December 22, 2022

To,
The General Manager-Listing,
BSE Limited,
Phiroze Jeejeebhoy Towers,
Dalal Street, Mumbai - 400 001
Scrip Code: 533189

Sub: NCLT Order

Dear Sir/Madam,

Pursuant to Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, and as per email dated December 21, 2022, we are attaching herewith the NCLT Order.

This is for your information and record.

Thanking you

Yours faithfully,

For **Goenka Diamond and Jewels Limited**

Navneet Goenka
Director of Suspended Board

DIN : 00164428

Sr. No. 386/2022

IN THE NATIONAL COMPANY LAW TRIBUNAL
JAIPUR BENCH

CORAM: SHRI DEEP CHANDRA JOSHI,
HON'BLE JUDICIAL MEMBER

SHRI PRASANTA KUMAR MOHANTY,
HON'BLE TECHNICAL MEMBER

CP No. (IB)- 114/7/JPR/2019
IA (IB) 580/JPR/2022

(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:

UNION BANK OF INDIA (ERSTWHILE CORPORATION BANK)
...Applicant/Financial Creditor

Versus

GOENKA DIAMOND AND JEWELS LIMITED
...Respondent/Corporate Debtor

Memo of Parties

Union Bank of India
erstwhile Corporation Bank amalgamated into Union Bank of India with effect from 1st April 2020 in terms of Gazette of India No. GSR No. 154(E) dated 4th March 2020 Government of India, a body corporate constituted under the Banking Companies (Acquisition and Transfer of Undertaking) Act 1980 and having its office at 239, Ground Floor, Vidhan Bhavan Marg, Nariman Point, Mumbai, Maharashtra 400021

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...Financial Creditor/ Applicant

VERSUS

Goenka Diamond and Jewels Limited
having its registered office at 401, Panchratna, Moti Singh Bhomiyon ka Rasta, Johari Bazar, Jaipur Rajasthan-302003.

...Corporate Debtor/ Respondent

For the Financial Creditor : Suman Choudhary, Adv.
For the Corporate Debtor : Ravi Chirania, Adv.

Order Pronounced On 09/12/2022

ORDER
Per: Shri Prasanta Kumar Mohanty, Technical Member

1. This application has been filed by the Petitioner/Financial Creditor ('FC'), i.e. Union Bank of India (Erstwhile Corporation Bank – Original Petitioner) 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 seeking initiation of Corporate Insolvency Resolution Process against the Corporate Debtor.

2. The Respondent/ Corporate Debtor ('CD'), Goenka Diamond and Jewels Ltd., was incorporated on 05.11.1990 with CIN – L36911RJ1990PLC005651. The registered office of the Corporate Debtor is situated at 401, Panchratna, Moti Singh Bhomiyon ka Rasta, Johari Bazar, Jaipur, Rajasthan – 302003. As per the company's master data available on the Ministry of Corporate Affairs website, the Authorised Share Capital of the company is Rs. 33,00,00,000, with the paid-up share capital of Rs. 31,70,00,000.

3. The details of the amount of debt due and the date from which such debt is unpaid have been mentioned in Part IV of the application, which is as follows:

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<table>
<tr><th colspan="3">PARTICULARS OF FINANCIAL DEBT</th></tr>
<tr><td>1</td><td>TOTAL AMOUNT OF DEBT GRANTED DATE(S) OF DISBURSEMENT</td><td>a. Sanction Letter dated 19.12.2011
b. Sanction Letter dated 29.09.2015
has been annexed and marked as D1 & D2.</td></tr>
<tr><td>2</td><td>AMOUNT CLAIMED TO BE IN DEFAULT AND THE DATE ON WHICH THE DEFAULT OCCURRED</td><td>
<table>
<tr><th>Particulars</th><th>Amount in Rs.</th></tr>
<tr><td>Principal Amount</td><td>22,95,43,247.71</td></tr>
<tr><td>Uncharged Interest (Including Penal Interest from till 28.02.2019)</td><td>19,88,2.9,623.49</td></tr>
<tr><td>Other charges</td><td>2,38,801.00</td></tr>
<tr><td>Total Claim amount</td><td>42,86,11,672.20</td></tr>
</table>
Hence, the Total Claim amount is Rs. 42,86,11,672.20 (Rupees Forty-Two Crores Eighty-Six Lakhs Eleven Thousand Six Hundred Seventy-Two and Twenty Paise only) as of 28.02.2019.
Default Date: 15th December 2015
Date of NPA: 16th March 2016

