

**NATIONAL COMPANY LAW TRIBUNAL**  
**MUMBAI BENCH COURT VI**

Item No. P2.

C.P. (IB)/344(MB)2025

CORAM:

**SHRI SAMEER KAKAR**  
**HON'BLE MEMBER (TECHNICAL)**

**SHRI NILESH SHARMA**  
**HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF HEARING (HYBRID) DATED **14.10.2025**

NAME OF THE PARTIES:           **Unity Small Finance Bank Limited**  
**Vs**  
**Bafna Motors Private Limited**

**Under Section 7 of the IBC.**

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**ORDER**

The case is fixed for pronouncement of the order. The order is pronounced in the open court, *vide* separate order. Detailed order is being uploaded on the NCLT portal today.

**Sd/-**  
**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

//VM//

**Sd/-**  
**NILESH SHARMA**  
**MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-VI**

**CP (IB) No.344/MB/2025**

*[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:

**UNITY SMALL FINANCE BANK LIMITED**

[CIN: U65990DL2021PLC385568]

**Registered office:** Unit No. 1201, 1202 &1203

12th Floor, Ansal Bhawan, 16, K. G. Marg

New Delhi G.P.O - 110001, Delhi.

**Branch office:** 3-6-281, Ground Floor

Shri Sai Plaza, G G Road, Opp. Balaji Mandir

near Old Mondha, Hyder Bagh

Dashmesh Nagar, Harsh Nagar, Nanded

Nanded-Waghala - 431601, Maharashtra.

**...Financial Creditor/Applicant**

V/s

**BAFNA MOTORS PRIVATE LIMITED**

[CIN: U50100MH1973PTC016956]

Puranik Capital, Office No. 402

Puranik Builders Pvt Ltd, Thane (M Corp.)

Ghodbunder Road, Kasarvadavali

Thane-400615, Maharashtra.

**...Corporate Debtor**

**Pronounced: 14.10.2025**

**CORAM:**

**HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)**

**HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)**

**Appearances: Hybrid**

Financial Creditor: Adv. Mr. Roshan Agarwal a/w Adv. Ms. Janhavi Hirlekar &

Adv. Ms. Princi Jaiswal i/b Dhir & Dhir Associates.

Corporate Debtor: Ex-Parte

**ORDER**

**[PER: BENCH]**

**1. BACKGROUND**

1.1 This is an Application bearing C.P. (IB) No.344/MB/2025 filed on 18.01.2025 by Unity Small Finance Bank Limited, the Applicant (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as “the Code”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as “the AAA Rules”) through Ms. Anjali Parab - Vice President and Authorised Representative of the Applicant *vide* Authorisation Letter dated 09.05.2022 for initiating Corporate Insolvency Resolution Process (hereinafter referred to as “CIRP”) in respect of Bafna Motors Private Limited, the Corporate Debtor (CD).

1.2 The Applicant is incorporated on 25.08.2021. The erstwhile PMC Bank had granted credit facilities to the CD. Amidst the same, PMC Bank amalgamated with the Applicant with effect from 25.01.2022. The CD is incorporated on 22.10.1973.

1.3 The Applicant has relied on the following documents:

- i. Copy of Master Data of the Applicant and CD
- ii. Copy of Authority letter dated 09.05.2022
- iii. Copy of Written Consent of the IRP in Form-2 along with certificate of registration and AFA
- iv. Copy of Gazette Notification dated 25.01.2022
- v. Copy of sanction letters dated 07.09.2013 bearing ref no. PM/CO/CREDIT/1480/13-14, 18.12.2017 bearing ref no. PM/CO/CREDIT/907A/17-18, 08.03.2019 bearing ref no.

PM/CO/CREDIT/1387/2018-19 and 28.06.2018 bearing ref no.  
PM/CO/CREDIT/657/18-19.

- vi. Copy of Loan Agreement dated 22.06.2018
- vii. Copy of Statement of Accounts for Cash Credit bearing Account No. 232130100000046
- viii. Copy of Statement of Accounts for Term Loan bearing Account No. 232301100000016.
- ix. Copy of NPA Certificate
- x. Copy of SARFAESI Notice dated 10.08.2021.
- xi. Copy of Release Letter dated 21.09.2022.
- xii. Copy of Demand Notice dated 22.09.2022 along with tracking report
- xiii. Copy of Deed of Hypothecation of Stocks and Book Debts dated 27.07.2010.
- xiv. Copy of Letters of Guarantee dated 27.10.2010 and 22.06.2018.
- xv. Copy of Demand Promissory Notes dated 27.07.2010, 03.10.2013 and 22.06.2018.
- xvi. Copy of Letter of continuing security for demand promissory note dated 27.07.2010.
- xvii. Copy of Letter of Lien and Set Off dated 27.07.2010 and 22.06.2018.
- xviii. Copies of all the Letters of Confirmation
- xix. Copy of NeSL Form D Record of Default.
- xx. Copy of TransUnion CIBIL report dated 06.12.2024.

