

## Esteem Press Parts Private Limited Vs NA

**Court:** National Company Law Tribunal, Chandigarh Bench

**Date of Decision:** Jan. 15, 2025

**Acts Referred:** Insolvency and Bankruptcy Code 2016 "Section 10, 4, 15, 17, 18, 19, 20 ,21,14, 31,33

**Hon'ble Judges:** Prabhat Kumar, Member (T); Virendra Singh Bisht, Member (J)

**Bench:** Division Bench

**Final Decision:** Allowed

### Judgement

C.P. (IB)/997(MB)2024

1) This Company Petition is filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 ("Code") by Esteem Press Parts Private

Limited (hereinafter referred to as the "Corporate Applicant"), seeking to initiate its own Corporate Insolvency Resolution Process

("CIRP"). The said Company Petition is being preferred by the Corporate Applicant because of the overwhelming "Financial constraints &

Regulatory challenges" surrounding "Corporate Applicant"s Business Activities".

2) The Corporate Applicant is a company incorporated in India and validly existing as a company under the provisions of Companies Act, 1956, having

corporate identification number U29309PN2005PTC020213 and having registered office at Plot no. 286, Sector no. 10, PCNTDA, Bhosari, Pune,

Maharashtra, India, 411026.

3) The brief facts leading to the case in hand are as follows:

a. The Corporate Applicant was established in 2005 as a manufacturing enterprise, specializes in producing sheet metal components for the

automotive industry.

b. In the F.Y. 2011-12 the Corporate Applicant had an annual turnover of Rs. 150 million. With the increasing demands the Corporate

Applicant further rented 5000 square feet of factory shed. Again, in the F.Y. 2015 the Corporate Applicant rented additional 10,000 sq. ft

premises for further expansion of business. With the continuous increase in demand and expansion, the business annual turnover increased to

Rs. 280 million in F.Y. 2016. As the business was expanding the Corporate Applicant was unable to focus more on quality of products

manufactured and faced other challenges such as inventory management, attaining customer demands, fluctuating prices of raw materials,

change in government policies and standards which declined the demand of EURO 3 and EURO 4 vehicles and which eventually led up to

pile up inventory. The Corporate Applicant hit a loss for the first time in the year 2018.

c. It is submitted that with the outbreak of novel coronavirus, the situation worsened for the Corporate Applicant. It faced a series of

significant challenges, including workforce competency issues, financial strain due to cash flow problems, recurring software malfunctions in

inventory management, declining customer demand, low-volume supplies, fluctuating raw material prices, high absenteeism rates, and process

redundancies across units. The Corporate Applicant, despite having substantial orders, struggled to fulfil the demand of the customers due to

above reasons. These factors culminated in significant losses over five consecutive years, making it exceedingly difficult to recover previous

business levels. The Corporate Applicant faced severe setbacks, starting with the abandonment of its Chakan premises and relocation to a

much smaller setup in Talawade, resulting in the loss of invested funds in the Chakan facility.

d. To manage threats from Creditors and Bankers, the Corporate Applicant sold off machinery at reduced prices one by one, but this strategy

proved ineffective. Furthermore, failure to meet rent obligations forced the closure of the Talawade facility.

#### 4) Submissions of the Corporate Applicant:

##### A. Default to comply with the terms of Loan Agreement with the Financial Creditors:

i. The Corporate Applicant had availed loan from various financial institutions for its business. However as per the books of the

Corporate Applicant an amount of Rs. 4,09,39,923.62/- along with interest is still outstanding to be repaid to the Financial Creditors.

##### B. Outstanding Salary Dues to the Employees:

i. The Corporate Applicant had employed more than 76 employees but due to decline in business, it was unable to pay even salaries of

the employees.

ii. Since 2020, a lot of employees put up letters for resignation. Due to this, there was a decrease in availability of employees to

maintain the smooth running of the Corporate Applicant as a going concern.

iii. An approximate sum of Rs. 51,63,968.21/- are pending and payable to the employees of the Corporate Applicant.

##### C. Unsecured Loans from The Directors.

i. Unsecured loans from the Directors to the tune of Rs. 2,03,04,829.14/- for the period 1.04.2024 to 31.07.2024 is due and payable by

the Corporate Applicant.

D. Demand from GST Department and Other Regulatory Authorities.

i. Due to lack of support staff and non-compliance of filing GST returns, there are GST liabilities pending against the Corporate

Applicant for F.Y.2017-18, F.Y.2018-19, F.Y.2019-20 which totals an amount of Rs. 6,94,03,603/- including interests and penalties.

E. Demand from Pimpri- Chinchwad Municipal Corporation:

i. Due to recurring financial losses, the corporate applicant defaulted on paying the arrears of property tax on Plot No. 286, Sector

No. 10, PCNTDA, Bhosari, Pune, Maharashtra, India, 411026 to the PCMC (Pimpri Chinchwad Municipal Corporation) for two

years for the total Amount of Rs. 4,95,049/-

F. Outstanding Dues to Operational Creditors

i. During the multiyear financial strain on the Corporate Applicant, it had to depend on the business credit provided by the Operational

Creditors some of the dues which is still pending towards Operational creditors for the amount of Rs. 8,46,75,614.60/-

G. Receivables from Sundry Debtors

i. There is a total amount of Rs. 1,11,28,129.45/- receivable from the Sundry Debtors by the Corporate Applicant as per the books of

accounts as on 31.07.2024.