Working for Computation of Outstanding Amount and Days of Default have been annexed.
</td></tr>
</table>

4. The Applicant/Financial Creditor further submits the following:

4.1 Details of Security held by or created for the benefit of Corporation Bank:

i. Joint Deed of Hypothecation on Stock of Inventory of diamonds lying at Corporate Debtor's workshop.

ii. First Paripassu charges on leasehold land in Nagpur.

iii. Paripassu First Charge on Flat at Peddar Road, Mumbai.

iv. Paripassu First Charge on Plot of land at Surat.

v. Paripassu First Charge on Goenka House situated in Jaipur, Rajasthan, in the name of Nandlal Goenka.

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vi. Paripassu First Charge on Shop situated at Mumbai in the name of Mrs. Nirmala Goenka.

vii. Paripassu First Charge on Shop in Girgaon at Mumbai.

viii. Paripassu First Charge on Office at Opera House, Mumbai

ix. Paripassu First Charge on the plot of land at Thane

x. First Paripassu charge on pledged shares of the company.

4.2 The Estimated Valuation of the above-mentioned Securities is as follows:

i. Corporation Bank's share in the Flat at Peddar Road is valued at Rs. 1,99,52,730.00;

ii. Corporation Bank's stake in a plot in Surat SEZ is valued at Rs. 42,91,110.00;

iii. Corporation Bank's share in Goenka House in Jaipur is valued at Rs. 95,24,525.40;

iv. Corporation Bank's stake in a shop in Mumbai is valued at Rs. 37,64,750.40;

v. Corporation Bank's share in the shop at Opera House, Mumbai, is valued at Rs. 15,02,323.00;

vi. Corporation Bank's stake in the shop at Opera House, Mumbai, is valued at Rs. 13,97,250.00;

vii. Corporation Bank's share in the plot of land at Thane is valued at Rs. 88,79,554.00;

viii. Corporation Bank's stake in shares pledged by the Corporate Debtor is valued at Rs. 5,05,407,06.00;

ix. Corporation Bank's share in leasehold land at Nagpur is valued at Rs. 6,32,97,138.24/-

Hence, the total valuation of Corporation Bank's share in security is Rs. 11,31,14,789.10. A copy of the aforementioned mortgage properties' valuation report has been annexed. The copy of Certificate of Registration of Charge dated 17.02.2012 and 19.01.2017 issued by the Registrar of Companies concerning the aforementioned securities, the owners of secured properties have mortgaged the said properties in favour of Corporation Bank, has been annexed.

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4.3 The details of the Financial Contracts with respect to the Secured Term Loan given by Corporation Bank have been specified below:

i. Board Resolution dated 2nd May 2006
ii. Working Capital Agreement dated 17th May 2006
iii. Joint Deed of Hypothecation dated 17th May 2005
iv. Inter se Agreement dated 17th May 2006
v. Deed of Guarantee dated 17th May 2006
vi. Supplemental Working Capital Agreement dated 24th February 2010
vii. Supplemental Joint Deed of Hypothecation dated 24th February 2010
viii. Personal Guarantees executed by Nandlal Goenka, Nirmala Goenka, and Navneet Goenka dated 2nd March 2010
ix. Deed of Mortgage dated 24th February 2010
x. Security Trustee Agreement dated 17th March 2011
xi. Supplemental Working Capital Agreement dated 7th March 2011
xii. Supplemental Joint Deed of Hypothecation dated 17th March 2011
xiii. Personal Guarantees executed by Nandlal Goenka, Nirmala Goenka, and Navneet Goenka dated 17th March 2011
xiv. Indenture of Re-Conveyance dated 20th June 2011
xv. Deed of Accession dated 17th February 2012
xvi. Security Trustee Agreement dated 10th May 2013
xvii. Working Capital Consortium Agreement dated 10th May 2013
xviii. Undertaking dated 10th May 2013
xix. Personal Guarantees executed by Navneet Goenka, Bhawna Navneet Goenka, Nandlal Goenka and Nirmala Goenka, dated 10th May 2013, 23rd May 2013, 27th May 2013 and 27th May 2013, respectively.
xx. Registered Indenture of Mortgage dated 11th June 2013 20.
xxi. Memorandum of Entry dated 17th June 2015
xxii. Declaration cum confirmation dated 18th June 2015
xxiii. Inter Se Agreement dated 10th May 2013

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xxiv. Registered Deed of Mortgage dated 5th November 2015

xxv. Agreement for Term Loan dated 3rd December 2015

xxvi. Letter Ceding Pari Passu charge issued by Axis Bank to Corporation Bank dated 8th December 2015

xxvii. Memorandum of Entry dated 19th January 2017

xxviii. Declaration cum Deed of Confirmation for Extension of Mortgage dated 20th January 2017.

