



**NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-I), CHANDIGARH**

CP (IB) No. 245/Chd/Hry/2023

**Under Section 10 of the Insolvency and
Bankruptcy Code, 2016 read with Rule 7 of
Insolvency and Bankruptcy (Application to
Adjudicating Authority) Rules, 2016**

IN THE MATTER OF:

TUNG BUILDERS PRIVATE LIMITED

Kahnuwan Chownk, Near Sita Ram
Petrol Pump Batala Road Gurdaspur
Gurdaspur, Punjab 143521
CIN No: U45209PB2014PTC039094
Mail Id: tungbuilders@yahoo.com

... Corporate Applicant/Debtor

Judgment Delivered on: 08.04.2025

**Coram: HON'BLE SH. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)
HON'BLE SH. SHISHIR AGARWAL, MEMBER (TECHNICAL)**

PRESENT:

For the Petitioner

**: Mr. Aalok Jagga, Mr. APS Madaan
Ms. Vibhu Aggarwal, Mr. Sahil Lohan,
Advocates & Mr. G.S Sarin, PCS.**

For the Cholamandalam (Financial Creditor) : Mr. Harsh Chopra, Advocate

PER: SH. HARNAM SINGH THAKUR, MEMBER (JUDICIAL)

SH. SHISHIR AGARWAL, MEMBER (TECHNICAL)





ORDER

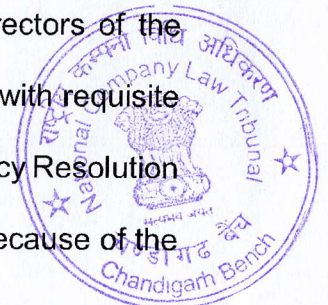
This is an application filed by Tung Builders Private Limited, the Corporate Applicant under Section 10 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking to initiate Corporate Insolvency Resolution Process (CIRP).

2. The Corporate Applicant was incorporated on 18.12.2014, under the provisions of Companies Act, 1956 with the Registrar of Companies, Chandigarh. The Corporate Applicant was primarily involved in the business of Construction, promotion, development, and coloniser of any type of residential, commercial, multi-storey, buildings, Multiplex, houses, flats, apartments, shopping, malls, roads or works of any description of land, buying, and selling the same in full or in parts on lease, higher or license basis, or in any other manner to individuals, partnership, concerns, companies or to the general public on such terms and conditions as may be considered necessary.
3. On 23.12.2021, the Corporate Applicant in order to expand its business entered into a loan agreement with HDFC bank and got sanctioned an amount of Rs. 4,52,73,691/-. Further the Corporate Applicant entered into another loan agreement with HDFC Bank Ltd and got sanctioned another loan amount of Rs. 4,22,39,294/- on 23.12.2021.
4. During the period, owing to the variation in market prices and non-supply of raw material within time, the business of the Corporate Applicant was adversely impacted and the management of the Corporate Applicant was evaluating several mechanisms in order to find a solution to revamp its business operations.





5. The operating cash flow of the Corporate Applicant was adversely impacted and the commercial borrowings which had been availed by the Corporate Applicant were due for repayment. However, on account of business losses and cash flow issues, the Corporate Applicant was unable to discharge its liabilities and this resulted in default towards the Financial and Operational Creditors of the Corporate Applicant.
6. The Corporate Applicant had previously been admitted into Corporate Insolvency Resolution Process Under Section 9 of the Insolvency and Bankruptcy Code, 2016 in an Ex-Parte Order dated 04.11.2022, however, application under Section 9 was withdrawn vide Order dated 01.12.2022 under Section 12-A of the Insolvency and Bankruptcy Code, 2016 owing to a settlement agreement between the parties. The Corporate Applicant furnished a Short Note vide Diary no. 02881/1 dated 06.11.2023 on the maintainability of the present application.
7. The Corporate Applicant vide order dated 26.11.2024 was directed to file the complete Balance Sheets as of 31.03.2022 and 31.03.2023 including the auditor's report with UDI Number which was filed vide Diary No. 02881/5 dated 20.01.2025. The Corporate Applicant had filed another Short Note on Section 10 of the Insolvency and Bankruptcy Code, 2016 in pursuance to Order dated 04.12.2023 filed vide Diary No. 02881/2 dated 05.12.2023.
8. During the period 2022–2023, the Corporate Applicant was unable to repay the loan amounts due to huge losses incurred in the business. The Board of Directors of the Corporate Applicant on 29.08.2023, in the Extraordinary General Meeting, with requisite majority, approved the special resolution for initiating the Corporate Insolvency Resolution Process under Section 10 of the Insolvency and Bankruptcy Code 2016, because of the



inability of the Corporate Applicant to repay the debts which were due to the Financial and the Operational creditors. Hence this application.

