



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
COURT-V NEW DELHI BENCH**

**COMPANY PETITION IB (IBC) NO. 525/ND/2023**

A petition under section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

**IN THE MATTER OF:**

**M/S ABHILASHA COMMERCIAL PRIVATE LIMITED**

Through Its Authorised Representative  
G-69, Sector 6, Dist- G.B. Nagar,  
Noida- 201301 (Uttar Pradesh).

...Applicant/Financial Creditor

*Versus*

**M/S METHODEX SYSTEMS PRIVATE LIMITED**

Registered Office at: 607-608, Meghdoot, 94,  
Nehru Place, New Delhi- 110019

...Respondent/Corporate Debtor

**Order Delivered on: 30.04.2024**

**CORAM:**

**SHRI MAHENDRA KHANDELWAL, HON'BLE MEMBER (JUDICIAL)**

**DR. SANJEEV RANJAN, HON'BLE MEMBER (TECHNICAL)**

**APPEARANCES:**

For the Applicant: Mr. Anirudh Wadhwa, Mr. Debarshi  
Chakraborty, Mr. Rahul Mohan, Advs.  
For the Respondent: Ms. Simran Mehrotra, Adv.



## **ORDER**

### **PER: MAHENDRA KHANDELWAL, MEMBER (JUDICIAL)**

1. This is a Company Application filed under section 7 of the Insolvency and Bankruptcy Code, 2016 (for brevity “the Code”) read with rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules,2016, by M/s Abhilasha Commercials Private Limited (hereinafter referred to as ‘Financial Creditor’), through its Authorised Representative Mr. Pankaj Arora, Director, seeking to initiate Corporate Insolvency Resolution Process (“CIRP”) against M/s Methodex System Private Limited (“Corporate Debtor”). The Financial Creditor was incorporated on 03.09.1993, having CIN: U51909UP1993PTC040781.
2. The Corporate Debtor was incorporated on 25.05.1974, having CIN: U744140DL1974PTC007280 under the Companies Act, 1956. Its registered office is at 607-608, Meghdoot, 94, Nehru Place, New Delhi – 110019. Therefore, this Bench has jurisdiction to deal with this petition. The Nominal Share Capital of the Corporate Debtor is Rs. Rs. 3,00,00,000 (Rupees Three Crore Only). The Paid-Up Capital of the Corporate Debtor is Rs. 83,26,570 (Rupees Eighty-Three Lakhs Twenty-Six Thousand Five Hundred and Seventy Only)
3. The present application was filed on 02.08.2023 before this Adjudicating Authority on the ground that the Corporate Debtor has defaulted to make a payment of a sum of Rs. 1,36,00,000/- (Rupees One Crore Thirty-Six lacs) as on 03.07.2023 (date of default).

### **Submissions of Learned Counsel appearing for the Applicant are as under: -**

4. The details of transactions leading to the filing of this petition as averred by the Financial Creditor is as follows:
  - a) That the present application is being filed by the Financial Creditor seeking initiation of Corporate Insolvency Resolution Process against the Corporate Debtor in view of the default by the Corporate Debtor as regards the financial



debt due to the Financial Creditor to the tune of (at the very least) Rs. 1,36,00,000/- (Rupees One Crore Thirty-Six Lakhs Only) as of 03.07.2023.

- b) In the instant case, the Corporate Debtor i.e. Methodex Systems Pvt. Ltd. was awarded a tender by the Department of Fisheries, Government of Andhra Pradesh, for establishing and handing over of Integrated Mini Fish Retail Outlets with necessary accessories for the State of Andhra Pradesh. The Financial Creditor, pursuant to a separate arrangement with the Corporate Debtor, supplied various products to the Corporate Debtor for meeting the aforesaid Tender requirements. These products encompassed mini-fish retail outlets, including fish filleting tables, preparation tables, and fish display units. However, the Corporate Debtor defaulted in clearing the outstanding amount owed to the Financial Creditor on the principal amount along with interest.
- c) The Corporate Debtor approached the Financial Creditor in 2021 seeking an inter-corporate loan of Rs. 1,00,00,000/- in order to facilitate the fit-out of over 200 mini fish retail units, and that the Corporate Debtor had acknowledged and agreed to pay back the principal amount along with the applicable interest, (As evident from Annexure 4 and Annexure 5 placed on record) on receiving all the payments related to invoices raised by the Corporate Debtor for the aforementioned 200 mini retail units.
- d) Further, the Corporate Debtor, via email dated 03.01.2022, committed to repay the intercorporate loan along with applicable interest within 24-48 hours of receiving payment from the said Department. Moreover, the Corporate Debtor, in the same email, unequivocally stated that the said Department would transfer the payment within 30-45 days. The Financial Creditor initiated disbursement of the inter-corporate loan amounting to Rs. 1,00,00,000/- to the Corporate Debtor via RTGS vide Cheque No. 005547 and the Corporate Debtor duly acknowledged the receipt of the aforementioned inter-corporate loan amount from the Financial Creditor. In accordance with the email dated 03.01.2022, the Corporate Debtor defaulted on its payment obligation.