## **2. AVERMENTS OF THE APPLICANT**

2.1 The case was listed on 20.03.2025, wherein the Tribunal directed the Applicant to file an Additional Affidavit to bring on record the complete account statement of the CD

and showing the exact date of default. The Applicant complied with the above interim order by filing an Additional Affidavit dated 02.05.2025 which is recorded *vide* interim order dated 05.05.2025. Along with this Additional Affidavit the Applicant has attached Copy of Authority Letter dated 09.05.2022, Copy of Sanction Letter dated 30.09.2020, Copy of Statement of Account for Cash Credit for the period from 01.03.2019 to 30.03.2025, Copy of Statement of Account of FITL for the period from 30.09.2020 to 25.03.2025, Copy of Letter dated 01.06.2022 addressed by the CD to the Applicant and Copy of judgment in the matter of Bikram Bhadur vs Union of India & Anr in Company Appeal (AT) (Ins). No. 1289 of 2024, made by Hon'ble NCLAT, New Delhi.

2.2 Further, *vide* interim order dated 11.07.2025, the Tribunal on the request of the Applicant, permitted the Applicant to modify Form-1 in terms of the judgment of *Hon'ble Supreme Court in 2021 10 SCC 330 in Dena Bank vs. C. Sivakumar Reddy* and place on record the Banker's Book Evidence Act Certificate. In compliance with the said order the Applicant filed an Additional Affidavit dated 25.07.2021 along with amended Form-1, the dues claimed in the Application excluding the amount which became due during the 10A period and Banker's Book Evidence Act Certificate.

2.3 As per Part-IV of the amended Form-1 of the Application the total amount claimed to be in default by the Applicant is Rs.20,01,65,533.98/- (Twenty Crore One Lakh Sixty-Five Thousand Five Hundred and Thirty-Three and Ninety-Eight Paisa) including interest along with future interest and other charges as per the contractual rates.

2.4 The date of default is mentioned as 31.03.2021 i.e. the date when CD's account was declared as NPA.

2.5 The Applicant submits that the below mentioned facilities were granted by Punjab & Maharashtra Co-operative Bank Limited (erstwhile Lender) ("PMC Bank") to the CD. Amidst the same, PMC Bank amalgamated with Unity Small Finance Bank Limited, the

Applicant herein with effect from 25.01.2022. Copy of the Gazette Notification dated 25.01.2022 is annexed at **Exhibit-E** of the Application.

2.6 It is submitted that in the year 2010, the CD had approached PMC Bank for seeking financial assistance. On the request of the CD, PMC Bank had granted a Cash Credit Limit amounting to Rs. 17,50,00,000/-. In order to secure repayment of the said facility, various documents were executed between the parties.

2.7 At the request of the CD, the Applicant renewed the Cash Credit Facility for an amount of Rs.17,50,00,000/- The said facility was renewed *vide* Sanction Letter dated 07.09.2013 bearing Ref No. PM/CO/credit/1480/13-14, in the manner and upon the terms and conditions more particularly stated therein. Once again in 2017, the CD approached the Applicant twice to renew the Cash Credit Limit and the same was carried out as per the terms and conditions stated in Sanction Letter dated 18.12.2017 bearing Ref No. PM/CO/Credit/907A/17-18 and Sanction Letter dated 08.03.2019 bearing Ref No. PM/CO/Credit/1387/2018-19. As per the terms of the Sanction Letter, the period of repayment was 'On Demand/Annual renewal'. Copy of Sanction Letter dated 07.09.2013 bearing Ref No. PM/CO/credit/1480/13-14, 18.12.2017 bearing Ref No. PM/CO/Credit/907A/17-18 and 08.03.2019 bearing Ref No. PM/CO/Credit/1387/2018-19 is annexed as **Exhibit-F, G and H** of the Application, respectively.