9. Details and Particulars Of Financial Creditors And Operational Creditors:

Sr. No.	PARTICULARS OF THE FINANCIAL DEBT [CREDITOR WISE, AS APPLICABLE]	
1.	NAME(S) OF FINANCIAL CREDITOR(S)	HDFC Bank Ltd.
2.	ADDRESS OF CORRESPONDENCE OF THE FINANCIAL CREDITOR(S)	D3, Improvement Trust Colony DBN Scehmeno-1, Road near Mohan Plaza, Gurdaspur, Punjab
3.	TOTAL AMOUNT RAISED AND AMOUNT IN DEFAULT	Rs. 4,52,73,691/- Rs. 73,171/- Rs. 4,22,39,294/- Rs. 54,98,180/- (MSME Loan) Rs. 34,80,336/- (Vehicle Loan)
4.	DATE WHEN THE FINANCIAL DEBT WAS INCURRED	23.12.2021

Sr. No.	PARTICULARS OF THE FINANCIAL DEBT [CREDITOR WISE, AS APPLICABLE]	
1.	NAME(S) OF FINANCIAL CREDITOR(S)	Cholamandalam Investment and Financial Company Limited
2.	ADDRESS OF CORRESPONDENCE OF THE FINANCIAL CREDITOR(S)	Bhatia Complex, Civil Lines Road, Near IDBI Bank, Gurdaspur, Punjab - 143521
3.	TOTAL AMOUNT RAISED AND AMOUNT IN DEFAULT	Rs. 65,93,483 /-
4.	DATE WHEN THE FINANCIAL DEBT WAS INCURRED	15.02.2021



Sr. No.	PARTICULARS OF THE FINANCIAL DEBT [CREDITOR WISE, AS APPLICABLE]	
1.	NAME(S) OF FINANCIAL CREDITOR(S)	Tata Capital Finance Services Ltd.
2.	ADDRESS OF CORRESPONDENCE OF THE FINANCIAL CREDITOR(S)	7 th Floor, Videocon Tower, Block E1, Jhandewalan Extension, New Delhi – 110055.
3.	TOTAL AMOUNT RAISED AND AMOUNT IN DEFAULT	Rs. 20,91,283/-
4.	DATE WHEN THE FINANCIAL DEBT WAS INCURRED	28.03.2022

Sr. No.	PARTICULARS OF THE FINANCIAL DEBT [CREDITOR WISE, AS APPLICABLE]	
1.	NAME(S) OF FINANCIAL CREDITOR(S)	Tata Motor Finance Ltd.
2.	ADDRESS OF CORRESPONDENCE OF THE FINANCIAL CREDITOR(S)	
3.	TOTAL AMOUNT RAISED AND AMOUNT IN DEFAULT	Rs. 30,73,304/- Rs. 30,73,304/-
4.	DATE WHEN THE FINANCIAL DEBT WAS INCURRED	08.03.2022



10. We have heard the submissions made by Mr. Alok Jagga, Learned Counsel appearing for the Corporate Applicant and perused the records carefully.

11. The Financial Creditors of the Corporate Applicant were served a copy of the petition and affidavit of service was filed by the Corporate Applicant vide Diary No. 02881/3 dated 29.04.2024. However, only one Financial Creditor namely Cholamandalam Investment and Finance Company Limited made an appearance through its counsel Mr. Harsh Chopra on 08.05.2024. The counsel for the Financial Creditor was directed to file a Short Note on maintainability of the petition vide order dated 08.05.2024, however, no such note or objections were ever filed by the Financial Creditor i.e. Cholamandalam Investment and Finance Company Limited.

