



**THE NATIONAL COMPANY LAW TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH  
(Exercising powers of Adjudicating Authority under  
the Insolvency and Bankruptcy Code, 2016)**

**CP (IB) No. 118/Chd/Pb/2021**

**Under Section 7 of the  
Insolvency & Bankruptcy  
Code, 2016**

**In the matter of:**

**Punjab National Bank  
through its Principal Officer, Sh. Deepak Kumar Jha, Manager**  
having its Registered Head Office at:  
Plot No.4, Sector-10, Dwarka, New Delhi-110075

**And**

Branch Office at:  
Main Bazar, Faridkot, Punjab-151203

....Petitioner-Financial Creditor

Vs.

**M/s Golden Agrarian Pvt. Ltd.**  
having its Registered Office at:  
Near Canal, Sadiq Road, Faridkot, Punjab-151203  
CIN No.U15312PB2012PTC036748

...Respondent-Corporate Debtor

**Judgment delivered on: 24.05.2023**

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

**Present:**

For the Petitioner-Financial Creditor : Mr. Arpit Chawla, Advocate

For the Respondent-Corporate Debtor : Proceeded *ex parte* vide  
order dated 29.11.2022.

**PER: HARNAM SINGH THAKUR, MEMBER (JUDICIAL)**



## **JUDGMENT**

The present petition has been filed by Punjab National Bank (hereinafter referred to as 'Petitioner/Financial Creditor') through its Principal Officer, Sh. Deepak Kumar Jha, Manager under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'Code') read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 to initiate the Corporate Insolvency Resolution Process ('CIRP') against M/s Golden Agrarian Pvt. Ltd. (hereinafter referred to as 'Respondent/Corporate Debtor'). The petition is signed by Sh. Deepak Kumar Jha, with the affidavit verifying the contents of the application, appended thereto.

2. The Corporate Debtor is stated to be incorporated on 16.10.2012 incorporated under the Companies Act. The company having its Registered Office at: having its Registered Office at: Near Canal, Sadiq Road, Faridkot, Punjab-151203 CIN No.U15312PB2012PTC036748. Therefore, the jurisdiction lies with this Bench of the Tribunal. The master data of the corporate debtor is attached as Annexure-A-2 of the petition.

3. Brief facts of the case are that the corporate debtor is engaged in the business of production of various kinds of food grains, including rice, wheat, maize, grams, pulses, and other agricultural produce apart from edible oils and oil seeds. The corporate debtor approached the applicant bank in year 2015 for taking over the credit facilities already availed by the corporate debtor from the Canara bank, in the shape of a cash credit limit of Rs.33 crores, Adhoc Limit of Rs.5 crores and term loan (Having outstanding) of Rs.59 Lakhs all totaling to Rs.38.59 Crores. The corporate debtor has also applied for sanction of fresh credit facilities cash credit (WHR) limit of Rs.5 crores and term loan of Rs.1.50 crores



and enhancement of CC Limit from Rs.33 crores to Rs.40 crores, totaling to Rs.47.09 crores. Vide sanction letter dated 16.12.2015, the bank sanctioned the above-referred credit facilities. In order to secure liabilities under the credit facilities availed by the corporate debtor, various properties were mortgaged in favour of the bank. Later on, the existing CC Limit was also increased from Rs.40 crore to Rs.42 crore, vide sanction letter dated 23.01.2018. It is submitted that the loan was secured by hypothecation of stocks, plant and machinery, book debts, and mortgage immovable property. The corporate debtor has failed to pay the interest components in credit limits and installments of the term loan, due to which the account was classified as a Non-Performing Asset (NPA) on 31.03.2018. The demand notice under Section 13(2) was issued by the financial creditor to the corporate debtor on 10.04.2018 (Annexure A-56). The bank has initiated action under The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, (SARFAESI), (Annexure A-55).

4. It is stated in Part-IV of Form No.1 that the total amount claimed to be in default is Rs. 64,50,82,808/- (Rupees Sixty Four Crores Fifty Lakhs Eighty Two Thousand Eight Hundred Eight Only as on 25.03.2021) and date of default is 31.03.2018 i.e. when the corporate debtor was classified as Non-Performing Asset. Copy of Sanction Letters (Annexures A-5 & A15), Board Resolution (Annexure A-6), Hypothecation of Goods and Book debts (Annexures A-7 & A-16), Hypothecation of Assets (Annexures A-8 & A11), Term Loans (Annexures A-9 & A12), computation table (Annexure-A18), CIBIL Report (Annexure-A-58), Statement of accounts (Annexure-A59 to A-62), and Balance Sheet dated 31.03.2017 (Annexure-A-63) are attached with the main petition.



5. The notice of this petition was issued to the respondent corporate debtor to show cause as to why this petition be not admitted. The Affidavit of service was filed vide Diary No. 00516/01 dated 18.08.2021. The compliance affidavit was filed vide Diary No.00516/3 dated 03.10.2022. However, none appeared on behalf of the respondent-corporate debtor from the very beginning of the filing of this case nor any reply was filed, therefore, the respondent-corporate debtor proceeded against ex parte vide order dated 29.11.2022 of this Adjudicating Authority. The short written submissions were filed by the petitioner-financial creditor vide Diary No.00516/4 dated 23.01.2023.

