

IN THE NATIONAL COMPANY LAW TRIBUNAL  
ALLAHABAD BENCH

**Company Petition (IB)No.470/ALD/2019**  
(Under Section 7 of Insolvency and Bankruptcy  
Code,2016 read with Rule 4 of the Insolvency and  
Bankruptcy (Application to Adjudicating Authority)  
Rule,2016)

**IN THE MATTER OF**

**INDIAN INSTITUTE OF EDUCATORS PRIVATE LIMITED**

.....*Applicant/Financial Creditor*

**VERSUS**

**NEELKANTH SURGICAL INDUSTRIES PRIVATE LIMITED**

.....*Respondent/Corporate Debtor*

**ORDER RESERVED ON : 26.02.2020**

**ORDER DELIVERED ON :27.02.2020**

**CORAM:**

Hon'ble Mr. Justice (Retd.) Rajesh Dayal Khare, Member, Judicial  
Hon'ble Smt. Ina Malhotra, Member, Judicial

For the Applicant/ Financial Creditor : Sh. Rupendra Kumar Porwal  
along with Sh. Samir Agrawal,  
Advocates

For the Respondent/ Corporate Debtor : Sh. Prashant Kumar along with  
Sh. Sachin, Advocates

Per se : Smt. Ina Malhotra, Member, Judicial

**ORDER**

1. The present petition has been filed by the petitioner in the capacity of Financial Creditor, praying for initiation of Corporate Insolvency Resolution Process of the Corporate debtor i.e "NEELKANTH SURGICAL INDUSTRIES PRIVATE LIMITED" on grounds of its inability to liquidate its outstanding debt.
2. As per the averments made in the petition, at request of the Corporate Debtor, the Financial Creditor granted a loan of Rs.1.15 Crores to them in

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the year 2011. The same was disbursed vide Cheque no.106501 drawn on State Bank of India dated 15.11.2011. The said loan was granted for a period of 18 months i.e. upto 15.05.2013. The Corporate Debtor had agreed to pay interest thereon, subject to deduction of TDS. To service the payment of interest, post-dated cheques were tendered by the Corporate Debtor. The Financial Creditor has claimed the principal amount and the interest accruing thereon.

3. On being served, the Corporate Debtor has put in appearance and has filed its reply. The petition is resisted primarily on the ground of the debt being time barred. A perusal of the record reflects that the said loan has been duly reflected by the Corporate Debtor in their own financial statements year in and year out. As per the balance sheets placed on record, the liability towards the financial creditor is duly acknowledged by the corporate debtor in its various financial statements, which are in public domain i.e. with effect from 16.11.2011 to 15.05.2013. Subsequent acknowledgments of the debt have been made repeatedly on 31.07.2015, 31.03.2016, 31.03.2017 & 09.05.2018. The Corporate Debtor has also been depositing the TDS. Reliance is placed by the Financial Creditor on the Form 26AS.
4. In view of the aforesaid, the resistance of the Corporate Debtor on the grounds of limitation, is meritless. The claim of the Financial Creditor is evidenced by the documents on record. The prayer of the Financial Creditor therefore merits consideration. Accordingly, the petition is admitted. A Moratorium in terms of Section 14 of the Code comes into existence forthwith stating :

*(1)(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any*

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*judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;*

*(b) transferring, encumbering, alienating or disposing off 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 (54 of 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.*

5. The Financial Creditor has proposed the name of *Mr. Shravan Kumar Vishnoi, Registration Number IBBI/IPA-002/IP-N00040/2016-17/10079* as the Interim Resolution Professional (IRP), whose consent and declaration in Form 2 affirming that he is a registered insolvency professional and has no disciplinary proceeding pending against him, is on record. We accordingly confirm his appointment as the IRP. He shall take such other and further steps as are required under the statute, more specifically in terms of Sec 15, 17, 18, 20 & 21 of the Code and file his report before this Bench.
6. The registry is directed to communicate this Order to Financial Creditor, Corporate Debtor as well as to the IRP.
7. Urgent Photostat certified copies of this order, if applied for, be supplied to parties upon compliance of requisite formalities.
8. List on 13<sup>th</sup> April, 2020 for the filing of the progress report.

Date: 27.02.2020

— sd —

INA MALHOTRA  
MEMBER (J)

— sd —

JUSTICE RAJESH DAYAL KHARE  
MEMBER (J)

ATTENDENCE - CUM-ORDER SHEET OF THE HEARING OF ALLAHABAD BENCH OF THE NATIONAL COMPANY LAW TRIBUNAL ON 27.02.2020

NAME OF THE COMPANY: Indian Institute of Educators Pvt Ltd V/s Neelkanth Surgical Industries Pvt Ltd

SECTION OF I & B CODE: 7 IBC

<u>Sl. NO.</u>	<u>Name</u>	<u>Designation</u>	<u>Representation</u>	<u>Signature</u>
<u>1.</u>				
<u>2.</u>				

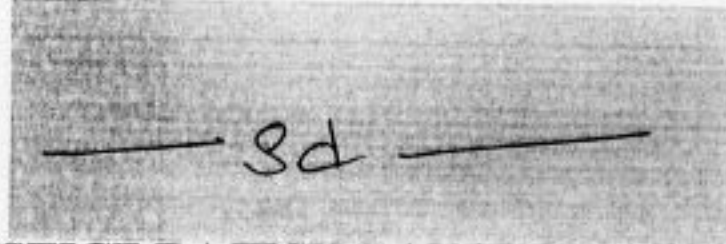
**CP NO.(IB)470/ALD/2019**

Order pronounced in the open Court.

Petition allowed. Moratorium granted. IRP appointed, vide separate order sheet.

Accordingly, put up on 13<sup>th</sup> April, 2020 for filing progress report.

Dated: 27.02.2020



(JUSTICE RAJESH DAYAL KHARE)  
MEMBER (J)

Typed by :  
Kavya Prakash Srivastava  
(Stenographer)