

**In the National Company Law Tribunal
Division Bench, (Court-I), Kolkata**



**I.A (I.B) No. 767/KB/2025
& I.A (I.B) No. 778/KB/2022
In CP (IB) No. 323/KB/2021**

I.A (I.B) No. 778/KB/2022

***An application under Section 60(5) of the Insolvency and Bankruptcy
Code, 2016 read with Rule 11 of National Company Law Tribunal;***

In the matter of:

Adhunik Corporation Limited, having its Registered office at 14, Netaji
Subhas Road, 2nd Floor, Kolkata – 700 001.

...Financial Creditor / Applicant

Versus

Shivam India Limited, having its registered office at Govind Mahal, 2nd Floor,
3, Wood Street, Flat No. 1, Kolkata – 700 016.

...Corporate Debtor / Respondent

Date of Pronouncement of order: 22.08.2025

Coram:

Smt. Bidisha Banerjee

:Member (Judicial)

Cmde. Siddharth Mishra

: Member (Technical)

Counsel appeared physically / through video Conferencing

Mr. Joy Saha, Adv.] For the Financial Creditor

Mr. Shaunak Mitra, Adv.]

Mr. Siddhartha Sharma, Adv.]

Mr. Arjun Asthana, Adv.]

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Mr. Pathik Choudhury, Adv.]
Mr. Saurav Jain, Adv.]

Mr. Rishav Banerjee, Adv.] For the Corporate Debtor
Mr. Aishwarya Kr. Awasthi, Adv.]

O R D E R

Per Bidisha Banerjee, Member (Judicial):

1. The Court convened through hybrid mode.
2. Ld. Sr. Counsel /Counsels for the parties were heard at length.
3. This application has been preferred to seek the following reliefs:
 - 3.1. *An order of injunction be passed restraining the respondent, it's men agent and a) An order of injunction be passed restraining the respondent, it's men agent and sub-ordinates from alienating and/or transferring and/or removing any stocks of materials, finished goods, plant & machineries, as situated at Raturia, Angadpur, Industrial Area, District Paschim Burdwan, Durgapur-713217, till disposal of the present Section 7 of IBC Petition, as pending before this Hon'ble Tribunal;*
 - 3.2. *That the proposed IRP and this applicant be allowed to appoint their own security personnel to protect all materials, stocks, finished good and plant & machineries, of the Corporate debtor as situated at Raturia, Angadpur, Industrial Area, District Paschim Burdwan, Durgapur-713217 with further directions of complete inventories. thereof, till disposal of said Section 7 IBC application, as pending before this Hon'ble Tribunal;*

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3.3. *Ad interim order in terms of the above (a) & (b) above;*

3.4. *Such further order or orders and/or direction or directions be
passed as to this Hon'ble Tribunal may deem fit and proper;*

4. In view of the order passed in the Company Petition, we allow the prayers.

5. Accordingly, **I.A (I.B) No. 778/KB/2022 stands disposed of.**

I.A (I.B) No. 767/KB/2025

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Code, 2016 read with Rule 11 of National Company Law Tribunal;***

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ORDER

1. The Court convened through hybrid mode.
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3. This application has been preferred to seek the following reliefs:

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- 3.1. *An order be passed by this Adjudicating Authority taking on record the instant application and the documents annexed / filed therein namely, Annexure "A" to Annexure "H" thereof, in the instant proceedings, namely, C.P.(IB)NO. 323/KB/2021 and treat the same as a part and parcel of the reply of the Corporate Debtor filed in C.P.(IB)NO. 323/KB/2021.*
- 3.2. *Stay of all further proceedings in C.P. (IB)No. 323/KB/2021 till the adjudication of this instant application;*
- 3.3. *Ad-interim order in terms of prayer (b) above;*
- 3.4. *Any further or other order and/ or orders as this Tribunal may deem fit and proper;*
4. By way of this application the Corporate Debtor has brought on record a copy of the Balance Sheet of the applicant/ Corporate Debtor for the Financial Year 2020-21 showing that the applicant/Corporate Debtor had made loss of Rs. 17,89,37,381/- is annexed with the application as "Annexure "A".
5. It is alleged that the Financial Creditor has made an incorrect and false allegation in paragraph 13 of the Section 7 petition that the applicant/Corporate debtor has made 20% profit. The Balance Sheet of the applicant / Corporate debtor clearly shows that the applicant / Corporate debtor has rather made losses which completely negates the figures mentioned by the Financial Creditor at paragraph 13 of the Section 7 petition and as such the company petition deserves to be dismissed.

