zero One IT Park, Survey No. 79/1, Ghorpadi, Mundhwa Road, Pune, Maharashtra, India-411036

...Respondent No. 7

8. **Bajaj Finance Limited**
3rd Floor, Panchshil Tech Park, Plot 43/1, 43/2 & 44/2, Viman Nagar, Pune 411014

...Respondent No. 8

9. **Fedbank Financial Services Ltd.**
Kanakia Wall Street, A Wing, 5th Floor, Unit No.511. Andheri Kurla Road, (Andheri East), Mumbai City-400093

...Respondent No. 9

10. **Ugro Capital Limited**
Equinox Business Park, Tower 3, Fourth Floor, Off BKC LBS Road, Kurla Mumbai - 400070 Mumbai City- 400070

...Respondent No. 10

11. **Yes Bank Limited**
YES Bank House, Off Western Express Highway, Santacruz East Mumbai, Maharashtra-400055

...Respondent No. 11

12. **Canara Bank**
Company Secretary, Secretarial Department
Canara Bank, 112 Head Office, 112, JC Road Bengaluru-560002

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...Respondent No. 12

13. **ICICI Bank Limited**
ICICI Bank Tower, Near Chakli Circle, Old Padra Road Vadodara, Gujarat-390007

...Respondent No. 13

14. **Axis Bank Limited**
Trishul 3rd Floor Opp Samartheshwar Temple Law Garden Ellisbridge Ahmedabad GJ 380006

...Respondent No. 14

15. **Edelweiss Financial Services Ltd.**
Edelweiss House. Off. C.S.T Road, Kalina, Mumbai-400098

...Respondent No. 15

16. **Digikredit Finance Pvt. Ltd.**
Unit No. 1B, 4th Floor, A-Wing, Times Square Andheri Kurla Road, Andheri (E) Mumbai, Mumbai City-400059

...Respondent No. 16

17. **Tata Capital Limited**
11th Floor, Tower A, Peninsula Business Park Ganpatrao Kadam Marg, Lower Parel, Mumbai City-400013

...Respondent No. 17

For the Applicant	:	Dheeraj Garg, Adv.
For the Respondent	:	Divesh Sharma, Adv. Abu Jhon Mathew, Adv. K. Gayatri, Adv. Avinash Kumbhaj, Adv. Jatin Chawla, Adv. Jitendra Choudhary, Adv. Animesh Khandelwal, Adv.

Order Pronounced On: 23.09.2024

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ORDER

Per: Shri Deep Chandra Joshi, Judicial Member

1. The instant Application is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 ('Code') read with Rule 7(1) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 ('Rules') for initiation of Corporate Insolvency Resolution Process in respect of *M/s Ambition Indo Steel LLP,* ('Corporate Debtor'/ 'LLP') by the Corporate Debtor being the Applicant Company itself. The instant Application is filed through its Partner, *Mr. Rohit Kasliwal*, who has been authorised *vide* Board Resolution dated 17.11.2022.

2. The Applicant, *M/s Ambition Indo Steel LLP*, is an LLP incorporated under the provisions of the Limited Liability Partnership Act, 2008 on 01.09.2015 bearing LLP Identification No. AAE-6767. The registered office of the Applicant Company is situated at 7/197 Malviya Nagar, Jaipur, Rajasthan. The LLP has fixed capital of Rs. 10,00,000/- (Rupees Ten Lakh Only) and the main object of the LLP is manufacturing of basic metals.

3. The Applicant has stated that the LLP was operating as a going concern; however, due to business cycles and unprecedented surges in steel prices, the LLP was unable to meet its repayment obligations to financial and operational creditors, leading to defaults. A copy of the Audited Financial Statements for the financial years 2020 and 2021 is attached as Annexure-A6 (Colly) to the Application.

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4. The Partners of the Corporate Debtor in the meeting of partners dated 17.11.2022, after considering the financial position of the Corporate Debtor and defaults committed by the Applicant, sought to initiate CIRP and preferred the present Application under Section 10 of the Code, 2016.

