



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

Casebook Issue

14:

Insolvency Tale of
Amtek Auto Limited

**INSOLVENCY
UNCOVERED**

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About Amtek Auto Limited (“AAL”)¹

Amtek Auto, incorporated on 03.10.1985 in name and style of A.M. Metal Cast Limited which was later changed to Amtek Auto Limited, is headquartered in New Delhi and is one of the largest integrated automotive component manufacturers in India with a strong global presence. The Company has world class facilities in India, Europe and North America. Amtek Auto has significant expertise in forging, grey and ductile iron casting, gravity and high-pressure aluminum die casting and machining and sub-assembly. The Company also manufactures components for non-auto sectors such as the railways, specialty vehicles, aerospace, agricultural and heavy earth moving equipment.

It has its registered office at Plot No.16, Industrial Area, Rozka Meo, Gurgaon, Haryana- 122003. Its Authorised Capital is Rs.115crores and Paid up Capital is Rs49.65crores.

Major Financial Creditors/Bankers²

IDBI Bank amongst the Financial Creditors of the AAL had the highest voting power. Other financial creditors were State Bank of India, Life Insurance Corporation of India, Corporation Bank, Andhra Bank, Canara Bank, Indian Overseas Bank, Bank of Baroda, IFCI Ltd. etc.

AAL was the odd one among RBI's 12 Bad Apples. The car-parts maker is the only large stressed account from the automobile and ancillary sector on the list. While its peers gained from a steady growth in India's passenger vehicle sales to 3 million units over the last five years, Amtek's fortunes tumbled. A string of overseas acquisitions left it under a pile of debt.

CIRP of Amtek Auto Limited

Corporation Bank files application in National Company Law Tribunal (“NCLT”)³

Corporation Bank filed an application under section 7 of the Insolvency and Bankruptcy Code, 2016 (“Code”) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rule, 2016 for initiating the insolvency resolution process against Amtek Auto Limited. AAL herein the Corporate Debtor (CD) owed a sum of Rs.824 crores to Corporation Bank. The Financial Creditor proposed the name of Mr. Dinkar Tiruvannadapuram Venkatasubramanium to act as Interim Resolution Professional (“IRP”). The matter was first listed on 10.07.17. CIRP was admitted but the matter was listed to next date for appointment of Interim Resolution Professional.

NCLT appointed IRP⁴:

NCLT vide its order dated 27.07.19 appointed Mr. Dinkar Tiruvannadapuram Venkatasubramanium as Interim Resolution Professional to manage the affairs of the company.

Mr. Subramanium was later confirmed as Resolution Professional (“RP”) by the Committee of Creditors (“COC”) in its meeting held on 22.08.17.

RP files application in NCLT for directions⁵

The application to NCLT was filed under 14, 17(1) read with section 18, 20 and 74 of the Code read with Rule 11 of NCLT Rules, 2016 regarding the account of the Corporate Debtor’s account in the Indian Overseas Bank. The RP wrote a letter to bank to freeze all debit transactions till further communications and not to allow payment of any cheque without instructions of the applicant. NCLT after hearing both the parties, allowed partly the application filed by the RP and instructed Bank

to deposit the amount, lying in the current account of the CD after leaving an amount of Rs. 60,000 in another account of CD.

Further, RP is at liberty to take appropriate proceedings against the Key Managerial Persons who had issued the cheques for withdrawal of huge amounts even after the appointment of RP.

Appeal against the order of NCLT in NCLAT by Indian Overseas Bank⁶

Indian Overseas Bank filed an appeal to National Company Law Appellate Tribunal (“NCLAT”) against the order dated October 13, 2017. NCLAT after hearing both the parties, NCLAT found no merit in the appeal and directed the bank to transfer the amount.

RP files application for approval of Resolution Plan in the NCLT⁷

Although 27 potential investors submitted their interest but only two of them have submitted Resolution Plan namely Liberty House Group PTE Ltd. (“LHG”) and Deccan Value Investors LP (“DVI”). In the meeting of COC, LHG emerged as a preferred bidder. After many round of negotiations and modifications in the plan, the resolution plan was approved by COC with 94.20% majority. There were many questions raised regarding the eligibility of LHG under section 29A. However, after detailed reply sought from LHG, LHG was declared as eligible and the resolution plan submitted by LHG to be in conformity with section 30(2).NCLT, on 25.07.18, approved the resolution plan and appointed a monitoring committee consisting of RP for smooth implementation of the resolution plan.

