

**In the National Company Law Tribunal  
Division Bench, (Court-I), Kolkata**



**CP (IB) No. 71/KB/2025**

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

**In the matter of:**

**Fort Café Food Services Pvt. Ltd.**

**...Financial Creditor /Applicant**

**Versus**

**Radhagobind Commercial Ltd.**

**...Corporate Debtor**

**Date of Pronouncement of order: 30.10.2025**

**Coram:**

**Smt. Bidisha Banerjee** :Member (Judicial)

**Cmde. Siddharth Mishra** : Member (Technical)

**Counsel appeared physically / through video Conferencing**

Mr. Akhil Suresh, Adv. ] For the Financial Creditor

Ms. Tanvi Luhariwala, Adv. ] For the Corporate Debtor

Mr. Avijit Mukherjee, Adv. ]

**O R D E R**

**Per Bidisha Banerjee, Member (Judicial):**

1. The Court convened through hybrid mode.
2. Ld. Counsels for the parties were heard at length.
3. This Petition has been preferred by the Petitioner / Fort Café Services Pvt. Ltd. (The Financial Creditor / FC) seeking initiation of Corporate

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Insolvency Resolution Process (“CIRP”) in respect of the Respondent / Radhagobind Commercial Ltd. (the Corporate Debtor / CD) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code”) for a total default of INR 1,02,60,000/- (Rupees One Crore Two Lakh Sixty Thousand only) which including interest amount of INR 12,60,000/- (Rupees Twelve Lakh Sixty Thousand only).

4. Submissions of the Financial Creditor:


4.1. Financial Creditor / Applicant claims that Radhagobind Commercial Ltd., the Corporate Debtor or CD herein is a public limited company and the present authorized share capital of the Company is Rs. 25,00,00,000/- divided into 25,00,00,000 equity share of Rs. 1/- each and the issued, subscribed and paid up capital of the company is Rs. 1,44,00,000/- divided into 1,44,00,000 equity shares of Rs. 1/- each.

4.2. The Corporate Debtor is a BSE-listed company which is primarily a trading company. The Corporate Debtor had secured loan amounting to Rs. 1.25 Crore attracting an interest @ Rs. 18% per annum from the Financial Creditor. The representative of Corporate Debtor presented the company as one with substantial assets including investments valued at approximately Rs. 2.5 crores and loan assets of Rs. 1 Crore with no liabilities and hence loan was sanctioned.

4.3. The Corporate Debtor had also informed that it had recently increased its authorized capital from Rs. 1.5 Crore to Rs. 25 Crore with

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the intent to raise an additional Rs. 23.5 crore through a proposed rights issue.

- 4.4. The loan was sought from the Financial Creditor (in short FC) to be utilized to cover expenses associated with the Rights Issue and once the rights issue is over loan amount will be repaid in full and the rights issue was expected to be concluded in 6 to 9 months time.
- 4.5. A loan Agreement that was entered into on 26.09.2023 between the parties. The Board of Directors of Financial Creditor having sanctioned a term loan of Rs. 1.25 Crores on 26.07.2025 to the Corporate Debtor.
- 4.6. An initial instalment of Rs. 30 lakh was disbursed on 27.09.2023. The Corporate Debtor made timely payment of interests upto 25.03.2024 of an amount of Rs. 2,77,575/-. Following this, the Corporate Debtor requested an additional tranche of loan for an amount of sum of Rs. 60 Lakh was disbursed on 26.03.2024. Bringing the total loan outstanding to Rs. 90 Lakhs.
- 4.7. The Applicant further claims that the Loan Agreement stipulated an annual interest rate of Rs. 18% which is payable monthly and an additional penal interest rate of Rs. 3% per annum become applicable and therefore, making effective interest rate @ 21% per annum.
- 4.8. That the loan tenure of 11 months expired on 27.08.2024. As of 31.10.2024, the interest for a period of seven months remains unpaid for Rs. 12,60,000/- and therefore, the total outstanding debt inclusive of principal and accrued interest / was Rs. 1,02,60,000/-.

