

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

CP (IB) No.161/Chd/HP/2023

(An Application under Section 7 of the Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

Himalaya Food International Limited

through its Authorized Representative Sh. Basant Kumar Sharma,
having its Registered office at:

118, 1st Floor, 12 Gagandeep Building,
Rajendra Palace, New Delhi Central, Delhi-110008.

PAN: AAACH0158H

CIN: L70102DL1992PLC047399

.... Applicant/ Financial Creditor

Versus

A.P.J. Laboratories Limited

through its Director Sh. Man Mohan Malik
having its registered office at

Village Ambwala, Nwada Road, Tehsil Paonta Sahib,
District Simarpur, Himachal Pradesh- 173025.

PAN: AAFCA8288E

CIN: U24230HP2005PLC028646

....Respondent/ Corporate Debtor

Order delivered on: 22.05.2026

**Coram: SHRI KAUSHALENDRA KUMAR SINGH, HON'BLE MEMBER
(TECHNICAL)
SHRI KHETRABASI BISWAL, HON'BLE MEMBER (JUDICIAL)**

Present:

For the Applicant : Mr. Aalok Jagga, Mr. Sahil Lohan, Mr.
Aryaman Jagga, Mr. APS Madaan
Advocates

For the Respondent : None

For the Common Director in : Mr. Manmohan Malik, Director
the Applicant Company

ORDER

1. The present Application was filed on 26.11.2024 by **Himalaya Food International Limited**, (hereinafter referred to as “Applicant”/ “Financial Creditor”) through its authorized representative Sh. Basant Kumar Sharma, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “Code”) for initiation of Corporate Insolvency Resolution Process (“CIRP”) against **APJ Laboratories Limited** (hereinafter referred to as “Respondent”/“Corporate Debtor”), for the **default amount** of **INR 14,41,09,996/- (Rupees Fourteen Crore Forty One Lakh Nine Thousand Nine Hundred Ninety Six)** as on **31.03.2023**. The date of default, as mentioned in Part IV of the Application, is 10.10.2015.

FACTS AND SUBMISSIONS OF THE APPLICANT:

2. Brief averments of the case as stated in the Application by Applicant/Financial Creditor and presented/argued by its Counsel are summarised hereunder:

(i) The Corporate Debtor, Himalaya Food International Limited, is a public company limited by shares incorporated on 30.01.1992, under the provisions of the Companies Act. The Corporate Debtor is engaged in real estate activities.

(ii) The Corporate Debtor availed credit facility from the Petitioner Financial Creditor since 2012, which was disbursed on different dates

as mentioned in Part IV of the Petition. Total amount of debt provided is Rs. 5,61,79,000/.

(iii) A mortgage deed dated 28.08.2015 was executed between the Applicant/Financial Creditor and Respondent/Corporate Debtor, thereby converting the unsecured loan of Rs. 5,61,79,000 into a secured Loan and properties as mentioned in Schedule at Page 10 of Agreement were mortgaged in favor of Financial Creditor (annexed as Annexure A-10 to the Petition). As per the agreement, the repayment of debt was to be made in 120 monthly instalments of Rs. 8,22,327/- each starting from 10.10.2015. The said loan was given at an interest rate of 12.50% p.a. Thus, time value of money is apparent.

(iv) The aforesaid charge was duly created in favor of the Financial Creditor with the Registrar of Companies under Section 77 of the Companies Act, 2013 read with Rule 6 of the Companies (Registration of Charges) Rules, 2014 on 28.8.2015 which is evident from the Master Data.

(v) Subsequently, Corporate Debtor filed petition bearing CWP No. 7719 of 2021 before Hon'ble Shimla High Court and vide order dated 09.03.2023 it was ordered on the statement of Corporate Debtor that the charge in favor of Financial Creditor herein be removed which as is seen from the order was on the insistence of the other Financial Creditor of the Corporate Debtor namely Himachal Pradesh State Cooperative Bank Ltd, which creditor has pursuant to action initiated under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 has taken physical possession of the unit

way back in 2016 since then the unit is lying closed. The Company and Directors have challenged the action before DRT, Chandigarh under Section 17 of the SARFAESI Act, 2002. A copy of the order dated 09.03.2023 is Annexure A-13. The charge therefore was removed.