4.4 The Applicant has submitted the following documents to prove the existence of financial debt:

i. Notice dated 20.08.2016 issued by Punjab National Bank under Section 13(2) of the SARFAESI Act, 2002; has been annexed as Exhibit K-1.

ii. Balance Sheet of the Corporate Debtor, has been annexed as Exhibit K-2.

iii. Revival Letter dated 16th March 2016, has been annexed as Exhibit - K-3.

5. On the other hand, the Respondent/Corporate Debtor submits that:

5.1 The petition is misconceived, frivolous, vexatious and without the application of mind.

5.2 Financial creditors have approached this Hon'ble Adjudicating Authority in haste with ulterior motives to dishonestly obtain a CIRP order against the Corporate Debtor, which is a MSME unit.

5.3 The Corporate Debtor is a public limited company incorporated under the Companies Act, 1956 in November 1990 to manufacture wholesale and retail diamonds and jewels. The Corporate Debtor also falls within the MSME category have thus been registered with the Ministry of Micro, Small and Medium Enterprises under the Micro, Small, Medium Enterprises Development Act, 2006, bearing Udyog Aadhaar number RJ17B0102634.

5.4 In 2011 the Corporate Debtor approached the Financial Creditor for financial assistance. The Financial Creditor *vide* a Sanction letter dated 19th December 2011 sanctioned financial assistance up to a

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sum of Rs. 19.00 Crores as a working capital loan *vide* a Sanction Letter dated 23rd September 2015 and a sum of Rs. 2.48 crores towards an overdraft facility. The said facilities were again renewed, and the Corporate Debtor paid Rs. 5,71,91,136.00 to the Financial Creditor towards the interest from 2012 to 2016.

5.5 Since 2014, the diamond and jewel industry has been facing severe crises. In 2016, diamond prices went down by more than 25%. The said fact was brought into the knowledge of the Financial Creditor. However, in 2016 the Financial Creditor arbitrarily declared the account of the Corporate Debtor as Non-Performing Asset ('NPA') with effect from 17th March 2016. Financial Creditor issued a Notice dated 21st April 2016 under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI') claiming an amount of Rs. 23,19,66,208.16 towards principal and amount of Rs. 4,62,65,021.60 towards interest. The Corporate Debtor learnt about its account being declared and marked as NPA only upon receiving the aforesaid notice. The Corporate Debtor *vide* letter dated 18th June 2016 replied to the said notice disputing the claim amount on the grounds of the enormous discrepancy.

5.6 Ultimately, the said SARFAESI notice was withdrawn by the Consortium Lead Bank (i.e. Punjab National Bank), and the same was recorded *vide* Order dated 19th April 2018.

5.7 The Corporate Debtor, without prejudice to the dispute regarding the claim amount, **has time and again offered One Time Settlement (OTS) proposal to the Financial Creditor *vide* letters dated 2nd August 2016, 15th May 2017, 5th February 2019, 15th July 2019, 5th August 2019, 28th August 2019. The Financial Creditor repeatedly rejected all the aforesaid proposals with a direction to submit a better proposal.** Without prejudices to the aforementioned, the alleged petition under section 7 allegedly filed by the Financial Creditor deserves to be dismissed on the grounds stated hereinafter:

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i. The Corporate Debtor is a Registered Small and Medium Enterprise ('SME'): Under the settled provisions of the Micro, Small and Medium Enterprise Development Act 2006 (MSME Act), the Financial Creditor is under obligation to follow the framework laid down under the MSME Act for Revival and Rehabilitation Micro, Small and Medium Enterprises. The Financial Creditor fails to acknowledge that the Corporate Debtor is a registered SME under the MSME Act.