12. We have perused the loan agreements, the financial statements, the list of Financial Creditors and the list of Operational Creditors. We have also perused the resolution passed by the Board of Directors and the special resolution passed by the Board of Directors, wherein it was resolved that the Corporate Applicant is not in a position to repay the debts and therefore the Corporate Insolvency Resolution Process, under section 10 of the IBC needs to be initiated. The Corporate Applicant had also filed an affidavit stating that he is not barred to file this petition under Section 11 of the Insolvency and Bankruptcy Code, 2016 which is duly appended in the petition at Page No. 32A which reads thus:

BEFORE THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH, AT CHANDIGARH

CP (IB) NO. _____ OF 2023

IN THE MATTER OF

APPLICATION BY CORPORATE DEBTOR/CORPORATE APPLICANT UNDER
SECTION 10 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016, IAW
RULE 7 OF THE INSOLVENCY AND BANKRUPTCY (APPLICATION TO
ADJUDICATING AUTHORITY) RULES, 2016.

32A



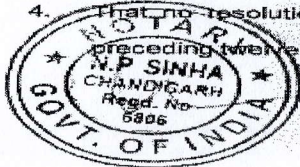
**TUNG BUILDERS PRIVATE LIMITED
... CORPORATE APPLICANT/ DEBTOR**

**AFFIDAVIT IN COMPLIANCE WITH SECTION-11 OF THE INSOLVENCY AND
BANKRUPTCY CODE, 2016**

Affidavit of Sh. Lakhwinder Singh, aged about 58 yrs, S/o Sh. Ajit Singh, Director of Tung Builders Private Limited, having registered office at Kahnuwan Chowk near Sita Ram petrol pump Batala Road Gurdaspur, Gurdaspur, Punjab 143521.

I, the above named deponent do hereby solemnly affirm and say as under:

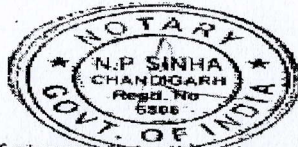
1. That the present Affidavit is filed in compliance with Section 11 of the IBC, 2016 and the deponent submits that the Corporate Debtor is not ineligible under Section 11 of the IBC, 2016, in as much as, the deponent does not fall under any of the ineligibility clause as mentioned in Section 11 of IBC, 2016.
2. That the deponent submits that the Corporate Debtor is not undergoing a Corporate Insolvency Resolution Process or a pre-packaged Insolvency Resolution Process.
3. That further, the Corporate Debtor has not completed any Corporate Insolvency Resolution Process in the preceding twelve months, from the filing of accompanying application u/s 10.
4. That no resolution plan has been approved under Chapter III-A, in the preceding twelve months, from the filing of accompanying application u/s 10.



(Handwritten signature)

5. That since the Corporate Debtor has never undergone any Insolvency proceedings earlier, thus, Section 11(c) is not applicable, as there is no violation of any terms of resolution plan.
6. That no Liquidation order has ever been passed qua the Corporate Debtor. Thus, the deponent is not ineligible under Section 11 of IBC, 2016.
7. That present petition has not been filed to defraud any of the creditors of the Corporate Debtor.
8. That the deponent has gone through the contents mentioned in the present Affidavit which are true and correct to the best of my knowledge and belief. No part of it is wrong and nothing material has been concealed or misstated.

(Handwritten signature)
Deponent



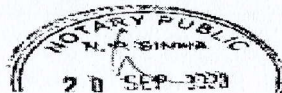
VERIFICATION:

Verified that the contents of above affidavit are true and correct to my knowledge and belief. Nothing material has been concealed or misstated therein.

Verified at Chandigarh on this day of 20 SEP 2023 2023.

Place: Chandigarh

Date: 20 SEP 2023



(Handwritten signature)
Deponent



13. We are satisfied that the Corporate Applicant has made a case for initiation of the CIRP under Section 10 of the IBC. The Corporate Applicant has proposed the name of Mr. Deepak Thukral having IBBI registration number IBBI/IPA-002/IP-N00182/2017-18/10453. The Corporate Applicant has placed on record the written consent of the IRP informed to along with the registration certificate.

14. Having regard to the facts and the circumstances of the case, we direct that the Corporate Insolvency Resolution Process under Section 10 of the IBC be initiated with respect to the Corporate Applicant.