- e) It is the case of the Petitioner that there are other dues in the form of Operational Debt for which no payment was made, and it is to be paid by the Corporate Debtor. Further, Corporate Debtor paid a total sum of Rs. 95,00,000/-, to the Financial Creditor, by remitting partial payments, in various tranches dated 15.07.2022, 08.08.2022, 01.09.2022 and 19.09.2022. However, the Corporate Debtor neither expressly nor impliedly indicated the specific debt against which the payments were to be adjusted. Therefore, on 01.03.2023, the Applicant requested the Corporate Debtor to release a consolidated payment amounting to Rs. 1,94,74,660/- (Rupees One Crore Ninety-Four Lakhs Seventy-Four Thousand Six Hundred Sixty Only). This is inclusive of the principal amount of the inter-corporate loan along with applicable interest as of 03.01.2023, and payments receivable from the Corporate Debtor qua transactions involved in the Section 9 Proceeding.
- f) Further, the Financial Creditor issued its demand notice dated 05.05.2023 to the Corporate Debtor demanding repayment of the principal amount along with applicable interest as of 03.01.2023. Therefore, on 18.05.2023, the Corporate Debtor issued its reply to the Demand Notice dated 05.05.2023 and inter alia sought to deny repayment of the loan taken from the Financial Creditor on completely false and vexatious grounds not supported by any evidence.
- g) Further, on 06.06.2023, the Corporate Debtor wrote a letter to the said Department detailing inter alia the payments already received from the said Department in lieu of various materials supplied to it. It is pertinent to mention that the Corporate Debtor has received Rs. 3,94,08,267 from the said Department, as of 06.06.2023. This amount is inclusive of Rs. 3,71,02,124 for supplying 491 mini-fish retail outlets to the Department.
- h) It is settled law that in order for a debt to qualify as a 'Financial Debt' under Section 5(8) of the IBC, there must exist a debt along with interest (if any), disbursed against consideration for the time value of money. Further, this disbursement of money ought to have been from the creditor to the debtor. In the present case, both prerequisites have been met. Therefore, it is submitted



that the above said principal amount along with the applicable interest qualifies as a Financial Debt under Section 5(8) of the IBC.

- i) The Corporate Debtor 'defaulted' in repaying the Financial Debt on 19.02.2022. The Corporate Debtor expressly committed to the definitive repayment of the Financial Debt within a maximum period of 48 hours upon receipt of payment from the above said Department, as per the said email dated 03.01.2022. The receipt of payments from the said Department was expected within a definitive time-period of 45 days from the date of the said email. Consequently, the Corporate Debtor was obligated to satisfy the Financial Debt by 19.02.2022. However, no such payment has been forthcoming, thus constituting 'default'.
- j) It is pertinent to mention that the Corporate Debtor's Partial Payment, totalling to Rs. 95,00,000/ has been duly accounted by the Financial Creditor in its books of accounts maintained in relation to the aforementioned Operational Debt. According to Section 60 of the Indian Contract Act, 1872, the debtor's failure to intimate, together with the absence of any other circumstantial indicators specifying the debt to which the payment should be applied, confers upon the creditor the unequivocal entitlement to exercise discretion in appropriating the said payment to any lawful debt due and payable by the debtor. It may be noted, the Corporate Debtor failed to, expressly or impliedly, specify the adjustment of the Partial Payment against either the 'Financial Debt' or 'Operational Debt' owed by it to the Financial Creditor. In light of the above, the Financial Creditor was justified in offsetting the aforesaid Partial Payment against the Operational Debt. Accordingly, the Corporate Debtor cannot argue that the Partial Payment of Rs. 95,00,000/- was made towards the Financial Debt.