2.8 The Applicant submits that the CD once again approached the erstwhile PMC Bank for seeking financial assistance. The PMC Bank granted a Mortgage Term Loan amounting to Rs. 2,50,00,000/- *vide* Sanction Letter dated 20.06.2018 bearing Ref No. PM/CO/Credit/657/18-19, in the manner and upon the terms and conditions more particularly stated therein. As per the terms of the said Sanction Letter, the tenure of loan was 'On Demand/permission to repay in 120 months'. A copy of Sanction Letter

dated 20.06.2018 bearing Ref No. PM/CO/Credit/657/18-19 is annexed at **Exhibit-I** of the Application.

2.9 Pursuant thereto, a Loan Agreement dated 22.06.2018 was executed between the parties which is annexed at **Exhibit-J** of the Application.

2.10 The Cash Credit Facility was disbursed on 27.07.2010 and the Mortgage Term Loan on 22.06.2018. Copy of Statement of Accounts for Cash Credit for Account No. 232130100000046 is annexed at **Exhibit-K** and Statement of Account for Mortgage Term Loan for Account No. 232301100000016 is at **Exhibit-L** of the Application.

2.11 The Applicant submits that the amounts have been bifurcated as pre, during and post 10A period. The following is the chart of the outstanding amount as per 10A period bifurcation:

PARTICULARS	CASH CREDIT LIMIT A/C NO. 232130100000046	MORTGAGE TERM LOAN A/C NO. 232301100000016	TOTAL AMOUNT
Amount o/s. as on 24 <sup>th</sup> March 2020 i.e. Prior To 10A Period			
Total o/s. prior 10A period (A)	Nil	Nil	Nil
Amount o/s. from 25 <sup>th</sup> March 2020 to 24 <sup>th</sup> March 2021 i.e. during 10A Period			
Principal	Nil	3,00,519.00	3,00,519.00
Interest	54,67,370.00	4,45,481.00	59, 12,851.00
Penal Interest o/s.	-	6,820.00	6,820.00
Total o/s. during 10A period (B)	54,67,370.00	7,52,820.00	62,20,190.00
Amount o/s. from 25 <sup>th</sup> March 2021 till 30 <sup>th</sup> November 2024 as claimed in the Petition i.e. Post 10A period			
Principal	11,92,11,278.00	1,93,90,863.37	13,83,01,622.37

Interest	3,88,76,651.61	1,18,10,141.00	5,06,86,792.61
Penal Interest o/s.	44,47,619.00	5,09,310.00	49,56,929.00
Total o/s. Post 10A period (C)	16,25,35,548.61	3,14,09,795.37	19,39,45,343.98
<b>TOTAL (A+B+C)</b>	<b>16,80,02,918.61</b>	<b>3,21,62,615.37</b>	<b>20,01,65,533.98</b>

2.12 Thereafter, on the request of the CD for conversion of deferred interest for the period from 01.03.2020 to 31.08.2020, PMC Bank granted a Funded Interest Term Loan (FITL) for an amount of Rs. 1,04,75,074/- vide Sanction Letter dated 30.09.2020 bearing Ref No. PMC/NND/36/2020-21 (Exhibit-C of the Additional Affidavit filed on 03.05.2025), in the manner and upon terms and conditions more particularly stated therein. As per the said Sanction Letter, the tenure of Loan was 'On demand/Till 31.03.2021'. The FITL facility, thus in terms of the Sanction Letter became over due in entirety as on 31.03.2021.

2.13 In accordance with the aforesaid, the amount sanctioned towards FITL facility were adjusted towards the Cash Credit Account No. 232130100000046 of the CD. Pursuant thereto, the interest from September 2020 to November 2020 were serviced by the CD as and when due. However, only partial interest was serviced for the month of December. Last such partial payment was received on 01.03.2021 towards the interest of December 2020. (Exhibit-D and Exhibit-E of Additional Affidavit filed on 03.05.2025).

2.14 The CD had agreed to abide by the terms and conditions of the Sanction Letters as well as the documents executed for availing the said Facilities and had undertaken to repay the outstanding dues on the respective due dates as per the terms therein. However, the CD defaulted on repaying the amount due and payable in complete violation of the undertaking and subsequently the loan accounts became irregular. As

a result, the account of the CD became Non-Performing Asset ("NPA") on 31.03.2021.

Copy of the NPA Certificate is annexed as **Exhibit-M** of the Application.