ii. The Corporate Debtor is willing to settle the claim of the Financial Creditor: The Corporate Debtor had time and again brought to the knowledge of the Financial Creditor the financial crisis faced by the Corporate Debtor. The Corporate Debtor also addressed several OTS proposals to the Financial Creditor; however, **the Financial Creditor rejected all the proposals** with the direction to submit a better proposal. The Financial Creditor initiated the present proceedings to drag the Corporate Debtor. **The Corporate Debtor *vide* a letter dated 28th August 2019 sent a final offer letter of an amount of Rs. 12.50 crores** to the Financial Creditor towards the settlement of the entire claim forming part of the Corporate Debtor's share.

iii. The Corporate Debtor is a sound company: The Corporate Debtor had also appraised the Financial Creditor, its massive amounts pending recovery from the global market, and they had proceeded against several debtors for recovery. The Corporate Debtor had filed several proceedings in the High Court of Judicature at Bombay for recovery against its foreign buyers and is likely to recover the monies. The Financial Creditor thus failed to acknowledge the fact that the Corporate Debtor is genuine and is facing financial crunches due to its debtor.

5.8 In the aforementioned facts and circumstances, it is clear that the Financial Creditor has filed the present petition with a malicious motive. The Corporate Debtor most respectfully states and submits that in view of the above, the Financial Creditor has not come before

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this Hon'ble Authority with clean hands, and therefore the petition does not deserve any consideration and be dismissed with exemplary cause.

5.9 It is, therefore, in view of the above facts and OTS proposals submitted by the Corporate Debtors from time to time to be taken on record and Corporate Debtors be granted reasonable time to arrive at an amicable settlement with the Financial Creditor in the interest of justice.

6. The Adjudicating Authority *vide* its Order dated 27.11.2019, appointed Mr. Sandeep Taneja, Advocate, Rajasthan High Court as a mediator in the matter to facilitate the process of amicable resolution between the parties and directed the mediator to file the Mediation Report**. The mediator submitted that the mediation had failed and filed the Mediation Report on 24.02.2020.** The relevant portion of the said report is reproduced below for reference:

> *"The Hon'ble Tribunal vide Order dated 27.11.2019 directed me to act as a mediator to facilitate the process of amicable resolution of the dispute between the parties. In this regard, meetings were held with the parties along with their counsels on 13.12.2019 and 13.01.2020. Efforts were made to bring the parties to common ground and arrive at a settlement. However, the parties could not agree upon any settlement terms. Hence the mediation has failed."*

7. During the Covid-19 outbreak in 2020-21, given the government advisories and respect for the precaution and prevention concerning Covid - 19, the matter was adjourned. Further, IA 228 of 2022 was filed with the prayer that Corporation Bank (the Original Petitioner) and Andhra Bank amalgamated with Union Bank of India, in terms of the Gazette Notification No. GSR No. 154(E) dated 04.03.2020, issued by the Government of India. In view of the same, the Applicant's name in the present Company Petition was substituted with the Union Bank of India by the Adjudicating Authority *vide* Order dated 17.05.2022.

8. On the other hand, the Respondent/CD had filed IA 580 of 2022, under Rule 11 of the NCLT Rules, 2016, for placing additional pleadings and

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subsequent events on record. The Respondent/CD with this IA has reiterated the same what has been stated earlier and further submits that:

8.1 The CD is in the diamond and jewellery business, and to run its business, the CD availed various credit facilities to the tune of **approximately Rs. 216 Crores from the consortium of banks**, namely, Punjab National Bank ('PNB'), Union Bank of India (erstwhile Corporation Bank), Punjab and Sind Bank, State Bank of India, Karnataka Bank, UCO Bank, Axis Bank and Central Bank. The loan accounts of the CD with the consortium of banks were declared Non-Performing Assets (NPA) by 31st March 2016 with an outstanding amount of Rs. 152 Crores, which became due and payable to the consortium of banks.

8.2 After declaring the loan account as NPA, the Financial Creditor herein initiated the SARFAESI proceedings against the Corporate Debtor and took possession of the movable and immovable properties mortgaged by the CD with the Financial Creditor. After taking possession of the properties, the Financial Creditor issued auction notices on various occasions to realise the outstanding loan amount. However, the sale auction failed every time due to the non-receipt of any successful bidder/bid.

The other banks with a financial interest in the mortgaged property of the Corporate Debtor are Axis Bank, Karnataka Bank and UCO Bank. Once the lead bank, i.e. PNB, has already initiated the action mentioned above, then the actions of the financial Creditor of filing the present application under Section 7 of the Insolvency and Bankruptcy Code, 2016 ('IBC') is per se illegal, arbitrary and unjustified.