6. We have heard the learned counsel for the petitioner and have also perused the record carefully.

7. Section 7(5)(a) of the Code is as follows:-

*“5) Where the Adjudicating Authority is satisfied that—  
(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application.”*

8. The issue for consideration is whether the present application is filed within 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 petition is filed vide diary No.00516 dated 13.04.2021. Although, the present petition should have been filed up to 31.03.2021, but 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 w.e.f. 15.03.2020. Thus, in view of this authority, it can be said that the present petition is well within the period of limitation of three years.



9. Another issue for consideration is whether there is a default in payment or not. It is observed from the record that in the present case, the default is evidenced by the Sanction Letters (Annexures A-5 & A15), Board Resolution (Annexure A-6), Hypothecation of Goods and Book debts (Annexures A-7 & A-16), Hypothecation of Assets (Annexures A-8 & A11), Term Loans (Annexures A-9 & A12), computation table (Annexure-A18), CIBIL Report (Annexure-A-58), Statement of accounts (Annexure-A59 to A-62), and Balance Sheet dated 31.03.2017 (Annexure-A-63) are attached with the main petition. As per the financial records, it is evident that an amount of Rs. 64,50,82,808/- (Rupees Sixty Four Crores Fifty Lakhs Eighty Two Thousand Eight Hundred Eight Only as on 25.03.2021) is still pending which amounts to default, when corporate debtor avoided the payment of outstanding amount despite repeated requests by the petitioner-financial creditor. The said default in payment of debt is also reflected in the Balance Sheets of the respondent/corporate debtor till 31.03.2017.

10. In Part-III of Form No. 1, Mr. Naveen Singal, Interim Resolution Professional (IRP) has been proposed by the petitioner. The form-2 along with certification of registration issued by the Insolvency and Bankruptcy Board of India is submitted with the main petition. Further, vide Dairy No. 00516/6 dated 11.04.2023, Form-B dated 24.11.2022 in which AFA Certification is valid till 23.11.2023 is submitted. The Law Research Associate of this Tribunal has checked the credentials of Mr. Naveen Singal, there is nothing adverse against him. In view of the above, we appoint Mr. Naveen Singal, Registration No.IBBI/IPA-001/IP-P01650/2019-2020/12520, Email:naveen.singal@yahoo.co.in, Mobile No. 9871808788, the Interim Resolution Professional with the following directions: -



i) The term of appointment of Mr. Naveen Singal 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 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 moral;

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) 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;

vi) 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. A reference is made to the provisions of Section 128(5) of the Companies Act 2013, whereby every company should maintain its books of accounts



for not less than 8 financial years immediately preceding a financial year.

Minutes and statutory records are the principal documents of the company that should be maintained and preserved since inception.

*“As per Rule 7 (f) of Companies (Registered Valuers and Valuation) Rules, 2017, Registered Valuer shall maintain records of each assignment undertaken by him for at least three years from the completion of such assignment;”*

As per the Standard of Auditor (SA-230)

*“The retention period for audit engagements is ordinarily no shorter than seven years from the date of auditor's report , or, if later, the date of the group auditor's report.”*

In view of the above mandatory provisions, the suspended directors of the board will ensure that the books of accounts for the eight previous financial years preceding the date of this order be made available to the IRP/RP within 15 days of the initiation of the CIRP order. The statutory auditor is also directed to share the records maintained by him in the course of the audit of the accounts of the corporate debtor for the period of three years prior to the date of initiation of this CIRP order within the same period of 15 days.

vii) 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.

viii) The Resolution Professional is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with request 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.

ix) 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 constitution of the Committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filing the report of constitution of the Committee; and

x) The Interim Resolution Professional is directed to send a regular progress report to this Tribunal every fortnight.

11. We declare the moratorium in terms of sub-section (1) of Section 14 of the Code, as under:-

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 Operational 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 corporate debtor.

12. It is further directed that the supply of essential goods or services to the corporate debtor as may be specified, if any, shall not be terminated or suspended or interrupted during the moratorium period. The provisions of Section 14(3) shall, however, not apply to such transactions as may be notified by the Central Government in consultation with any operational sector regulator and to a surety in a contract of guarantee to a corporate debtor.

13. The order of moratorium shall have effect from the date of this order till 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.

14. The petitioner is directed to deposit an amount of ₹1,00,000/- (Rupees One lakh Only) with the Interim Resolution Professional to meet the immediate expenses of the CIRP within two weeks. The same shall be fully



accountable by Interim Resolution Professional and shall be reimbursed by the Committee of Creditors (CoC) to the petitioner to be recovered as the CIRP cost.

15. A copy of this order be communicated to both the 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.

16. This petition is admitted accordingly.

Sd/-  
**(Subrata Kumar Dash)**  
**Member (Technical)**

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

May 24, 2023  
SD