2.15 Being aggrieved by the aforesaid conduct of the CD, on 10.08.2021, PMC Bank issued Demand Notice u/s. 13(2) of the Securitisation & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ("SARFAESI Act") thereby calling upon the CD to repay the total outstanding dues along with interest thereon in the manner more particularly set out therein. The statutory Demand Notice was raised for Cash Credit Limit of Rs. 19,22,54,903.33/-, Mortgage Term Loan of Rs. 2,27,12,848/- and FITL of Rs. 59,19,399/-. Copy of the SARFAESI Notice dated 10.08.2021 is annexed as **Exhibit-N** of the Application.

2.16 It is submitted that on 01.06.2022, the CD addressed a Letter to the Applicant thereby acknowledging the outstanding amount of debt and proposing a repayment schedule. It is pertinent to note that the said letter is a clear acknowledgement by the CD that there is outstanding amount even subsequent to 10A period. (Exhibit-F of the Additional Affidavit filed on 03.05.2025).

2.17 The aforementioned facilities provided to the Corporate Debtor were secured by an equitable mortgage on Land and Building located at Gat No.123, 125 & 126, Mauje Kolpa, District Latur, Maharashtra, which is owned by the CD (hereinafter referred to as the "Mortgaged Property"). This mortgaged property was released by the Applicant, as per the letter dated 21.09.2022, following the receipt of Rs. 11,00,00,000/- from Mis. Padmaja Motors ("Purchaser") on 16.09.2022, representing the sale proceeds of the mortgaged property. The sale proceeds received from the mortgaged property were adjusted towards the outstanding amount of the above given facilities and the account pertaining to the FITL Facility was closed on 26.09.2022 because of the appropriation made out of sale of the aforementioned Mortgaged Property.

2.18 Despite the aforesaid adjustment, as on 21.11.2024, an outstanding amount of Rs. 19,83,26,831.98/- remained unpaid on behalf of the CD towards Cash Credit Facility and Mortgaged Term Loan. Despite several follow-ups, the CD failed to pay the outstanding amount. Consequently, on 22.11.2024, the Applicant was constrained to issue Demand Notice together with further interest on the amount outstanding as more particularly stated therein. The Demand Notice was also addressed to the Personal Guarantors of the CD. The aforementioned Demand Notice was sent to the registered office of the CD, as well as to other office addresses known to the Applicant, details of which are provided in Part II of the Application. It is important to note that while attempts were made to serve the notice at all listed addresses, it was successfully delivered to Office Nos. 401, 402, 403, and 404, 4th Floor, Puranik Capital, Opposite Hypercity Mall, Kasarvadavli, Ghodbunder Road, Thane West - 400 615. The Applicant has not received any communication from the CD neither has there been any update regarding the repayment of dues. Copy of the Demand Notice dated 22.11.2024 is annexed as **Exhibit-P(Colly)** of the Application.

2.19 The Applicant submits that the default occurred on 31.03.2021 when the account of the CD with the PMC Bank became irregular due to the non-payment of dues as per the agreed terms and conditions, leading to the accounts of the CD being classified as NPA. The account of the CD was classified as NPA on account of default towards Cash Credit Account. The FITL account also became over due on 31.03.2021 as per the terms of the sanction letter. It is submitted that as per RBI Guidelines, the account is classified as NPA not account wise but borrower wise, hence, the date of NPA qua all the facilities as availed by the CD herein is 31.03.2021. The default once again occurred on 03.12.2024, when the CD failed to pay the outstanding dues within 7 days of receipt of Demand Notice dated 22.11.2024 as issued by the Applicant upon the CD.

(Demand Notice delivered to the CD on 25.11.2024). Further, the period from 15.03.2020 to 28.02.2022 is to be excluded when computing period of limitation. Hence, the present Application is filed within the limitation period of three years.

2.20 It is submitted that the default in the present case does not only fall within the ambit of the Section 10A bar under the Code. As evidenced by the Sanction Letters, statement of accounts, acknowledgment letter dated 01.06.2022 and supporting documentation as annexed to the Application and Additional Affidavits, the default does not fall within the ambit of Section 10A period. The CD has admittedly continued in defaulting on repayment obligations beyond the cessation of the said period, thereby attracting the provisions of Section 7 of the Code in terms of the settled position of law.

### **3. CONTENTIONS OF CORPORATE DEBTOR**

3.1 The Tribunal *vide* interim order dated 05.06.2025 records that the Applicant had filed the Affidavit of Service and the Applicant had delivered the notice through speed post at the new registered office of the CD and recorded that the service was complete upon the CD. Despite this, none appeared on behalf of the CD. The Tribunal gave last chance to the CD to make appearance and file reply.