For taking the separate independent action, the financial Creditor was required to take consent/ permission from the consortium of the bank. Admittedly there is no such consent/permission on record filed by the financial Creditor which may allow it to file the present application.

8.3 The Corporate Debtor submits details of its loans with the consortium of **Eight Banks** as follows:

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S. No.	Name of Banks	Outstanding Amounts in Lakhs	Remark
1	Punjab National Bank	4,493.31	OTS Proposal in Progress
2	Axis Bank	3241.50	Debts assigned to ARC
3	Union Bank/ Corporation bank	2,284.80	-
4	State Bank of India	1095.85	OTS done
5	UCO Bank	1,002.40	Debts assigned to ARC
6	Karnataka Bank	758.82	Debts assigned to ARC
7	Punjab & Sind Bank	3,141.25	OTS Proposal in Progress
8	Central Bank of India	1,032.78	Debts assigned to ARC
		17,050.71	

8.4 The Corporate Debtor again approached the financial Creditor and submitted a One Time Settlement dated 01.11.2022 for repayment of 7,70 Crores in 12 monthly instalments. The Corporate Debtor in said OTS also cited reasons to default in repayment of the due amount. The financial Creditor 09.11.2022 rejected the OTS while stating that the proposal is relatively low; therefore, kindly improve the offer.

This clearly shows that the Financial Creditor has approached this forum with a malafide intention towards the Corporate Debtor and using it as a debt recovery forum. The Hon'ble Supreme Court has held in a plethora of judgments that Banks and other financial institutions shall not use IBC as a tool for debt recovery mechanisms.

The Hon'ble Supreme Court, in the judgment of **Vidarbha Industries Power Limited vs. Axis Bank (2022) 8 SCC 352,** has held that admission of a petition filed under Section 7 of the IBC by a Financial Creditor is discretionary in nature and the Adjudicating

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Authority may or may not admit the petition under Section 7 of IBC after considering the grounds made by the Corporate Debtor. Where the Financial Creditor cannot prove that there is an existence of debt and default in repayment of the debt, the Adjudicating Authority may either dismiss the Section 7 of the IBC petition or shall keep the CIRP in abeyance till the existence of debt and default thereof has been proved by the Financial Creditor.

In light of the above-mentioned judgment, therefore, it is submitted that the present Company Petition filed by the Financial Creditor is ill-conceived and deserves to be dismissed.

8.5 The Corporation Bank filed the application under Section 7 of the IBC through Mr. Parimal Kumar Singh, stated to be working and posted as Chief Manager. A general power of attorney dated 06.10.2009 has been enclosed with the application, which contains certain blank spaces/columns. The manner in which General Power of Attorney has been used in the present case is illegal as by General Power of Attorney dated 06.10.2009 Mr. Parimal Kumar Singh could be authorised or stated to be authorised officer to file the present application.

Therefore, the initial proceeding by the authorisation person failed, and the same deserves to be declared illegal and dismissed by this Adjudicating Authority.

8.6 The present company petition has been filed after the lapse of the limitation period. In form 1-Part IV of the application, the Financial Creditor has mentioned the date of default as 15.12.2015, and the application was filed on 24.04.2019. Therefore, on the ground of serious delay and without any application for condonation of delay and without justifying the reasons for filling the application under Section 7 of the IBC, the entire proceedings are barred by limitation, and the same deserves to be dismissed at the outset.

8.7 In light of the above-mentioned facts and circumstances, it is most humbly prayed before this Adjudicating Authority may kindly dismiss the present Company Petition in light of the facts and circumstances of the present case; and

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ORDER

9. Considering the materials made available by the Financial Creditor/Applicant and the Corporate Debtor/Respondent, arguments of learned counsels of the Petitioner and Respondent and the facts mentioned hereinabove, **it is observed that**:

9.1 The CD has admitted that the loans from the consortium of **Eight Banks** were declared Non-Performing Assets (NPA) by 31st March 2016 with an outstanding amount of Rs. 152 Crore, due and payable to the Consortium of Banks.

9.2 The revival letter executed by the CD on 16th March 2016 has confirmed that the security documents executed by it in favour of the Consortium in respect of the loan facilities are subsisting, valid, effective and are fully enforceable against it.