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- 4.9. No payment was made after 25.03.2024, by the Corporate Debtor.
- 4.10. In August, 2024 upon a review of Corporate Debtor's Annual report for the fiscal year 2024, the Financial Creditor discovered significant adverse information. The report revealed that all Corporate Debtor's investments had become non-performing, its loan assets had turned into non-recoverable debts, and the company had written off these assets entirely.
- 4.11. The report also suggested reveal an income tax liability of Rs. 3.5 Crores. Repeated demands of the Financial Creditor failed to yield any reply and hence this Petition.
- 4.12. The amount claimed to be in default is debited in the following manner:

**"Amount Outstanding as on 25.11.2024**

<i>Principal Amounting to Rs.</i>	<i>: 90,00,000/-</i>
<i>Interest Amounting to Rs.</i>	<i>:12,60,000/-</i>
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<i>Loan Outstanding (A) Amounting to Rs.:</i>	<i><u>1,02,60,000/-</u></i>
<i>Current Dues (B) Amounting to Rs.</i>	<i>: 1,02,60,000/-</i>
<i>Total default Rs.</i>	<i>:1,02,60,000/-(As on 25.11.2024)</i>
<i>Days of Default: 213 days:</i>	<i>(From 27.04.2024)"</i>

- 4.13. It is submitted that NeSL report as in the page 276 of the application would also support the default.
5. Submissions of the Corporate Debtor:

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5.1. Per contra, Ld. Counsel for the Corporate Debtor would submit that it had wanted money against a Rights Issue Plan with an expectation that it would increase the share value but things did not go as per plan.

5.2. That the Agreement of August, 2024 and the Corporate Debtor had sought for some more time but in December, 2024, the Financial Creditor preferred this Application under Section 7 of the IBC, 2016.

5.3. Placing the decisions of Hon'ble Supreme Court in **Vidarbha**, it was submitted that this Tribunal could exercise its discretion in not admitting the Petition since Corporate Debtor is not an insolvent company.

6. We have heard the Ld. Counsel for the parties, perused the records.

7. In the following decisions, the Hon'ble Apex Court has succinctly clarified what a "Financial Debt" would be that would justify initiation of Corporate Insolvency Resolution process:

7.1. In **Pioneer Urban Land and Infrastructure Ltd. v. Union of India reported in (2019) 8 SCC 416**, it was held that:

*"any debt to be treated as financial debt, there must happen disbursal of money to the borrower for utilization by the borrower and that the disbursal must be against consideration for time value of money."*

**(Emphasis added)**



7.2. **Anuj Jain, Interim Resolution Professional for Jaypee Infratech Ltd. v. Axis Bank Limited reported in (2020) 8 SCC 401,**  
that:

*“the essential condition of financial debt is disbursement against the consideration for time value of money.”*

**(Emphasis added)**

7.3. **Indus Biotech Private Limited v. Kotak India Venture (Offshore) Fund reported in (2021) 6 SCC 436: MANU/SC/0231/2021 (para 14)** that:

*“14. ... in order to trigger an application, there should be in existence four factors: (i) there should be a 'debt' (ii) 'default' should have occurred (iii) debt should be due to 'financial creditor' and (iv) such default which has occurred should be by a 'corporate debtor'...”*

**(Emphasis added)**

8. It is evident from the affidavit in opposition filed by the Corporate Debtor that the CD has categorically admitted the disbursal of money against consideration for the balance of money, which gives rise to a “**debt**” and “**default**” in repayment in the following manner:

*“ 5. The Financial Creditor herein has approached the Tribunal under section 7 of the Insolvency and Bankruptcy Code, 2016 being CP IB No. 71/KB/2025 alleging that there has been a default*

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to the tune of a loan amounting to Rs. 1,02,60,000 together with interest thereon.

6. The Corporate Debtor is involved in the business of trading in fabrics. In or around September, 2023, the Corporate Debtor were contemplating a rights issue and as such was in need of certain urgent funds.

Accordingly the Corporate Debtor had approached the Financial Creditor seeking a loan to the tune of Rs. 1,25,00,000. The Financial Creditor, upon its due diligence, had agreed to grant a loan to the tune of Rs. 1,25,00,000 and the accordingly a loan agreement was executed between the parties on 26<sup>th</sup> September, 2023. It is pertinent to mention that the Corporate Debtor had approached with bona fide intention of repaying back the said loan amount along with interest within the specified time in accordance with the loan agreement.

7. Unfortunately, since the new financial year commencing from 1<sup>st</sup> April, 2024, due to certain unforeseen situations, the Corporate Debtor started facing extreme financial challenges including extreme crunch of cash flow. Such adverse situations deeply affected the financial health of the Corporate Debtor resulting in its inability to meet the financial obligations. The Corporate Debtor, on various occasions in the most humble manner requested the Financial Creditor for an extension of time in order to enable the Corporate Debtor to procure funds and repay the loan amount.