3.2 The Tribunal's interim order dated 19.06.2025 records as below,

*“2. A perusal of the DMS reveals that no reply/Vakalatnama is filed by the Respondent so far.*

*3. Order dated 05.06.2025 records that last chance was given to the Respondent to make appearance and to file reply. Despite the order, the Respondent has not filed reply/Vakalatnama.*

*4. In view of the above, the right to file reply, of the Respondent, is hereby closed and the Respondent is set ex-parte.”*

- 3.3 It was seen that no one appeared on behalf of the CD on these dates and no Vakalatnama and Reply was filed on DMS. Therefore, this Tribunal *vide* interim order dated 19.06.2025, set the CD *ex-parte*.
- 3.4 The Applicant was further given an opportunity to modify Form-1 *vide* interim order dated 11.07.2025 and to serve a copy to the CD. The Applicant had complied with the above directions and the same is recorded in the interim order dated 05.08.2025. None appeared on behalf of the CD. The CD was given an opportunity to file reply to the amended Form-1.
- 3.5 Further, *vide* interim order dated 19.08.2025 it is seen that no representation was made on behalf of the CD and gave last chance for the CD to appear and relisted the matter on 01.09.2025. It is recorded *vide* interim order dated 01.09.2025, the CD had not filed Vakalatnama or Reply to the amended Form-1. The CD had already been set *ex-parte vide* order dated 19.06.2025

#### **4. WRITTEN SUBMISSIONS OF FINANCIAL CREDITOR**

4.1 The Applicant has relied on the following judgments:

- i. Bikram Bhadur vs Union of India & Anr in Company Appeal (AT) (Ins). No. 1289 of 2024, Hon'ble NCLAT, New Delhi.
- ii. Vinod Kumar vs. Omkara Asset Reconstruction Pvt. Ltd. & Anr in Company Appeal (AT) (Ins) No. 2265 of 2024, Hon'ble NCLAT, New Delhi.

#### **5. ANALYSIS AND FINDINGS**

5.1 We have heard the Ld. Counsel for the Applicant and have perused the records as placed before us. Our findings in the matter are as under: -

5.2 The CD had approached the erstwhile PMC Bank for credit facilities. The PMC Bank granted Cash Credit Facility of Rs. 17.5 Crore, Mortgage Term Loan of Rs. 2.5 Crore and FITL of Rs. 1,04,75,074/-. The Applicant has placed on record renewed Sanction Letters issued by erstwhile PMC Bank to the CD bearing Ref No. PM/CO/credit/1480/13-14 dated 07.09.2013, bearing Ref No. PM/CO/Credit/907A/17-18 dated 18.12.2017 and bearing Ref No. PM/CO/Credit/1387/2018-19 dated 08.03.2019. To secure the repayment of the above facilities the CD created various securities including Deed of Hypothecation dated 27.07.2010 and Loan Agreement dated 27.06.2018.

5.3 The renewal of Sanction Letters were for a change of the Floating Rate from the rate of interest at 12% p.a. to 13.50% p.a. The sanction letter stipulated the repayment of Cash Credit Limit as "On demand/Annual renewal" and the Term Loan would be repayable "on Demand/permission to repay in 120 instalments" at the interest rate of 12% p.a. The same was accepted by the CD.

5.4 On perusal of the statement of accounts of the CD for Cash Credit Limit bearing account no. 232130100000046, Mortgage Term Loan bearing account no. 232301100000016 and FITL bearing account no. 232305200000002, PMC Bank had disbursed the term loan on 22.06.2018 and FITL on 30.09.2020. The Cash Credit was disbursed on 27.07.2010 which can be confirmed from the renewed sanction letters. Further, the Applicant has attached in the Additional Affidavit dated 25.07.2025, the certificate under Section 2A(a) of the Banker's Book Evidence Act, 1891 confirming that the CD has maintained the accounts bearing no. 232130100000046, 232301100000016 and 232305200000002 with the Applicant bank. From these documents, we are of the view, that there was a financial transaction between the parties.