9.3 The CD has been facing serious financial problems since 2014 and the Lenders initiated SARFAESI action from 2016.

9.4 The default occurred on 15th December 2015, date of NPA is 16th March 2016, and the present application has been filed on 24.04.2019.

The CD vide its OTS Proposals dated 02.08.2016, 15.05.2017, 05.02.2019 has acknowledged the debt and thereby attracted Sec. 18 of the Limitation Act. 1963.

The Hon'ble Supreme Court in **Dena Bank (now Bank of Baroda) Vs. C. Shivkumar Reddy and Anr., (2021) 10 SCC 330**, in paras 138-141 have held that

> *"138. While it is true that default in payment of a debt triggers the right to initiate the Corporate Resolution Process, and a Petition under Section 7 or 9 of the IBC is required to be filed within the period of limitation prescribed by law, which in this case would be three years vide from the date of default by virtue of Section 238A of the IBC read with Article 137 of the Schedule to the Limitation Act, the delay in filing a Petition in the NCLT is condonable under Section 5 of the Limitation Act unlike delay in filing a suit. Furthermore, as observed above Section 14 and 18 of the Limitation Act are also applicable to proceedings under the IBC.*

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139. Section 18 of the Limitation Act cannot also be construed with pedantic rigidity in relation to proceedings under the IBC. This Court sees no reason why an offer of One Time Settlement of a live claim, made within the period of limitation, should not also be construed as an acknowledgment to attract Section 18 of the Limitation Act. In Gaurav Hargovindbhai Dave (supra) cited by Mr. Shivshankar, this Court had no occasion to consider any proposal for one-time settlement. Be that as it may, the Balance Sheets and Financial Statements of the Corporate Debtor for 2016-2017, as observed above, constitute acknowledgement of liability which extended the limitation by three years, apart from the fact that a Certificate of Recovery was issued in favour of the Appellant Bank in May 2017. The NCLT rightly admitted the application by its order dated 21st March, 2019.

140. To sum up, in our considered opinion an application under Section of the IBC would not be barred by limitation, on the ground that it had been filed beyond a period of three years from the date of declaration of the loan account of the Corporate Debtor as NPA, if there were an acknowledgement of the debt by the Corporate Debtor before expiry of the period of limitation of three years, in which case the period of limitation would get extended by a further period of three years."

The Hon'ble NCLAT in **Tejas Khandhar v. Bank of Baroda, Company Appeal (AT) (Insolvency) No. 371 of 2020,** vide order dated 12.07.2022 held that the OTS proposal dated 01.08.2016 and 27.03.2018 falls within the definition of the ambit of acknowledgement of debt as envisaged under Section 18 of the Limitation Act, 1963 and dismissed the company appeal.

Moreover, the CD has acknowledged its liability towards the Applicant in its Audited Balance Sheets as on 31.03.2018 filed with the ROC and signed by its director, Pg no. 853 of the Company Petition (20th Annual Report- Notes Forming Part of Standalone and as Financial Statement- Note 21: Other Current Financial Liabilities)

Therefore, considering the above, the present company petition is not barred by limitation.

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9.5 The Adjudicating Authority *vide* its Order dated 27.11.2019, appointed Mr. Sandeep Taneja as a mediator to facilitate an amicable resolution between the parties. **The mediator has stated that the mediation has failed in his report submitted to this Bench on 24.02.2020. Two years and nine months have passed since then.**

9.6 **The CD started offering numerous One-time settlement (OTS) proposals to the Financial Creditor way back from August 2016 onwards i.e. on 2nd August 2016, 15th May 2017, 5th February 2019, 15th July 2019, 5th August 2019, 28th August 2019 and the last one dated 01.11.2022. The Financial Creditor time and again rejected all the aforesaid OTS proposals. Hence it is clear that the CD could not pay its dues from 2016 till the last hearing in Nov 2022. It has also been acknowledging its liability all along from 2016 till 01.11.2022.**

9.7 **The CD has submitted the chart of its liabilities towards the Applicant and the Seven Other Financial Creditors amounting to approx. Rs. 170.50 crores, and out of eight FCs, the CD has gone for OTS with only one Lender. Hence, the CD is not in a position to clear the dues despite several opportunities available to it for the last three and half years.**

9.8 **The contentions raised and defence submitted by the CD against admission of the Application referring to the SARFAESI proceedings going on or failed, the application filed by the authorised person having no proper Power of Attorney, the application barred by Limitation, CD being an MSME with exposure of Rs 170.50 crore to Eight Banks and making all attempts to go for OTS do not have any merit at all.**