(vi) The Corporate Debtor failed to honor the terms of the said agreement and did not repay the said amount. The debt became due on 10.10.2015, i.e. on which date the first date of repayment of installment, which was not made by the Corporate Debtor.

(vii) The Financial Creditor issued a Notice for repayment of loan amount with interest upon the Corporate Debtor on 20.03.2018. [annexed as Annexure A-17 to the Petition] and the Corporate Debtor vide its letter confirmed and acknowledged the debt and non-repayment of the said debt [annexed as Annexure A-18 to the Petition]. However, the debt was not repaid by the Corporate Debtor.

(viii) The said debt is also duly recorded in the Balance Sheets of the Corporate Debtor from FY 2011- 2012 till FY 2021-2022 [annexed as Annexure A-15 to the Petition] and once the debt is duly recorded in the Balance Sheets of the Corporate Debtor, the same amounts to acknowledgement of debt for the purpose of extending limitation under Section 18 of the Limitation Act, 1963 in view of the judgment of Hon'ble Supreme Court in the case of *Asset Reconstruction Company (India) Limited v. Bishal Jaiswal (SC) 2021 (6) SCC 366*. Thus, the debt is well within the limitation.

(ix) The total amount of debt due is Rs. 14,41,09,996/- as on 31.03.2023, including interest, as per the computation sheet which is

attached as Annexure A-14 to the Petition. This is also clear from the ledger entries and the Account Statements (annexed as Annexures A-11 and A-12 to the Petition). Also, the ledger account of Corporate Debtor maintained in the books of Financial Creditor has been annexed above as Annexure A-12, which reflects that an amount of Rs. 1,00,000/- has been paid on behalf of Corporate Debtor on 20.02.2021 and an amount of Rs. 10,00,000/- was repaid on its behalf on 23.02.2022. Apart from the same the Corporate Debtor has not repaid any amount. Further, the debt is also recorded in the Balance Sheets of the Petitioner/ Financial Creditor which have also been filed with MCA. Copies of Balance Sheets for FY 2015-16, 2020- 21 and 2021-22 are attached as Annexure A-16 to the Petition. Further, the Corporate Debtor has never disputed the existence of debt and default.

(x) The Financial Creditor submits that out of 5 Directors of the Corporate Debtor, 3 Directors are common. However, since the debt has been advanced through bank transfers and shown in the books of accounts and charges reflected in Master Data, therefore the Debt is proved from the documentary admissible record. Thus, there is existence of a debt and default and the same classifies as a financial debt.

SUBMISSIONS BY THE RESPONDENTS

3. The Corporate Debtor has not filed any Reply to this Petition. However, an affidavit dated 04.09.2024 has been filed by the Corporate Debtor in compliance with the order of Tribunal dated 14.08.2024, affirming that the petition is not collusive and that no fraudulent conduct has taken place. The

affidavit further states that the Corporate Debtor is financially unable to repay its dues, as the company has been non-operational since 2015, and submits that winding up may be the only viable option for settlement of creditors. Moreover, during the hearing of the matter, as recorded in the order dated 16.07.2024, the Corporate Debtor had conveyed its NOC for initiation of CIRP against it.

ANALYSIS AND FINDINGS:

4. We have considered the submissions made by the learned counsels of Applicant/Financial Creditor as well as the Respondent/Corporate Debtor and have gone through the material available on record carefully, along with the extant provisions of the Code and the settled position of law on the subject issue.

5. It is noted that an application bearing IA(I.B.C.) No. 900/CH/2025 was filed by Dr. Vijay Vohra, Director and Shareholder of the Corporate Debtor, under Section 65(1) of the Insolvency and Bankruptcy Code, 2016, alleging fraudulent and malicious initiation of the present Section 7 proceedings. The Applicant therein challenged the legitimacy of the financial debt and sought dismissal of the present petition on allegations of collusive transactions and suppression of material facts. However, after considering the submissions and material on record, the Adjudicating Authority dismissed the said application vide order of even date, holding that the allegations were unsupported by cogent evidence and that no grounds were made out for invoking Section 65 of the Code.