- 5.5 The CD had agreed to repay the due amounts as per the terms and conditions of the sanction letters and the documents executed between the parties for the respective facilities availed. The CD failed to repay dues as per the terms of the sanction letters.
- 5.6 Further, it is seen that the PMC Bank had sent a SARFAESI Notice dated 10.08.2021 under Section 13(2) recalling all the three loan facilities. Thereafter, the CD sent a letter dated 01.06.2022 acknowledging the outstanding amount of debt and proposed a repayment schedule. But the CD failed to clear the outstanding dues.
- 5.7 It is pertinent to note that, the FITL facility was adjusted towards the Cash Credit Limit. The Applicant was receiving interest from September 2020 to November 2020 and a partial interest was received towards cash credit limit for the month of December on 01.03.2021. Thereafter, the Applicant *vide* letter dated 21.09.2022 stated that an amount of Rs.11 crore was received from M/s. Padmaja Motors towards the sale proceeds of mortgaged land and building owned by the CD and released the original title deeds pertaining to the said land and building and cancelled the charge against the said property. The sale proceeds received were adjusted towards all the facilities and the account pertaining to the FITL was closed because of the appropriation carried out of the above sale. Therefore, there remained an outstanding payable by the CD in the cash credit and term loan account.
- 5.8 Due to non-payment of the outstanding dues by the CD, the Applicant issued a recall notice dated 22.11.2024 recalling the principal and interest amounting to Rs. 19,83,26,831.98/- up to 21.11.2024, outstanding in the cash credit and term loan, to be paid by the CD within seven days and the same was delivered to the CD through post, wherein the track report is attached to the Application. The CD failed to pay the aforesaid amount.

5.9 The Applicant stated that the first default arose on 31.03.2021 when the account of the CD with the PMC Bank became irregular due to non-payment of dues as per agreed terms and conditions and the accounts of the CD were classified as NPA. The second default occurred on 03.12.2024 when the CD once again failed to pay the outstanding dues within the stipulated period of 7 days as per the demand notice dated 22.11.2024. We see that from the first date of default i.e. 31.03.2021, the limitation was to expire on 31.03.2024. However, there was an acknowledgment of the debt from the CD *vide* letter dated 01.06.2022, hence, the Applicant gets three-year extension in the limitation period from 01.06.2022, which was to expire on 31.05.2025. The Applicant has relied on the Suo Moto judgment of the Hon'ble Supreme Court in W.P. (C) No. 3 of 2020 dated 10.01.2022 wherein the period from 15.03.2020 to 28.02.2022 is excluded for calculation of the limitation period. However, the Applicant has filed the Application on 18.01.2025 which is within the limitation period i.e. three years as given under the Limitation Act, 1963.

5.10 The Applicant has also placed on record the NeSL record of default in Form D, which reflects the Status of Authentication of default as 'Authenticated' and the total outstanding amount as Rs.13,97,42,615.16/- and Rs. 2,72,63,736.37/-.

5.11 The Applicant has relied on the judgments of the Hon'ble NCLAT, New Delhi in ***Bikram Bhadur vs Union of India & Anr in Company Appeal (AT) (Ins). No. 1289 of 2024*** wherein the court held that,

*“14. There can be no dispute to the proposition that no application can be filed under Section 7 for a default which has been committed by a borrower during 10A period. Thus, even if we exclude the default committed by CD during 10A period, default on 31.03.2021 which is taken as date of default in Section 7 application was more than threshold amount of Rs.1 Crore which was sufficient to initiate proceedings under Section 7 against the borrower. Further as noted above, default by the borrower was even before the 10A period which is clear from acknowledgment letter dated 30.08.2019, as extracted above. Section 7 application was filed on 24.09.2022 and the amount of interest calculated from*

31.03.2021 till the date of filing of the application also even if principal amount is not included was much more than the threshold amount for initiating CIRP against the corporate debtor.”

(Emphasis Supplied)

5.12 On placing reliance on the above case, we are of the view that the Applicant has amended Form-1 excluding the amount of 10A period and there being no default prior to 10A period which relevant details are reproduced in para no. 2.11 above. The default committed during the 10A period from 25.03.2020 till 24.03.2021 as per the information given in clause 2 of Part-IV of the amended Form-1 amount to Rs. 62.20 lakh and the default for the period after 10A period is stated as Rs. 19.39 crores. As such, the default continued after 10A period which exceeded the threshold of Rs. 1 crore, hence, we hold that the Application is fit to be admitted.