9.9 **The CIRP in relation to the CD, even being an MSME unit, after a default of such amount from 2016 onwards; failure of Mediation and OTS/amicable settlement for the last six years, is required to be initiated as prayed for in the interest of all stake holders without further delay.**

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10. **Hence, the Adjudicating Authority is satisfied that:**

a. **The Corporate Debtor availed the loan/credit facilities from the Financial Creditor;**

b. **The existence of the debt is above Rupee One Crore;**

c. **Debt is due, payable and defaulted;**

d. **Default occurred on 15th December 2015 and Date of NPA is 16th March 2016;**

e. The Balance Sheets and Financial Statements of the Corporate Debtor constitute acknowledgement of liability which has extended the limitation by three years. The Corporate Debtor has acknowledged the debts /liabilities in its Balance Sheets as on 31.03.2018 signed by its Directors and filed with ROC. Moreover, the CD has acknowledged its liability submitting the OTS Proposals to the Applicant from 2016 till 01.11.2022. **Hence the application is found to be filed within the period of Limitation.**

f. Copy of the Application /Amended Application filed before this Bench has been sent to the Corporate Debtor, and the application filed by the Petitioner Bank under Section 7 of the IBC **is found to be complete for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor.**

11. The Applicant/Financial has prayed that the Corporate Insolvency Resolution Process ought to be initiated against the Corporate Debtor.

12. Accordingly, the petition filed by the Financial Creditor under Section 7 of the Insolvency & Bankruptcy Code, 2016, **is hereby admitted** for initiating the Corporate Insolvency Resolution Process in respect of the CD, Goenka Diamond and Jewels Limited. **The date of admission of this petition is 09.12.2022.**

13. The Applicant/FC has named one Mr. Vishal Bidawatjika, having Registration Number IBBI/IPA-001/1P-P00125/2017-18/10267; address at 307, Business Classic, 3rd Floor, Chincholi Bunder Road, Near HP Petrol

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Pump, Malad West, Mumbai- 400064; Mob: 9892333340 (email: finvishal@vahoo.com/Vishal@arck.in), duly registered with ICSI Insolvency Professional Agency, to be appointed as the Interim Resolution Professional("IRP"). The IRP has filed Consent in Form 2 under the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016, stating that no disciplinary proceedings are pending against the named IRP.

14. Consequences of initiation of CIRP shall be inter-alia as follows:

14.1 The Interim Resolution Professional proposed by the Applicant is Mr. Vishal Bidawatjika, an Insolvency Professional ('IP') registered with ICSI Insolvency Professional Agency having Registration No. IBBI/IPA-001/1P-P00125/2017-18/10267 is hereby appointed as the IRP to take over the affairs of the Corporate Debtor and duties as required to be performed by him under the provisions of IBC, 2016, including the issue of the publication in widely circulated Newspaper as contemplated under the provisions of IBC, 2016 and calling for the claims from the creditors of Corporate Debtor and collation of the same shall be done. The IRP has to file Authorisation for Assignment within three days from the date this Order is uploaded on the e-portal.

14.2 Further, as a sequel of admission, a moratorium, as envisaged under Section 14 of IBC, 2016, is invoked concerning the Corporate Debtor, which will be in vogue during the Corporate Insolvency Resolution Process of the Corporate Debtor. The IRP shall carry out CIRP strictly per the timelines specified and as envisaged under the provisions of IBC, 2016 concerning the Corporate Debtor.

14.3 The said IRP shall act strictly in compliance with the provisions of IBC, 2016 and defray his expenses to be incurred and fees on the account.

14.4 The Applicant shall deposit Rs, 5,00,000.00 (Rupees Five Lakh Only) in the account of the IRP within three days for initial expenses of the CIRP including the cost of paper publication, which will be apportioned as per the provisions of the Code and reimbursed to the Applicant upon formation of the Committee of Creditors

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14.5 The IRP shall duly file a status report from time to time appraising this Adjudicating Authority about the progress of CIRP unfolded in relation to the Corporate Debtor. In terms of Sections 17 & 19 of IBC, 2016, all personnel of the Corporate Debtor, including promotors and the Board of Directors, whose powers shall stand suspended, shall extend all cooperation to the IRP during his tenure as such and the management of the affairs of the Corporate Debtor shall vest with the IRP.

