



**IN THE NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH**

CP (IB) No. 27/CB/2023

*[An Application under Section 7 of the Insolvency and Bankruptcy Code,
2016]*

In the matter of:

SMALL INDUSTRIES DEVELOPMENT BANK OF INDIA;

Bhubaneswar Branch, Plot No. – L-3,
Jayadev Vihar, Oppo. Loyola School,
Near XIMB Sqaure, Bhubaneswar

....FINANCIAL CREDITOR

Versus

SAMBANDH FINSERVE PVT. LTD. & OTHERS;

(Represented through its Administrator)

Jubilee Villa, Plot No.-7, Sindhi Colony,
Mission Hata, Rajgangpur, District- Sundergarh,
State Office

A: 2nd Floor Plot No.- 216,
District Centre Chandrasekharapur, Bhubaneswar,
District- Khurda, Odisha-

....CORPORATE DEBTOR

Order Pronounced on: 05.09.2024

Coram: DEEP CHANDRA JOSHI, MEMBER (JUDICIAL)

KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)

APPEARANCE:

FOR APPLICANT : ADV. RAMACHANDRA PANIGRAHY.

FOR RESPONDENT : ADV. ANUPAM DASH

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ORDER

1. This petition was filed to initiate Corporate Insolvency Resolution Process against the Corporate Debtor under Section 7 of Insolvency and Bankruptcy Code, 2016 R/w Rule 4 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.
2. In the said petition it was submitted that the Corporate Debtor approached the Financial Creditor and availed loan from February 2019 to October 2019 aggregating to the tune of Rs. 50,00,00,000/-. The Loan documents and hypothecated deeds were executed by the respondent in favour of the Petitioner. The respondent agreed to repay the loan amount by equated monthly installments (EMI). The respondent failed to repay the loan amount as agreed. A sum of Rs.47,74,79,929/- including interest was calculated from 10.07.2021 to 10.02.2023 inclusive of pendent lite and future interest. The financial creditor had filed an application under section 7 of the IBC, 2016 before this Adjudicating Authority in CP (IB) No. 42/CB/2022, which was dismissed as not maintainable in view of the bar provided under Section 10 A of IBC, 2016 by order dated 22.11.2022. The Petitioner preferred an appeal before the Hon'ble NCLAT in Company Appeal (AT)(Insolvency) No. 28 of 2023 against the dismissal order dated 22.11.2022. The said appeal was dismissed with a liberty to Petitioner to file Fresh Application in accordance with the law.
3. Hence, another petition was filed afresh and numbered as CP (IB) No. 27/CB/2023. This Adjudicating Authority dismissed this petition vide order dated 08.05.2023

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4. Following the dismissal of the Company Petition the Petitioner had preferred an appeal before the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) No. 784 of 2023 against the said order dated 08.05.2023 passed by this Adjudicating Authority and Hon'ble Tribunal allowed the Appeal vide its order dated 05.07.2024 by setting aside the said order dated 08.05.2023 and admitted the Petition u/s 7 of the IBC, 2016. The relevant para of the said order is reproduced hereunder.

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30. Accordingly, the appeal is allowed and the impugned order dated 08.05.2023 is set aside. The application under section 7 of the IBC filed by SIDBI for Corporate Insolvency Resolution Process deserves to be admitted against the Respondent, Sambandh Finserv Private Limited. The matter may be taken up within 10 days by the Adjudicating Authority for initiating CIRP proceedings as per the IBC provisions and to pass consequential Orders. No Order as to costs.

5. In view of the above direction passed by Hon'ble NCLAT in Company Appeal (AT)(Insolvency) No. 784 of 2023, we hereby admit the petition and pass the following orders:

- (i) The Corporate Debtor Sambandh Finserv Pvt. Ltd is admitted in the Corporate Insolvency Resolution Process under Section 7 of the Insolvency and Bankruptcy Code, 2016.
- (ii) The moratorium under section 14 of the Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of section 14(1) of the Code:
 - a. The institution of suits or continuation of pending suits or proceedings against the corporate debtor including

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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 Securitisation 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.

(iii) The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of Corporate Debtor under section 33 of the Insolvency & Bankruptcy Code, 2016, as the case may be

(iv) As proposed by the Financial Creditor, we appoint Mr. Saradindu Jena Having Registration No. IBBI/IPA-002/IP-N00520/2017-2018/11622, having contact address- 15, Bhimpur Duplex Colony, Bhimpur, Near Airport, Bhubaneswar-751020, to act as an Interim Resolution Professional (IRP) of the corporate debtor to carry out the functions as per the Code, subject to his possessing a valid Authorisation for Assignment (AFA) in terms of 7A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations 2016. He shall conduct the Corporate Insolvency Resolution

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Process as per the provisions of Insolvency and Bankruptcy Code, 2016 r/w Regulations made thereunder.

- (v) The IRP so appointed shall make a public announcement of initiation of Corporate Insolvency Resolution Process (CIRP) and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Code.
- (vi) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period. The corporate debtor to provide effective assistance to the IRP as and when he takes charge of the assets and management of the corporate debtor.
- (vii) The IRP shall perform all his functions as contemplated, inter-alia, by sections 17, 18, 20 & 21 of the Code. It is further made clear that all personnel connected with Corporate Debtor, its Promoter or any other person associated with management of the Corporate Debtor are under legal obligation under section 19 of the Code extending every assistance and co-operation to the Interim Resolution Professional. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or co-operate the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- (viii) The IRP shall be under duty to protect and preserve the value of the property of the 'Corporate Debtor' and manage the operations of the Corporate Debtor as a going concern as a part of obligation imposed by section 20 of the Insolvency & Bankruptcy Code, 2016.

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- (ix) The Financial Creditor is directed to pay an advance of **Rs.2,00,000/- (Rupees Two Lakh only)** to the IRP within two weeks from the date of receipt of this order for the purpose of smooth conduct of Corporate Insolvency Resolution Process (CIRP) and IRP to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per Rules.
- (x) The Registry is directed to communicate a copy of this order to the Financial Creditor, Corporate Debtor and to the Interim Resolution Professional and to the concerned Registrar of Companies, of IBBI after completion of necessary formalities, within three working days and upload the same on website immediately after pronouncement of the order.
- (xi) The IRP shall also serve a copy of this order to the various departments such as Income Tax, GST, State Trade Tax, and Provident Fund etc. who are likely to have their claim against Corporate Debtor as well as to the trade unions/employee's associations so that they are informed of the initiating of CIRP against the Corporate Debtor timely.
- (xii) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.
- (xiii) Interim Resolution Professional shall file 1st Progress Report within six weeks from the date of this order.

6. Thus, the Corporate Debtor **Sambhandh Finserv Private Limited** in [CP (IB) No.27/CB/2023] is **ADMITTED** into CIRP.

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7. 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.
8. Certified copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

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Kaushalendra Kumar Singh
Member (Technical)

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Deep Chandra Joshi
Member (Judicial)

Bighnesh Mahapatra (LRA)