5.13 In case of the ***Vinod Kumar vs. Omkara Asset Reconstruction Pvt. Ltd. & Anr in Company Appeal (AT) (Ins) No. 2265 of 2024, Hon’ble NCLAT, New Delhi***, held that

*“21. The Adjudicating Authority having returned a finding that Section 7 Application was entertainable on the basis of default of interest, which is subsequent to the end of 10A period, i.e. with effect from 26.03.2021 to 31.05.2021, we do not find any error in the order admitting Section 7 Application. The question as to what should be the amount of claim of the Financial Creditor is not to be determined at the time of admission of Section 7 Application and that is the subject matter of collation and verification by the RP in the CIRP. We make it clear that while upholding the decision of the Adjudicating Authority admitting Section 7 Application, we are not expressing any opinion on the amount of claim of the Financial Creditor, which need to be determined in the CIRP in accordance with relevant statutory provisions. Subject to observations as made above, we dismiss the Appeal.”*

(Emphasis Supplied)

5.14 The reliance being placed by the Applicant on the above judgment is with regard to the legal proposition that interest liability shall not come to an end merely on the ground that default of principal amount fell during 10A period. The Hon’ble NCLAT

held this point in affirmation and concluded that the question as to what should be the amount of claim of the Financial Creditor is not to be determined at the time of admission of Section 7 Application and that is the subject matter of collation and verification by the RP in the CIRP. We are of the considered view that the above case is applicable to the Applicant and the interest liability continued for the CD even after 10A period.

5.15 The Applicant has proposed the name of Mr. Shailesh Bhalchandran Desai to act as the Interim Resolution Professional (IRP) and has given his declaration in Form 2, *inter alia*, stating that no disciplinary proceeding is pending against him. The Applicant has attached valid AFA in Form B of the IRP which is valid till 31.12.2025.

5.16 Thus, it is clear from perusal of the record that an amount more than the threshold limit of Rs.1 Crore under Section 4 of the Code was due and payable by the CD to the Applicant. Hence, we find that the Applicant has been able to substantiate the existence of a financial debt due and payable by the CD which remained unpaid. The debt so owed by the CD to the Applicant falls within the definition of “financial debt” under Section 5(8) of the Code.

5.17 In view of the above, we find that requisite conditions necessary to trigger CIRP in respect of the CD are fulfilled, the Application is complete as all the relevant documents have been attached by the Applicant along with the Application. As a result, the matter deserves to be admitted under Section 7 of the Code.

5.18 We make it clear that at this stage we have not crystalized the amount as claimed in this Application, the same is left to be collated by the IRP.

## **ORDER**

In view of the aforesaid findings, Application bearing C.P.(IB) No.344/MB/2025 filed under Section 7 of the Code by Unity Small Finance Bank Limited, the Applicant,

for initiating CIRP in respect of **Bafna Motors Private Limited**, the Corporate Debtor is hereby **admitted**.

We further declare moratorium under Section 14 of the Code with consequential directions as mentioned below: -

- I. We prohibit-
  - 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 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 possession of the Corporate Debtor.
- II. That 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.
- III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the Code or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.

- IV. That the public announcement of the CIRP shall be made in immediately as specified under Section 13 of the Code read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.
- V. That this Bench hereby appoints **Mr. Shailesh Bhalchandran Desai** a registered Insolvency Professional having Registration Number **IBBI/IPA-001/IP-P00183/2017-2018/10362** and e-mail address [ip10362.desai@gmail.com](mailto:ip10362.desai@gmail.com) having valid Authorisation for Assignment up to 31.12.2025 as the IRP to carry out the functions under the Code.
- VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.
- VII. That 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 or Section 25, as the case may be, of the Code. The officers and managers of the Corporate Debtor the Corporate Debtor is directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. Coercive steps will follow against them under the provisions of the Code read with Rule 11 of the NCLT Rules for any violation of law.
- VIII. That the IRP/IP shall submit to this Tribunal periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Applicant is directed to deposit a sum of Rs.3,00,000/- (Rupees Three Lakh) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims,

etc. The amount so deposited shall be interim finance and paid back to the Applicant on priority upon the funds available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.

- X. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai for updating the Master Data of the Corporate Debtor.
- XI. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.
- XII. The Registry is directed to immediately communicate this Order to the Applicant, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.
- XIII. **Compliance report of the order by Designated Registrar is to be submitted today.**

**Sd/-**

**SAMEER KAKAR  
MEMBER (TECHNICAL)**

//VM//

**Sd/-**

**NILESH SHARMA  
MEMBER (JUDICIAL)**