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6. The Applicant states that it would further be evident from paragraph 13 of the Section 7 petition, the Financial Creditor has falsely stated that the applicant / Corporate debtor has manufactured and sold finished products of worth of Rs. 231.13 crores. This is also a false statement as would be evident from a bare perusal of the bank statements of the applicant / Corporate debtor from which it will be evident that the sum of Rs.231.13 crores, which is alleged to have been earned by the applicant /Corporate debtor by sale of goods has never been received by the applicant/ Corporate debtor in its bank accounts.
7. Bank statements of the applicant /(Corporate debtor maintained by the HDFC Bank Ltd. for the period from July, 2020 till March, 2021 and and with the State Bank of India, Jeevandeep Branch bearing Account No.: 00000036737087161 for the period from July, 2020 till March, 2021 are annexed as "Annexure B".
8. Further that if one goes by the case made out by the financial creditor itself, if the financial Creditor has charged commission worth of Rs.3,16,99,440/-@ Rs.600/- per MT for Hot Roll finished products and Coil and @ Rs.300/- per Mt for Billets for a total quantity of 59,689 MT of goods, then in such a case, the total sale and/or total revenue generated by the applicant / Corporate Debtor from sale of goods would have been Rs. 23,334.71 Lakhs. As per the agreement in question, Adhunik was to sell the goods and recovery all its costs and/or funds infused by Adhunik from such revenue. Admittedly, the said sum of Rs. 23,334.71 Lakhs has not been transferred to the bank account of the applicant /Corporate

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Debtor and has not been deposited to the bank account of the applicant /
Corporate Debtor by the entities to whom Adhunik has sold the goods.

9. That, if default is to be proved, Adhunik must prove that the total sum of Rs. 23,334.71 Lakhs was deposited in the account of the applicant / Corporate Debtor at the first place from which their infused amount would have been realized. Adhunik cannot run a contrary case, which is contrary to the terms and conditions of the Memorandum of Understanding dated 23 June, 2020. Memorandum of Understanding dated 23rd June, 2020 is a written agreement between the parties and no oral evidence can be given contrary to the written agreement being Memorandum of Understanding dated 23rd June, 2020. Such is the settled position of law.
10. Further, Adhunik from July, 2020 till February, 2021 has sold 59,690 MT of goods which will be evident from a ledger of entities to whom Adhunik has sold the goods.
11. Many of the entities to whom the goods have been supplied by Adhunik from the factory of the applicant/Corporate Debtor has not made payment to the bank account of the applicant Corporate Debtor.
12. There is no default that has been committed by Corporate Debtor towards Adhunik.
13. Finally that, the case made out is that Adhunik has directly provided financial assistance by fund infusion of a sum of Rs.23,49,11,000/- (Rupees Twenty-Three Crores Forty-Nine Lacs and Eleven Thousand only).
14. Interestingly the Corporate Debtor also says that assuming but not admitting that this is a financial debt, even as per the case made out by

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the Adhunik, it was Adhunik's obligation to recover the entire sum of Rs. 23,49,11,000/- from the sum which is due from various debtors of the Corporate Debtor to whom the goods have been supplied by Adhunik itself.

15. It is alleged that the illegality on the part of Adhunik shows that the Adhunik clandestinely made huge profits having made a sale of the finished products from the factory of the Corporate Debtor to related parties/group companies/associate companies of Adhunik, namely, Vanraj Steels Private Limited from which a sum of Rs. 1,335.06 Lakhs is yet to be recovered and also advanced a sum of Rs. 393.12 Lakhs to Futuristic Steel Limited which is yet to be recovered from these related parties/group companies/associate companies of Adhunik. Adhunik deliberately did not take any steps to recover these amounts.
16. We have marked the words as in para 14 above “assuming but not admitting that this is a financial debt, even as per the case made out by the Adhunik, it was Adhunik's obligation to recover the entire sum of Rs. 23,49,11,000/- from the sum which is due from various debtors of the Corporate Debtor to whom the goods have been supplied by Adhunik itself.”
17. We would note that no document / statement has been brought on record to defeat the claim of the Financial Creditor about its outstanding dues against the amount infused by it.
18. In view of the above facts and circumstances and the orders passed in CP(IB)No. 323/KB/2021, this **I.A (I.B) No. 767/KB/2025 is disposed of.**

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19. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.
20. Urgent certified copies of this Order, if applied for with the Registry of this Adjudicating Authority, be supplied to the parties upon compliance with all requisite formalities.

**Siddharth Mishra
Member (Technical)**

**Bidisha Banerjee,
Member (Judicial)**

Signed on this, the 22nd day of August, 2025

M. Jana (P.S.)