**Submissions of Learned Counsel appearing for the Corporate Debtor are as under:**

5. The details of the submissions made by the Corporate Debtor are as follows:
  - a) The instant petition is based on an alleged default, which in fact has never arisen, and the Corporate Debtor is not liable for any repayment to the Financial



Creditor, and there is no basis of the interest on the amount being alleged by the Financial Creditor. The Applicant is alleging that an 'inter corporate loan' was lent to the CD, whereas the fact is that no requirement of lending an inter corporate loan in accordance with section 186 of the Companies Act, 2013.

- b) In the petition, the Financial Creditor has relied upon the Email dated 03.01.2022 which is an email containing the terms and conditions of any payment to be done from the Corporate Debtor to the Financial Creditor. In the email at Term and Condition No.5, the CD has clearly stated that it is not liable for any payment unless it receives money from a third party, i.e., the Department of Fisheries, Govt. of Andhra Pradesh. The said email of 03.01.2022 is a document admitted by the Financial Creditor as it has relied upon it in its Petition. The Applicant has purposely not disclosed that the entire basis of filing the present Petition is the execution of a contract awarded by the said Department to the Corporate Debtor as well as to the sister concern of the Financial Creditor viz. OK Play India Ltd.
- c) The Department had awarded Tender for 'Establishing and handing over Integrated Mini Fish Retail Outlets with necessary accessories, for the State of Andhra Pradesh' to the Corporate Debtor as well as to OK Play India Ltd. in the ration of 65%:35%. OK Play India Ltd. had placed the order of the required material (to execute its share of the contract work) on the Corporate Debtor through the Financial Creditor. Due to the cancellation of the contract with OK Play by the Department on 07.12.2021, it was left with a huge amount of stock which had become of no use to it. On this basis, OK Play had approached the Corporate Debtor through the Financial Creditor to buy back its stock.
- d) Further, there is no occasion of payment from the Corporate Debtor to the Financial Creditor in terms of Section 3(12) of the IBC and in terms of the pre-condition set out by the email dated 03.01.2022. Vide email dated 03.01.2022 the Corporate Debtor had sent the conditions to the Financial Creditor subject to which the whole transaction shall be carried out. The relevant part of the email stated as follows:



*“5. Payment for all PO’s + Loan + interest shall be made only after receipt of payment from department and in equivalent proportion. MSPL does not take any liability if delay in payment from the department/beneficiaries. If there is no delay we expect payment to come from department between 30- 45 days.”*

- e) The condition of payment of any amount from the Corporate Debtor to Financial Creditor was that the Department should have made the complete payment to the Corporate Debtor for the invoices corresponding to the share of work of OK Play India Ltd., i.e., the sister concern of the Financial Creditor. The Corporate Debtor has raised bills amounting to Rs. 1,24,83,898.50/- for the work share of OK Play, as can be seen from the “Bill Amount” column at Annexure R/14 of the Reply. Despite not receiving the payments, the Corporate Debtor has paid an amount of Rs.95,00,000/- to the Financial Creditor which means that an excess amount of Rs.43,36,460/- has been paid.
- f) Further, neither was a fixed date decided for the payment from the Corporate Debtor to the Financial Creditor, nor did the occasion as per the agreement dated 03.01.2022 arise. Moreover, no “default” occurred as per section 3(12) of the IBC. The Applicant has not been able to produce a single document before this Adjudicating Authority to show any specific date on which the Corporate Debtor was allegedly supposed to pay the amount to it. In the Petition filed by the Financial Creditor, it has not mentioned any date of default.
- g) The Corporate Debtor has executed Rs. 1,24,83,898.50/- for the work share of OK Play, as can be seen from the “Bill Amount” column at Annexure R/14, Pg.144 of the Reply. The ledger showing ‘payments received’ against the contract share of OK Play is Annexure R/14 at Page 144 of the Reply, which shows a total of Rs. 51,63,540/-. The Statement of Account of the Corporate Debtor shows the payments received from the Department for the share of OK Play’s contract work carried out by the Corporate Debtor. Further, it is critical to note that in its Rejoinder, the Financial Creditor has not denied Annexure R/1 of the Reply filed



by the Corporate Debtor, or that the Corporate Debtor has paid an amount of Rs.95,00,000/- to the Financial Creditor.