15. In light of the above facts and circumstances, it is ordered as follows:

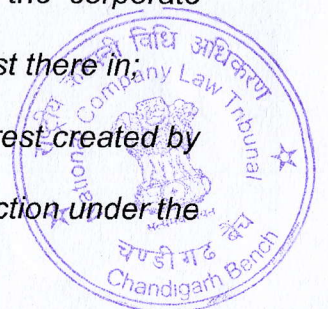
i. The Application bearing **CP(IB) No. 245/Chd/Hry/2023** filed by the Corporate Applicant under Section 10 of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules 2016, is **admitted**.

ii. We also declare a 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 judgement, decree or order in any court of law, tribunal, arbitration panel, or any other authority;*

b) *Transferring, encumbering, alienating, or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest there in;*

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*

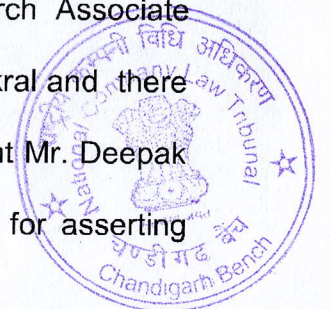


Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

- d) *The recovery of any property by an owner or lesser, where such property is occupied by or is in the position of corporate debtor.*

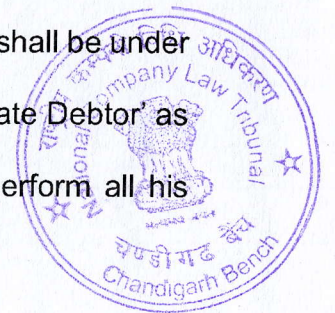
[Explanation- For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearance, or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated 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, concession, clearances, or a similar grant or right during the moratorium period;]

- iii. It is made clear that the provisions of moratorium shall not apply to transactions, which might be notified by the Central Government or 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 with effect from 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.
- iv. Mr. Deepak Thukral, Interim Resolution Professional has been proposed by the petitioner. The written consent in Form-2 and the Registration Certificate of the proposed IRP are filed along with the application. The Law Research Associate of this Tribunal has checked the credentials of Mr. Deepak Thukral and there is nothing adverse against him. In view of the above, we appoint Mr. Deepak Thukral, Registration No. IBBI/IPA-002/IP-N00182/2017-18/10453 for asserting





- the particulars of creditors and convening a Committee of Creditors for evolving a Resolution Plan. The address of the IRP is SCO-818, 1st Floor, NAC Manimajra, Chandigarh, 160101 and the Email ID of the IRP is deepakthukral1@gmail.com.
- v. We direct that public announcement in pursuance of section 13 (2) of the Code shall be made by the Interim Resolution Professional immediately (3 days as prescribed by Explanation to Regulation 6(1) of the IBBI regulations, 2016) with regard to the admission of this application under Section 10 of the Insolvency and Bankruptcy Code, 2016.
- vi. The Interim Resolution Professional shall perform all his functions contemplated, inter-alia, by Sections 15, 17, 18, 19, 20 and 21 of the Code and transact proceedings with utmost dedication, honesty, and strictly in accordance with the provisions of the Code, Rules and Regulations. 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 obligations 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 other 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. 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 its 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.

- vii. The IRP/RP shall submit to this Adjudicating Authority, periodical reports on quarterly basis with regard to the progress of the CIRP in respect of the Corporate Applicant.
- viii. The Corporate Applicant to pay to the IRP a sum of Rs. 3,00,000/- (Rupees Three Lakhs) to meet the initial cost, as per Regulation 33 (3) of the IBBI (Insolvency resolution process for Corporate Persons) Regulations, 2016 which amount shall be adjusted at the time of final payment.
- ix. The IRP/RP shall conduct CIRP in a time bound manner as per Regulation 40A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
- x. Additionally, the Corporate Applicant shall serve a copy of this order on the IRP and on the Registrar of Companies, Chandigarh by all available means for updating the master data of the Corporate Applicant. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this court within 7 days from the date of receipt of a copy of this order.
- xi. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-
(Shishir Agarwal)
Member (Technical)

April 08, 2025

Japneet



m
DD / DR / AR / Court Officer
National Company Law Tribunal
Chandigarh Bench, Chandigarh

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