Application to NCLT by RP for default by LHG⁸

RP filed application in NCLT alleging willful default by LHG where the LHG failed to make payment or compliance of the terms of resolution plan and also failed to furnish a performance guarantee of Rs. 100 crores against total bid amount of Rs. 4025 crores. NCLT after hearing both the parties on February 13, 2019, held that

there has been a default by LHG in performing its obligation under the resolution plan approved. NCLT also held that COC and the RP is allowed to approach appropriate forum for necessary remedy against this willful default by LHG.

NCLT also directed reconstitution of the Committee of Creditors for consideration of resolution plan submitted by DVI and thereby allowed the CIRP of AAL to continue. Specific exclusion of the period from the date of resolution plan by DVI i.e. 05.03.18 till the date of this order i.e. 13.02.19 had been granted while calculating the 270 days period for the CIRP. Accordingly, CIRP of AAL stands extended to 09.04.19.

COC files appeal to NCLAT regarding the order passed by the NCLT order dated February 13, 2019⁹

NCLAT after hearing both the parties, passed its order on August 16, 2019. NCLAT through its order set aside the NCLT order passed on February 13, 2019 regarding exclusion of time period for consideration of resolution plan of DVI. NCLAT also mentioned that liberty has been given to the RP and COC or any other creditor to move an application under section 213 of Companies Act, 2013 read with section 74(3) of the Code before the NCLT to decide whether the matter is required to be referred to IBBI or Central Government for taking action. More than 270 days have been passed; the Adjudicating Authority will pass the appropriate order of Liquidation.

Appeal made to Supreme Court against the set aside order by NCLAT¹⁰


NCLAT vide its order dated 16.08.18 set aside the order passed by NCLT dated 13.02.19. Supreme Court after hearing both the parties on 24.09.19 ordered fresh bids for insolvent AAL. The apex court bench, headed by Justice Arun Mishra and comprising Justice Vineet Saran and Justice Ravindra S Bhat, ordered the Committee of Creditors of Amtek Auto to publish advertisements inviting fresh bids.


Concluding Notes


Vide order dated 02.12.19, Supreme Court granted additional time for finding a suitable resolution applicant for the CD. With twists and turns in the resolution process, the process of finding a suitable resolution applicant comes to an end. As per the intimation given to BSE by the CD, the members of COC in its meeting dated 06.01.20 declared DVI as preferred bidder for AAL, subject to DVI satisfactorily addressing the commercial issues and legal issues highlighted by the COC and ensuring compliances to provisions of the Code. However, it is expected that lenders will have 80% haircut as per the resolution plan of DVI. The COC has approved the plan and RP has to approach Chandigarh bench of NCLT for approval of Resolution Plan.


The odd one among RBI's 12 bad apples known as the dirty dozen being very closest to be headed for liquidation is almost on a platform to be in list of resolved cases list among the 12.


CIRP Timeline


- 
- 24.07.2017
 - NCLT admitted the application for commencement of CIRP.


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- 27.07.2017
 - NCLT appointed Mr. Subramaniam as IRP.


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- 25.08.2017
 - The application for initiating CIRP was fixed for hearing for the first time.


- 
- 27.10.2017
 - NCLT heard the matter for the first time.


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- 13.10.2017
 - NCLT passed order directing Indian Overseas Bank to deposit money

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- 15.11.2017
 - Indian overseas bank filed appeal in NCLAT against order of NCLT

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- 25.07.2018
 - NCLT approved Resolution plan submitted by LHG.

- 
- 13.02.2019
 - NCLT passed order against default by LHG

- 
- 16.08.2019
 - NCLAT set asides the order passed by NCLT dated February 13, 2019

- 
- 24.09.19
 - Supreme Court ordered fresh bids for Amtek Auto

Bibliography

¹<http://www.mca.gov.in/mcafoportal/companyLLPMasterData.do>

²<https://www.amtek.com/ir/List-of-Financial-Creditors-as-on%2001-07-2019.pdf>

³[https://ibbi.gov.in/webadmin/pdf/order/2018/Mar/24th%20Jul%202017%20in%20the%20matter%20of%20Amtek%20Auto%20Limited%20CP%20\(IB\)%20No.%2042-Chd-Hry-2017_2018-03-14%2017:10:14.pdf](https://ibbi.gov.in/webadmin/pdf/order/2018/Mar/24th%20Jul%202017%20in%20the%20matter%20of%20Amtek%20Auto%20Limited%20CP%20(IB)%20No.%2042-Chd-Hry-2017_2018-03-14%2017:10:14.pdf)