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8. *The Corporate Debtor never had any intentions to commit default in making payments and / or any mala fide intention in not fulfilling the obligations under the loan agreement dated 26<sup>th</sup> September, 2023.*

*Situations leading to adverse financial health of the Corporate Debtor are beyond the control of the Corporate Debtor and the as such it is humble prayed that a humane approach is taken in considering the lis due to the financial health of the Corporate Debtor. The Corporate Debtor is making all efforts and endeavour to arrange funds and repay the loan amount but has unfortunately not been able to do so as on date. The Corporate Debtor believes that with time, it will be able to procure fund and discharge the obligations under the loan agreement dated 26<sup>th</sup> September, 2023 but is unable to commit to any particular time as the circumstances and situations affecting the financial health of the Corporate Debtor are beyond its control.”*

9. There is no denial of the fact that the interest could not have been levied.

10. In view of the admitted position as above, the petition deserves to be admitted.

11. In terms of the foregoing discussions, we **ALLOW** the application bearing **Company Petition (IB) No. 71/KB/2025** filed under Section 7 of the I&B Code, and accordingly, we order the initiation of Corporate Insolvency Resolution Process (CIR Process) in respect of the Corporate Debtor and pass the following Orders:

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- (a) This application being **C.P.(IB)/71(KB)2025** filed by Fort Café Food Services Pvt. Ltd., 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 **Radhagobind Commercial Ltd., the Corporate Debtor, is admitted.**
- (b) There shall be a moratorium under Section 14 of the IBC.
- (c) The moratorium shall have effect from the date of this Order till the completion of the CIRP or until this Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the IBC or passes an order for liquidation of Corporate Debtor under section 33 of the IBC.
- (d) Public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code read with regulation 6 of the Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- (e) The Applicant has proposed the name of “**Mr. NAJEEB T P**”, Address: Baithussalam, Balankinar, Kattampally Road, Near Indus Motors Maruti Service, Centre, Kannur, Kerala- 670 011 and having Registration no, IBBI/IPA-002/IP-N01014/2020-2021/13316, as the “IRP”. We have perused that there is a written communication and consent of IRP in Form 2, as per the requirement of Rule 9(l) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by him that there are no disciplinary proceedings pending against him with the Board or IIP of ICAI. In addition, further necessary disclosures have been made by

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“**Mr. NAJEEB T P**” as per the requirement of the IBBI Regulations. Accordingly, he satisfies the requirement of Section 7(3)(b) of the code. Hence, we appoint “**Mr. NAJEEB T P**” as the Interim Resolution Professional (IRP) of the Corporate Debtor to carry out the functions as per the I&B Code subject to submission of a valid Authorisation of Assignment in terms of regulation 7A of the Insolvency and Bankruptcy Board of India (Insolvency Professional) Regulations, 2016. The fee payable to IRP or the RP, as the case may be, shall be compliant with such Regulations, Circulars and Directions as may be issued by the Insolvency & Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by sections 15, 17, 18, 19, 20 and 21 of the I&B Code.

- (f)** During the CIRP period, the management of the Corporate Debtor shall vest in the IRP or the RP in terms of section 17 of the IBC. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this Order, in default of which coercive steps will follow. No separate notice for cooperation by the suspended management should be expected.
- (g)** The Interim Resolution Professional is also free to take police assistance to take full charge of the Corporate Debtor, its assets and its documents without any delay, and this Court hereby directs the concerned Police Authorities and/or the Officer-in-Charge of Local Police Station(s) to render all assistance as may be required by the Interim Resolution Professional in this regard.

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- (h) The IRP/RP shall submit to this Adjudicating Authority periodical report about the progress of the CIRP in respect of the Corporate Debtor.
- (i) The Financial Creditor shall deposit a sum of **Rs. 3,00,000/- (Rupees Two Lakh only)** with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors (CoC).
- (j) In terms of section 7(5)(a) of the Code, Court Officer of this Court is hereby directed to communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by Speed Post and email immediately, and in any case, not later than two days from the date of this Order.
- (k) The Resolution Professional shall conduct CIRP in a time-bound manner as per Regulation 40A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulation, 2016.
- (l) Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, West Bengal, Kolkata by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Court within seven days from the date of receipt of a copy of this Order.

**12. C.P.(IB)/71(KB)2025** to come up on **03.12.2025** for filing the progress report.

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13. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
14. Urgent certified copies of this Order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.

**Siddharth Mishra**  
**Member (Technical)**

**Bidisha Banerjee,**  
**Member (Judicial)**

Signed on this, the 30<sup>th</sup> day of October, 2025

M. Jana (P.S.)