15. In terms of Section 7 of IBC, 2016, this Order shall be communicated to the Applicant, Corporate Debtor, and the Interim Resolution Professional (IRP) appointed by this Adjudicating Authority to carry out the CIRP at the earliest, not exceeding three days from today.

16. In the circumstances, CP No. (IB) 114/7/JPR/2019 is hereby admitted with the above observations and directions.

17. In view of the foregoing, IA (IB) 580 of 2022 in CP (IB)/114/7/JPR/2019 filed by the CD with a prayer for placing additional documents to dismiss the Company Petition, has no merit and relevance. Hence, the IA is disposed of accordingly.

18. Copy of this Order shall also be communicated to IBBI for its record and to any other body/entity to whom the Corporate Debtor is under legal/contractual obligation to inform/update.

19. A certified copy of the Order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

PRASANT A KUMAR MOHANTY
Digitally signed by PRASANTA KUMAR MOHANTY
Date: 2022.12.09 18:28:20 +05'30'

(Prasanta Kumar Mohanty)
Member (Technical)&
Adjudicating Authority

DEEP CHANDRA JOSHI
Digitally signed by DEEP CHANDRA JOSHI
Date: 2022.12.09 18:56:02 +05'30'

(Deep Chandra Joshi)
Member (Judicial) &
Adjudicating Authority

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Assistant Registrar
National Company Law Tribunal
Jaipur

FORM A
PUBLIC ANNOUNCEMENT

(*Under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016*)

FOR THE ATTENTION OF THE CREDITORS OF GOENKA DIAMOND AND JEWELS LIMITED

RELEVANT PARTICULARS		
1	Name of corporate debtor	Goenka Diamond And Jewels Limited
2	Date of incorporation of corporate debtor	05/11/1990
3	Authority under which corporate debtor is incorporated / registered	RoC-Jaipur
4	Corporate Identity No. / Limited Liability Identification No. of corporate debtor	L36911RJ1990PLC005651
5	Address of the registered office and principal office (if any) of corporate debtor	Regd Office : 401, Panchratna, Moti Singhbhomiyon Ka Rasta, Johari Bazar, Jaipur Rajasthan India-302003
6	Insolvency commencement date in respect of corporate debtor	12.12.2022 (Date of Order 09.12.2022, Date of receipt of order through nclt mail:12.12.2022)
7	Estimated date of closure of insolvency resolution process	10.06.2023
8	Name and registration number of the insolvency professional acting as interim resolution professional	Vishal Pawankumar Bidawatjika No. IBBI/IPA-001/IP-P00125/2017-18/10267
9	Address and e-mail of the interim resolution professional, as registered with the Board	**Address:** **Office No.307, 3rd Floor, Business Classic, Behind HP Petrol Pump, Near Chincholi Signals, Malad (West), Mumbai -400064** **Ph: 9892333340** **Mail id :finvishal@yahoo.com**
10	Address and e-mail to be used for correspondence with the interim resolution professional	**gd.cirp@gmail.com**
11	Last date for submission of claims	**26.12.2022**
12	Classes of creditors, if any, under clause (b) of sub-section (6A) of section 21, ascertained by the interim resolution professional	Not Applicable

13	Names of Insolvency Professionals identified to act as AuthorisedRepresentative of creditors in a class (Three names for each class)	**Not Applicable**
14	(a) Relevant Forms and (b) Details of authorized representatives are available at:	**(a) https://ibbi.gov.in/en/home/ downloads** **(b) Not Applicable**

Notice is hereby given that the National Company Law Tribunal has ordered the commencement of a corporate insolvency resolution process of the Goenka Diamond & Jewels Limited on 12.12.2022.

The creditors of Goenka Diamond & Jewels Limited, are hereby called upon to submit their claims with proof on or before 26.12.2022 to the interim resolution professional at the address mentioned against entry No. 10.

The financial creditors shall submit their claims with proof by electronic means only. All other creditors may submit the claims with proof in person, by post or by electronic means.

A financial creditor belonging to a class, as listed against the entry No. 12, shall indicate its choice of authorised representative from among the three insolvency professionals listed against entry No.13 to act as authorised representative of the class [specify class] in Form CA.

Submission of false or misleading proofs of claim shall attract penalties.

Date : 14.12.2022

Place: Mumbai

Vishal Pawankumar Bidawatjika
Interim Resolution Professional
Goenka Diamond & Jewels Limited