⁴<https://www.icidirect.com/idirectcontent/research/technicalanalysis.aspx/directorsreport/amtaut5>
⁵[https://ibbi.gov.in/webadmin/pdf/order/2018/Jan/13th%20Oct%202017%20in%20the%20matter%20of%20Amtek%20Auto%20Limited%20CA%20No.%20142-2017%20IN%20CP%20\(IB\)%20No.%2042-Chd-Hry-2017_2017-11_2018-01-25%2011:18:00.pdf](https://ibbi.gov.in/webadmin/pdf/order/2018/Jan/13th%20Oct%202017%20in%20the%20matter%20of%20Amtek%20Auto%20Limited%20CA%20No.%20142-2017%20IN%20CP%20(IB)%20No.%2042-Chd-Hry-2017_2017-11_2018-01-25%2011:18:00.pdf)

⁶[https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/15th%20Nov%202017%20in%20the%20matter%20of%20Indian%20Overseas%20Bank%20Vs.%20Mr.%20Dinkar%20T.%20Venkatsubramaniam%20I RP%20for%20Amtek%20Auto%20CA%20\(AT\)%20267-2017_2017-11-23%2016:46:44.pdf](https://ibbi.gov.in/webadmin/pdf/order/2017/Nov/15th%20Nov%202017%20in%20the%20matter%20of%20Indian%20Overseas%20Bank%20Vs.%20Mr.%20Dinkar%20T.%20Venkatsubramaniam%20I RP%20for%20Amtek%20Auto%20CA%20(AT)%20267-2017_2017-11-23%2016:46:44.pdf)

⁶[https://ibbi.gov.in/webadmin/pdf/order/2019/Feb/In%20the%20matter%20of%20Corporate%20Bank%20Vs%20Amtek%20Auto%20CA%20Nos%20567-2018%20&%20601%20-2018%20IN%20CP%20\(IB\)%20No.%2042-Chd-Hry-2017_2019-02-16%2013:02:11.pdf](https://ibbi.gov.in/webadmin/pdf/order/2019/Feb/In%20the%20matter%20of%20Corporate%20Bank%20Vs%20Amtek%20Auto%20CA%20Nos%20567-2018%20&%20601%20-2018%20IN%20CP%20(IB)%20No.%2042-Chd-Hry-2017_2019-02-16%2013:02:11.pdf)

⁷[https://ibbi.gov.in/webadmin/pdf/order/2018/Jul/25th%20Jul%202018%20in%20the%20matter%20of%20Amtek%20Auto%20Ltd.%20CA%20No.%20114-2018%20in%20CP%20\(IB\)%20No.%2042-Chd-Hry-2017_2018-07-26%2015:26:38.pdf](https://ibbi.gov.in/webadmin/pdf/order/2018/Jul/25th%20Jul%202018%20in%20the%20matter%20of%20Amtek%20Auto%20Ltd.%20CA%20No.%20114-2018%20in%20CP%20(IB)%20No.%2042-Chd-Hry-2017_2018-07-26%2015:26:38.pdf)

⁸[https://ibbi.gov.in/webadmin/pdf/order/2019/Feb/In%20the%20matter%20of%20Corporate%20Bank%20Vs%20Amtek%20Auto%20CA%20Nos%20567-2018%20&%20601%20-2018%20IN%20CP%20\(IB\)%20No.%2042-Chd-Hry-2017_2019-02-16%2013:02:11.pdf](https://ibbi.gov.in/webadmin/pdf/order/2019/Feb/In%20the%20matter%20of%20Corporate%20Bank%20Vs%20Amtek%20Auto%20CA%20Nos%20567-2018%20&%20601%20-2018%20IN%20CP%20(IB)%20No.%2042-Chd-Hry-2017_2019-02-16%2013:02:11.pdf)

⁹<https://ibbi.gov.in/uploads/order/a79998d8045856dab6cc2477906b4389.pdf>

¹⁰<https://ibbi.gov.in/uploads/order/ddb77798c9c62a395a6a6c7719578b01.pdf>