6. The Adjudicating Authority takes note of the fact that the Corporate Debtor has neither disputed the existence of the debt nor the occurrence of

default. On the contrary, the Corporate Debtor has acknowledged its financial inability to repay the dues and has expressed no objection to the initiation of Corporate Insolvency Resolution Process. Such conduct further reinforces the conclusion that the debt and default are admitted and undisputed.

7. In view of the above, we are of the considered view that there exists financial debt which is payable and defaulted by the respondent. The debt is more than the threshold limit of Rs. 1 crore as per Section 4 of the IBC. This application is filed within limitation and is defect-free; and as such it is a fit case to be admitted under Section 7 of the Code.

8. In the above circumstance, in exercise of the powers conferred under the provisions of Section 7 of the Code, we admit the Application bearing **CP (IB) No.161/CHD/HP/2023** for initiating CIRP against Corporate Debtor **A.P.J. Laboratories Limited** with the following consequential directions:

(i) 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 Insolvency and Bankruptcy Code, 2016.

(a) 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;

(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 the 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.

(e) 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 of the Code or passes an order for the liquidation of the Corporate Debtor Company under Section 33 of the Code, as the case may be.

(ii) We appoint Ms. Pooja Damir Miglani (Proposed IP), having Registration Number IBBI/IPA-002/IP-N001189/2021-22/13994, having an address at House No. 83, New Fateh Singh Nagar, Ludhiana, Punjab-141013, email id – ipcspdm@gmail.com , to act as an IRP under Section 13(1)(c) of the Insolvency and Bankruptcy Code, 2016. She shall conduct the Corporate Insolvency Resolution Process as per the provisions of the Insolvency and Bankruptcy Code, 2016, read with Rules and Regulations made thereunder. The IRP shall make a public announcement of the initiation of the Corporate Insolvency Resolution Process and call for submission of claims under Section 15 as required by Section 13(1) (b) of the Insolvency and Bankruptcy Code, 2016.

(iii) 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 is to provide effective assistance to the IRP as and when it takes charge of the assets and management of the Corporate Debtor.

(iv) The IRP shall perform all its functions as contemplated, inter alia, by sections 17, 18, 20 and 21 of the Insolvency and Bankruptcy Code, 2016. It is further made clear that all personnel connected with Corporate Debtor, its Promoter, or any other person associated with the management of the Corporate Debtor are under a legal obligation under Section 19 of the Insolvency and Bankruptcy Code, 2016, to extend every assistance and co-operation to the IRP. Where any personnel of the Corporate Debtor, its Promoter, or any other person, is required to assist or co-operate with the IRP, do not assist or co-operate, the IRP is at liberty to make an appropriate Application to this Adjudicating Authority with a prayer for passing an appropriate Order.

(v) The IRP shall be under a duty to protect and preserve the value of the property of the 'Corporate Debtor Company' and manage the operations of the Corporate Debtor Company as a going concern as a part of the obligation imposed by Section 20 of the Insolvency and Bankruptcy Code, 2016.

(vi) The Applicant/Financial Creditor is directed to pay an advance of Rs. 4,00,000/- (Rupees four lakh only) to the IRP within two weeks from the date of receipt of this order, for smooth conduct of Corporate Insolvency Resolution Process, and IRP to file proof of receipt of such

amount to the Adjudicating Authority along with First Progress Report. Subsequently, the IRP may raise further demands for Interim funds, which shall be provided as per the Rules.

(vii) 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. those who are likely to have their claim against Corporate Debtor as well as to the trade unions/employees associations so that they are timely informed about the initiation of CIRP against the Corporate Debtor.

(ii) The commencement of the Corporate Insolvency Resolution process shall be effective from the date of this Order.

9. The Registry is directed to communicate a copy of this Order immediately to both the Parties and also to IRP.

10. As a result, the **CP (IB) No. 161/CHD/HP/2023** stands allowed and disposed of.

Sd/-
Khetrabasi Biswal
Member (Judicial)
Inderjeet

Sd/-
Kaushalendra Kumar Singh
Member (Technical)