H. Other Pending Dues Payable

i. Apart from the above, the Corporate Applicant has defaulted in making payments to other dues as well. A sum of Rs. 9,97,078/- is

pending towards trade payables which do not include the parties hereinabove mentioned.

ii. A sum of Rs.58,21,811/- is pending towards other statutory dues to be paid by the Corporate Applicant.

5) It is further stated that the Corporate Applicant tried all means viz; tried to raise funds so that Company can be revived but due to enquiry,

investigation from GST /MVAT department and other statutory authority for non-compliance with statutory requirements exacerbated the situation

due to uncooperative staff and also PCMC authorities sealed the property for non-payment of property tax. It is also stated that the issues affecting

the Corporate Applicant will not be resolved and will only escalate further.

6) Hence, in view of the irreversible liquidity crunch faced by the Corporate Applicant, the Corporate Applicant has filed the present company petition

under section 10 of the Insolvency and Bankruptcy Code, 2016 (Āĉâ,ŒœCodeĀĉâ,Œœ) to initiate the Corporate Insolvency Resolution Process of the applicant

herein.

7) Heard the Ld. Counsel for the Corporate Applicant and perused the material available on record and this Bench observes as under:

a. It is evidently clear that the Corporate Applicant is not in a position to generate enough revenue to be able to make necessary payments to

rectify the default and the default amount exceeds Rs. 1.00 Crores.

b. The Shareholders of the Corporate Applicant have approved and confirmed the initiation of Corporate Insolvency Resolution Process of the

Corporate Applicant in their meeting held on 30.06.2024 by passing a resolution to this effect. A copy of Board Resolution dt 20.06.2024 and

the copy of resolution passed at the Extra Ordinary General meeting dated 30.06.2024 is annexed to the Petition as Annexure "N and O.

8) Record reveals that this Bench vide Order dt. 10.12.2024, directed the Suspended Board/Corporate Applicant to file an undertaking that they shall

fund the Corporate Insolvency Resolution Process cost, if required, and they shall also extend cooperation to the Resolution professional by providing

all the necessary information/documents either in hard copy or soft copy including Books of Accounts, if this Petition is Admitted. The Corporate

Applicant in compliance to the said Order, has filed and placed on record the Additional Affidavit dt. 19.12.2024.

9) The Corporate Applicant has suggested the name of Mr. Vinod Balasaheb Dongare having Registration no. IBBI/IPA-001/IP-P-02872/2023-

24/14391 for appointment as the Interim Resolution Professional (IRP). The proposed IRP has also submitted her Consent in Form 2 confirming

eligibility and that there are no disciplinary proceedings pending against him.

10) This application is filed as per Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016 in Form-6. Required

information is also furnished therein.

11) After hearing the submissions and upon perusing the supporting documents annexed with the Petition, this Bench is of the view that the Petition

made by the Corporate Applicant is complete in all respects as required by law. It clearly shows that the Corporate Applicant is in default of a debt

due and payable, and the default is in excess of minimum amount stipulated under section 4(1) of the IBC, at the relevant time. Therefore, the default

stands established and there is no reason to deny the admission of the Petition. In view of this, this Adjudicating Authority Admits this Petition and

orders initiation of Corporate Insolvency Resolution Process against the Corporate Applicant viz. Esteem Press Parts Private Limited.

Order:

12) The Company Petition bearing CP (IB) No. 997 of 2024 is hereby

Allowed and initiation of Corporate Insolvency Resolution Process (CIRP) is ordered against Esteem Press Parts Private Limited.

a. Mr. Vinod Balasaheb Dongare having Registration no. IBBI/IPA-001/IP-P-02872/2023-24/14391, having registered address Office No 8,

1st Floor, Sukhwani Fortune, Above Gharonda Hotel, Morwadi Court road, Pimpri, Pune - 411018, is hereby appointed as the Interim

Resolution Professional of the Corporate Applicant to carry out the functions as mentioned under the Code. The IRP shall carry out functions

as contemplated by sections 15, 17, 18, 19, 20 and 21 of the Code. The fee payable to IRP/RP shall be compliant with Regulations, Circulars

and Directions issued by the Insolvency & Bankruptcy Board of India (IBBI) as may be applicable.

b. There shall be a moratorium under Section 14 of the IBC, in regard to the following:

i. 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;

ii. Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial

interest therein;

iii. 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

(SARFAESI) Act, 2002;

iv. The recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

c. Notwithstanding the above, during the period of moratorium: -

i. 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;

ii. That the provisions of sub-section (1) of section 14 of the IBC shall not apply to such transactions as may be notified by the Central

Government in consultation with any sectoral regulator;

d. 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, as the case may be.

e. Public announcement of the CIRP shall be made immediately as specified under section 13 of the IBC read with regulation 6 of the

Insolvency & Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

f. During the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, 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 a period of one week from the date of receipt of this Order, in default of which coercive

steps will follow.

g. The Corporate Applicant shall deposit a sum of Rs. 1,50,000/-(Rupees One Lakh Fifty Thousand only) till the formation of Committee of

Creditors plus out of pocket expenses 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).

h. The Registry is directed to communicate this Order to the Corporate Applicant and the IRP by Speed Post and email immediately, and in

any case, not later than two days from the date of this Order.

i. A copy of this Order be sent to the Registrar of Companies, Mumbai, Maharashtra, 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.

13) Ordered accordingly.