- h) The alleged transaction amount on the basis of which the Petition was filed does not meet the threshold level of Rs.1,00,00,000/- (Rupees One Crore Only) as on the date of its institution. The Corporate Debtor has already paid an amount of Rs.95,00,000/- (Rupees Ninety-Five Lacs) to the Financial Creditor in instalments on 15.07.2022, 08.08.2022, 01.09.2022 and 19.09.2022. This fact has been concealed by the Financial Creditor from this Adjudicating Authority, and the Petition was instituted on 02.08.2023 i.e., almost one year after the receipt of payment from the Corporate Debtor. The payment of Rs. 95,00,000/- was towards the advance amount received from the Financial Creditor despite not receiving payments from the Department towards the work share of OK Play Ltd. It is therefore submitted that amount involved in the alleged transaction on the basis of which the Financial Creditor has filed this Petition does not meet the required threshold level as per the IBC.
- i) The Financial Creditor and the Corporate Debtor had entered into an arrangement by virtue of the email dated 03.01.2022 by which the Financial Creditor had requested the Corporate Debtor to buy back material from it which was originally sold by the Corporate Debtor itself to the Financial Creditor. Further, the Financial Creditor had requested the Corporate Debtor to carry out its share of the contract work with the Department of Fisheries on termination of its contract with the said Department. For this purpose, the Financial Creditor had advanced an amount of Rs.1 crore to the Corporate Debtor. This was not any kind of a loan / inter corporate loan as alleged by the Financial Creditor. The nature of transaction between the Corporate Debtor and Financial Creditor thus does not come under the ambit of a financial debt. Therefore, the Financial Creditor has attempted initiate recovery of money from a disputed transaction under the garb of Insolvency Proceedings.



## **Analysis and Findings**

We have heard the Learned Counsels for the Financial Creditor and the Corporate Debtor and perused the averments made in the petition, reply and written submission. Since the registered office of the Corporate Debtor is in Delhi, this Tribunal which has territorial jurisdiction over the Union Territory of Delhi, is the Adjudicating Authority in relation to the prayer for initiation of Corporate Insolvency Resolution Process in respect of the respondent Corporate Debtor under Section 7 of the Code.

7. In order to affirm that this petition falls within the ambit of Section 7, we need to see whether there is a “debt” owed to the Financial Creditor and whether there is a “default” with respect to such debt.
8. In the present case, the Financial Creditor and the Corporate Debtor entered into an Inter-Corporate Loan Agreement. The Corporate Debtor approached the Financial Creditor seeking an inter-corporate loan of Rs. 1,00,00,000/- (Rupees One Crore only) (“principal amount”) on the promise that the principal amount would be paid along with applicable interest in order to facilitate the fit-out of over 200 mini fish retail units, and that the Corporate Debtor would pay back the principal amount along with the applicable interest, on receiving all the payments related to invoices raised by the Corporate Debtor for the aforementioned 200 mini retail units. In lieu of the Inter Corporate Loan, the Corporate Debtor, via email committed to repay the intercorporate loan along with applicable interest within 24-48 hours of receiving payment from the said Department and in the same email the Corporate Debtor unequivocally stated that the Department would transfer the payment within 30-45 days. The Financial Creditor initiated disbursement of the inter-corporate loan amounting to Rs. 1,00,00,000/- to the Corporate Debtor via RTGS vide Cheque No. 005547. Moreover, the Corporate Debtor duly acknowledged the receipt of the aforementioned inter-corporate loan amount from the Financial Creditor. Therefore, one essential ingredient with respect to Section 7, that there has been a “debt”, stands substantiated.



Further, the Corporate Debtor was awarded a tender by the Department of Fisheries, Government of Andhra Pradesh, for establishing and handing over of Integrated Mini Fish Retail Outlets with necessary accessories for the state of Andhra Pradesh. The Financial Creditor, pursuant to a separate arrangement with the Corporate Debtor, supplied various products to the Corporate Debtor for meeting the aforesaid Tender requirements. However, the Corporate Debtor defaulted in clearing the outstanding amount owed to the Petitioner on the principal amount along with interest and the amount owed as an “Operational Debt”, leading to a dispute. The same is the subject matter of a separate proceeding before this Adjudicating Authority bearing CP (IB) No. 519/ND/2023, under Section 9 of the IBC. It is pertinent to mention that the Financial Creditor in the instant application is the Operational Creditor therein.