5. The Applicant has annexed particulars of Financial Creditors and Operational Creditors in Part III of Form-6 and Annexure A9 of the Application. The Company has defaulted in repayment of its debt due to the following Financial Creditor and other creditors: -

S. NO	*NAME OF FINANCIAL CREDITOR*	*AMOUNT OF CLAIM/DEBT (IN RS.)*
1	Canara Bank	1,78,999/-
2	ICICI Bank Limited	1,00,00,000/-
3	Axis Bank	16,78,072/-
4	Axis Finance Ltd.	21,71,713/-
5	YES Bank	13,02,343/-
6	Bajaj Finserv Ltd.	17,91,809/-
7	Aditya Birla Finance Ltd.	21,61,536/-
8	Edelweiss Financial Services (ECL Finance Ltd.)	21,82,873/-
9	Fedbank Financial Services Ltd.	17,34,667/-
10	Hero Fincorp Ltd.	21,91,636/-
11	Kotak Mahindra Bank Ltd.	17,21,829/-
12	Poonawalla Fincorp Ltd.	17,50,779/-
13	Digikredit Finance Pvt. Ltd. (SME Corner)	17,36,458
14	Urgo Capital Ltd.	22,09,646/-
15	Lendingkart Finance Ltd.	9,35,786/-
16	Tata Capital Finance Ltd.	9,14,614/-
17	IDFC First Bank Ltd.	7,36,825/-
	Total	3,53,99,485/-

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OPERATIONAL CREDITORS	*CLOSING BALANCE*
Baba Traders	15,000.00
Dinesh Gases	46,484.00
Ganpati Industries	56,375.00
Jain Glass Studio	63,537.00
Krishna Enterprises A/C	34,496.00
Mohan Enterprises	2,51,436.00
M/s Ankur Agencies	43,034.00
M/s Jai Gurudev Trading Company	12,55,657.21
M/s Navnidhi Ferromet Pvt. Ltd.	3,467.00
M/s Nicasa Steel Private Ltd.	21,59,451.00
Power2Sme Pvt. Ltd.	43,660.00
Rockford Abrasives	14,767.00
Shivam Engineering A/C	34,600.00
Shree Automation A/C	96,760.00
Tata Capital Financial Services Limited	2,360.00
Vishal Machinery Centre A/C	34,220.00
Grand Total	**41,55,304.81**

6. Respondent No. 7 Poonawalla Fincorp Ltd. has filed its Reply *vide* Diary No. 869/2023 dated 05.04.2023 stated that the Applicant availed the loan from the answering Respondent for Rs. 20,15,456/- at the interest of 18.25% p.a. After taking the loan facilities, Applicant started committing default in payment of the due instalments and cheques given by the Applicant as against instalments were dishonoured. It is further submitted that the answering Respondent has filed compliant against the Applicant regarding the ACH which have bounced in furtherance of payment of monthly instalments of Rs. 73,117/- each through ACH Debit Transactions under Section 25 r/w Section 27 of the Payment And Settlement Systems Act. 2007 before the Court of Hon'ble Chief Metropolitan Magistrate at Calcutta.

7. Respondent No. 11 Yes Bank Ltd. has filed its Reply *vide* Diary No.

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871/2023 dated 05.04.2023 stated that the Applicant availed the loan from the answering Respondent for Rs. 15,00,000/- at the interest of 18% p.a. After taking the loan facilities, Applicant started committing default in payment of the due instalments and cheques given by the Applicant as against instalments were dishonoured. The Applicant owes a total amount of Rs. 14,70,331.43/- to the answering Respondent. Additionally, answering Respondent has filed arbitration proceedings before the tribunal of Shiv Singh Chauhan (Sole Arbitrator) *vide* case no. A019454 at Jaipur and got the award in favor on 14.02.2023. The answering Respondent is allowed to claim the amount of Rs. 14,70,331.43/- with 12% simple interest till the realisation of the dues. Further, if the insolvency application is allowed, then the answering Respondent will face difficulty and irreparable loss.

8. Respondent No. 9 FedBank Financial Ltd. has filed its Reply *vide* Diary No. 943/2023 dated 12.04.2023 stated that the Applicant availed the loan from the answering Respondent for Rs. 20,00,000/- at the interest of 17.50% p.a. After taking the loan facilities, Applicant started committing default in payment of the due instalments and cheques given by the Applicant as against instalments were dishonoured. The Applicant owes a total amount of Rs. 21,50,612/- to the answering Respondent.

9. Respondent No. 6, *Hero Fincorp Ltd.* has filed its Reply *vide* Diary No. 1636/2023 dated 03.07.2023 stated that the Applicant availed the business loan from the answering Respondent for Rs. 25,29,500/- (Rupees Twenty-

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Five Lakhs Twenty-Nine Thousand and Five Hundred Only). It is contended that the Board Resolution so passed by the Corporate Debtor was not in accordance with the law. The Respondent further submitted that criminal proceedings have already been initiated against the Applicant in a cheque bouncing case under Sections 138 and 141 of the Negotiable Instruments Act, 1881, read with Section 200 of the CrPC, 1973. Therefore, the present Application has been filed by the Applicant to avoid the consequences of these proceedings. Moreover, the Applicant has failed to submit the financial statement for the year 2021–2022 and the provisional statement for the period from April 2022 to November 2022. The total actual default is Rs. 26,93,225.59/- (Rupees Twenty-Six Lakhs Ninety-Three Thousand Two-Hundred and Twenty-Five).