10. Moreover, the Corporate Debtor expressly committed to the definitive repayment of the Financial Debt within a maximum period of 48 hours upon receipt of payment from the above said Department, as per the email dated 03.01.2022. The receipt of payments from the said Department was expected within a definitive time-period of 45 days from the date of the said email. Consequently, the Corporate Debtor was obligated to satisfy the Financial Debt by 19.02.2022. However, vide email dated 03.01.2022, the Corporate Debtor had sent the conditions to the Financial Creditor subject to which the whole transaction shall be carried out. The relevant part of the email stated as follows:

*“5. Payment for all PO’s + Loan + interest shall be made only after receipt of payment from department and in equivalent proportion. MSPL does not take any liability if delay in payment from the department/beneficiaries. If there is no delay we expect payment to come from department between 30- 45 days.”*

11. Further, the Corporate Debtor unequivocally admits, as of 06.06.2023, the receipt of Rs. 3,94,08,267/- from the above said Department. This encompasses a payment of Rs. 3,71,02,124/- towards the supply of 491 mini fish retail outlets for the said Department as can be seen at Page 11 and Page 12 of the reply and Annexure R- 13 and Annexure R-14, which is placed on record. Therefore, the Corporate Debtor’s failure to satisfy the Financial Debt, notwithstanding the receipt of payments from the said Department, clearly establishes the default. Therefore, another major

IB 525/ND/2023

Order Delivered on: 30.04.2024



essential ingredient of Section 7 i.e., “default” with respect to the debt stand substantiated.

12. Further, the Corporate Debtor contends that the Partial Payment of Rs. 95,00,000/- was made towards the Financial Debt. In this regard, it is pertinent to mention that Corporate Debtor’s Partial Payment has been duly accounted by the Financial Creditor in its books of accounts maintained in relation to the aforementioned Operational Debt. Moreover, true copy of the ledger accounts for the period from 01.04.2021 to 14.04.2023 maintained by the Financial Creditor in his capacity as the supplier of goods to the Corporate Debtor is placed on record as Annexure 3. True copy of the tabular statement annexed along with the Section 9 Petition by the Financial Creditor indicating working of debt (including the date of default and computation of interest) due from the Corporate Debtor to the Financial Creditor in relation to supply of goods is placed on record as Annexure 4. Therefore, it is clearly evident after perusal of Annexure 3 and Annexure 4, that the partial payment of Rs. 95,00,000 was made towards the Operational Debt, and not towards the Financial Debt in the instant petition.
13. Moreover, according to Section 60 of the Indian Contract Act, 1872, the debtor’s failure to intimate, together with the absence of any other circumstantial indicators specifying the debt to which the payment should be applied, confers upon the creditor the unequivocal entitlement to exercise discretion in appropriating the said payment to any lawful debt due and payable by the debtor. Therefore, the Corporate Debtor while making payment of Rs. 95 lacs have not indicated anything about the fact that the debt is repaid towards Operational Debt or Financial Debt. Also, the payment of Rs. 95,00,000 is acknowledged by the Financial Creditor and the Corporate Debtor, but there is no document placed on record by the Corporate Debtor indicating that the payment of Rs. 95,00,000, was made towards the Financial Debt, in the instant petition. Therefore, the contention of the Corporate Debtor with this regard, does not hold ground. Section 60 of the Indian Contract Act, 1872 is quoted below for ready reference:

*60. Where the debtor has omitted to intimate and there are no other circumstances indicating to which debt the payment is to be applied, the creditor may apply it at*



his discretion to any lawful debt actually due and payable to him from the debtor, whether its recovery is or is not barred by the law in force for the time being as to the limitation of suits.

14. From the perusal of aforesaid facts, it is clear that the applicants are Financial Creditors and the debt owed to them by the Corporate Debtor is a Financial Debt, and there has been a default, as stipulated in Sections 3(12), 5(7) and Section 5(8) of the IBC which are as follows:

Section 3(12) of IBC defines Default. “*Default means non-payment of debt when whole or any part or installment of the amount of debt has become due and payable and is not repaid by the debtor or the corporate debtor, as the case may be.*”

Section 5(7) of IBC defines Financial Creditor: “*Financial Creditor means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to.*”

Section 5(8) of IBC defines Financial Debt. “*Financial Debt means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes-*

- (a) *Money borrowed against the payment of interest;*
- (b) *Any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;*
- (c) *Any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;*
- (d) *The amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as maybe prescribed;*
- (e) *Receivables sold or discounted other than any receivables sold on non-recourse basis;*




- (f) Any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;
- (g) Any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;
- (h) Any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;
- (i) The amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause.”

15. The present petition made by the Financial Creditor is complete in all respects as required by law. The Petition established that the Corporate Debtor is in default of a debt due and payable and that the default is more than the minimum amount stipulated under Section 4(1) of the Code, stipulated at the relevant point of time. We are of the view that since this Petition was filed on 02.08.2023, and even admittedly the debt owed to the Financial Creditor is an amount of Rs. 1,36,00,000/- (Rupees One Crore Thirty-Six lacs) which meets the threshold of Rs. One Crore.

16. In the light of the above facts and circumstances, and in terms of Section 7(5) (a) of the Code, the instant petition **COMPANY PETITION IB (IBC)/525(ND) 2023** filed by M/s Abhilasha Commercial Private Limited, the Financial Creditor, under Section 7 of the Code read with Rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against M/s PCL Foods Private Limited, the Corporate Debtor, stands **admitted** and CIRP of M/s Methodex Systems Private Limited is initiated.


17. That the petitioner in part-III of the petition has proposed the name of Mr. Munish Kumar Sharma, as Interim Resolution Professional, having Registration Number IBBI/IPA-002/N00050/2016-2017/10094 and E-mail ID munish@mkadvisors.com, is hereby appointed as an Interim Resolution



Professional (IRP) for Corporate Debtor. The consent of the proposed interim resolution professional in Form-2 is taken on record. The proposed Interim Resolution Professional is directed to give his written consent in Form 2 as required under rule 9(1) of the Insolvency and Bankruptcy [Application to Adjudicating Authority] Rules, 2016 along with a copy of registration certificate as well as a valid AFA within 5 days of receipt of this order.


18. We also declare moratorium in terms of Section 14 of the Code. The necessary consequences of imposing the moratorium flows from the provisions of Section 14 (1) (a), (b), (c) & (d) of the Code. Thus, the following prohibitions are imposed:

- (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;*
- (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.*
- (e) The IB Code 2016 also prohibits Suspension or termination of any license, permit, registration, quota, concession, clearances 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, 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, concessions, clearances or a similar grant or right during the moratorium period.*



It is made clear that the provisions of moratorium shall not apply to transactions which might be notified by the Central Government and the supply of the essential goods or services to the Corporate Debtor as may be specified, are not to be terminated or suspended or interrupted during the moratorium period. In addition, as per the Insolvency and Bankruptcy Code (Amendment) Act, 2018 which has come into force w.e.f. 06.06.2018, the provisions of moratorium shall not apply to the surety in a contract of guarantee to the corporate debtor in terms of Section 14 (3) (b) of the Code.

20. In pursuance of Section 13 (2) of the Code, we direct that public announcement shall be made by the Interim Resolution Professional immediately (within 3 days) as prescribed by Explanation to Regulation 6(1) of the IBBI Regulations, 2016) with regard to admission of this application under Section 7 of the Insolvency & Bankruptcy Code, 2016.
21. We direct the applicant Financial Creditor to deposit a sum of Rs. 2 Lakhs (Two Lakh Rupees) with the Interim Resolution Professional namely Sandeep Mahajan to meet out the expenses to perform the initial functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The needful shall be done within three days from the date of receipt of this order by the Financial Creditor. The said amount, however, is subject to adjustment towards Resolution Process cost as per applicable rules.
22. The Interim Resolution Professional shall perform all his functions as contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 & 21 of the Code and transact proceedings with utmost dedication, honesty and strictly in accordance with the provisions of the Code, Rules and Regulations.
23. It is further made clear that all the personnel connected with the Corporate Debtor, its promoters or any other person associated with the Management of the Corporate Debtor are under legal obligation under Section 19 of the Code to extend every assistance and cooperation to the Interim Resolution Professional as may be required by him in managing the day-to-day affairs of the 'Corporate Debtor'. In case



there is any violation committed by the ex- management or any tainted/illegal transaction by ex-directors or anyone else, the Interim Resolution Professional would be at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing appropriate orders.

24. The Interim Resolution Professional shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' as a part of his obligation imposed by Section 20 of the Code and perform all his functions strictly in accordance with the provisions of the Code, Rules and Regulations.
25. A copy of the order shall be communicated to the applicant, Corporate Debtor and IRP above named, by the Registry. In addition, a copy of the order shall also be forwarded to IBBI for its records. Applicant is also directed to provide a copy of the complete paper book to the IRP. A copy of this order is also sent to the ROC for updating the Master Data. ROC shall send compliance report to the Registrar, NCLT.
26. Accordingly, the instant application filed under Section 7 of the Code, 2016 bearing **I.B./525 (ND)/2023 stands admitted.**
27. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

**Sd/-**  
**(DR. SANJEEV RANJAN)**  
**MEMBER (TECHNICAL)**

**Sd/-**  
**(MAHENDRA KHANDELWAL)**  
**MEMBER (JUDICIAL)**