10. Respondent No. 14, *Axis Finance Ltd.* has filed its Reply *vide* Diary No. 1831/2023 dated 28.07.2023 stated that the Applicant availed the loan from the answering Respondent for Rs. 25,08,413/- (Rupees Twenty-Five Lakhs Eight Thousand Four Hundred and Thirteen) at the interest of 17% p.a. In furtherance of non-payment of dues, the legal proceedings have been initiated under the Negotiable Instruments Act 1881 and the same is pending adjudication.

11. It is important to mention that this Adjudicating Authority *vide* its Order dated 17.11.2023 has forfeited a right to file reply in respect to the Respondents who not have filed their responses. Further, directions were

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given to the Applicant to file the recent financial statements of the Applicant Company. In compliance of the Order dated 17.11.2023 and of 10.05.2024, the Applicant filed copy of financial statement of FY 2021-22 and FY 2022-23 vide Diary No. 1357/2024 dated 29.05.2024.

12. There is no dispute that the Company has admittedly defaulted in payment of its debt which is over the threshold prescribed under Section 4 of the Code and therefore, is entitled to file the present Application in terms of sub-section (1) of Section 10 of the Code.

13. In compliance of the requirements of Section 10(3)(a) of the Code read with Annex-V of Form 6 of the Rules, the Applicant Company has filed copies of Financial Statements of the Corporate Debtor for the Financial Years ending on 31.03.2022 and 31.03.2023.

14. Additionally, in compliance with Section 10(3)(b) of the Code, the Applicant has proposed the name of *Mr. Sumit Rajnikant Mehta* as the Interim Resolution Professional ('IRP'). The Applicant Company has obtained written communication in Form-2 from the Insolvency Professional for appointment as an IRP. In Form-2 filed along with the Application, it has been affirmed by the proposed IRP that he is a registered Insolvency Professional and qualified to practice as an Insolvency Professional. Further, it has been affirmed/ confirmed that no disciplinary proceedings are pending against the proposed IRP.

15. In view of the above, it is clear that a default has occurred, the present

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Application under Section 10 is complete and that the Applicant is not ineligible under Section 11 of the Code. Further, it is evident that the requirements prescribed under sub-section 3(a) and (b) of Section 10 of the Code have also been complied with.

16. The Insolvency and Bankruptcy Code, 2016 is a complete Code in itself. The provisions of the Code are to be mandatorily followed. Adherence to the statutory requirements has to be *in toto*. Section 10(4)(a) of the Code mandates the Adjudicating Authority to admit the Application if it is complete.

17. In view of the foregoing, we are satisfied that the present Application is complete and that the Corporate Debtor has committed a default. Therefore, since, the Application is complete, we are hereby admitting the same under section 10(4)(a) of the Code. The CIRP shall commence from the date of this order under sub-section 5 of Section 10 of the Code.

18. A moratorium in terms of Section 14 of the Code is being issued prohibiting the following:

- *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;*

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- *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 Enforcement of Security Interest Act, 2002;*
- *Recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor.*

19. It is further directed that:

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

20. *Mr. Sumit Rajnikant Mehta* holding IP Registration No. *IBBI/IPA-001/IP-P01886-C01/2016-17/10032* is appointed as Interim Resolution Professional, who shall take statutorily prescribed steps inter-alia as envisaged under Section 15, 17 and 18 of the Code. Further, the IRP is directed to submit his report at the earliest. The Applicant shall deposit a sum of Rs. 1,00,000/- (Rupees One Lakh Only) to the bank account of the abovementioned IRP within 10 days from the pronouncement of this order.

21. The order of moratorium shall have effect from the date of this order till the completion of the CIRP as per sub-section (4) of Section 14 of the Code.

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22. Let a copy of this order be supplied to the Applicant as well as the Interim Resolution Professional to carry out the CIRP at the earliest. A copy of this order shall also be communicated to IBBI for its records.

Therefore *CP No. 09/10/JPR/2023* stands admitted.

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DEEP CHANDRA JOSHI,
JUDICIAL MEMBER

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RAJEEV MEHROTRA,
TECHNICAL MEMBER