



IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

ITEM No. 10
C.P (IB) No.149/BB/2024

IN THE MATTER OF:

Vasoo Builders Private Limited

...Corporate Applicant/Petitioner

Order u/s 10 of the I & B Code, 2016

Order delivered on: 18.09.2025

CORAM:

SHRI. SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI. RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner : Shri A.S. Vishwajit
For the Creditor : Mrs. Chithra Nirmala

ORDER

1. Heard the Ld. Counsel for the Petitioner.
- 2. The C.P is admitted by separate order.**
3. List the matter on **18.11.2025** for RP report.

-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)



IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

*(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)*

CP (IB) No. 149/BB/2024

*(Application U/s. 10 of the Insolvency & Bankruptcy Code, 2016
read with Rule 7 of the Insolvency & Bankruptcy (Application to Adjudicating Authority)
Rules, 2016.)*

IN THE MATTER OF:

VASOO BUILDERS PRIVATE LIMITED

Regd. office at: Hamdh Court, No. 13,
1st Floor, Mother Theresa Road,
Austin Town, 1st Stage, Bangalore,
Karnataka – 560047

...

Petitioner/Corporate Applicant

Order delivered on: 18/09/2025

Coram: **Hon’ble Shri Sunil Kumar Aggarwal, Member (Judicial)**
 Hon’ble Shri Radhakrishna Sreepada, Member (Technical)

ORDER

1. This Petition for voluntary initiation of Corporate Insolvency Resolution Process (CIRP) has been filed on 10.04.24 by Vasoo Builders Private Limited (‘Petitioner/Corporate Applicant’) under section 10 of IBC, 2016, read with Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The total default amount is stated to be **Rs. 27,46,30,139/- (Rupees Twenty-Seven Crore Forty-Six Lakh Thirty Thousand One Hundred and Thirty-Nine Only)** comprising **Rs. 8,24,70,225/-** against Financial Creditors and **Rs. 19,21,59,914/-** against the Operational Creditor, as per Part III of Form 6 filed by the Petitioner.
2. Brief relevant facts of the case emanating from the Company Petition are as follows:
 - (i) The Petitioner was incorporated on 20.09.1982 and has its registered office at Hamdh Court, No. 13, 1st Floor, Mother Theresa Road,

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Austin Town, 1st Stage, Bangalore, Karnataka bearing CIN: U45202KA1982PTC004958.

- (ii) The Petitioner is engaged in civil engineering, public works and building contracting and has Authorized Share Capital of Rs. 2,50,00,000/- (Rupees Two Crore Fifty Lakh Only) and Paid-Up Capital of Rs. 2,10,00,000 (Rupees Two Crore Ten Lakh Only).
- (iii) The Petitioner had the financial capacity to carry on business until its major customer, in 2011 stopped making payments towards the work completed by the Corporate Applicant, which financially burdened it. As the Corporate Applicant could not recover, it undertook projects with lesser margins. However, debts continued piling up leaving it operational only till 2016 and the last operational transaction of the Corporate Applicant was in the financial year 2016-17.
- (iv) The below mentioned chart depicts the financial performance of the Corporate Applicant/ Corporate Debtor since FY 2019-2020:

Particulars	Revenue (INR)	Expenses (INR)	Profit/ Loss (INR)
FY 19-20	-	20,35,085	Loss-20,35,085
FY 20-21	-	17,39,328	Loss-17,39,328
FY 21-22	-	14,88,970	Loss-14,88,970
FY 22-23	-	12,82,241	Loss-12,82,241

- (v) The Petitioner has a **Financial Debt of Rs. 8,24,70,225/-** (Rupees Eight Crore Twenty-Four Lakh Seventy Thousand Two Hundred and Twenty-Five Only) and **Operational Debt amounting to Rs. 19,21,59,914/-** (Rupees Nineteen Crore Twenty-One Lakh Fifty-Nine Thousand Nine Hundred and Fourteen Only). As the Petitioner is incapable of settling the outstanding debt it has filed the present Application for resolution.

3. State Bank of India, 'Financial Creditor' of the Corporate Applicant has filed objections vide diary no. 6527 dated 20.11.2024, sum & substance whereof is following:

- i. The date of default mentioned in Form 6 is false as the Petitioner has not supported the same with a Record of Default issued by Nesl, authenticating the default.



- ii. It is submitted that as per MCA database, the last AGM of the Petitioner was held on 31.03.2013 and last balance sheet filed with ROC is also of 31.03.2023. Thereafter, the petitioner Company has not filed the statutory audited balance sheets for subsequent years, hence the authenticity of the balance sheets for the financial year 2019-2020, 2020-2021, 2021-2022 and 2022-2023 is disputed.
 - iii. It is submitted that the financial debt claimed in Form 6 is false and incorrect. The Debt Recovery Tribunal, Bengaluru has issued a recovery certificate no. 209/2019 for recovery of **Rs. 10,77,89,498.37/-** (Rupees Ten Crore Seventy-Seven Lakhs Eighty-Nine Thousand Four Hundred Ninety-Eight and Thirty-Seven Paise only) as on 24.01.2019. Through the recovery proceedings, the Financial Creditor had realised certain sums of money by way of enforcement of mortgaged properties. The Balance amount owed to Financial Creditor is **Rs. 33,98,28,773.37** (Rs. Thirty-Three Crores Ninety-Eight Lakhs Twenty-Eight Thousand Seven Hundred and Seventy-Three and Thirty-Seven Paise only).
 - iv. The present Application is barred by limitation as the date of default is 17.04.2016 and the recovery certificate was issued on 24.01.2019. However, the instant Petition has been filed on 07.04.2024, beyond the three-year limitation period.
 - v. It is submitted that the Financial Creditor had initiated the recovery proceedings against the Petitioner under recovery certificate no. 207/2019 before Debt Recovery Tribunal, Bengaluru and that this instant petition has been filed only for the purpose of evading the said recovery proceedings before the DRT.
4. The Petitioner has filed Rejoinder replying to the objections, diary no. 7060 dated 13.12.2024, submitting that:
- i. The Financial Creditor has contended that the section 10 Application is barred by limitation. It is submitted that the Petitioner has filed the section 10 Application on 07.04.2024 and the application is not **CP (IB) No. 149/BB/2024**



barred by limitation. It is settled law that section 238A of the Insolvency and Bankruptcy Code, 2016 (“Code”) is only applicable to a section 7 or 9 application and not to an application under section 10 of the Code. If the Limitation Act, 1963 is applicable to applications under section 10 of the Code, it would render the entire scheme of the insolvency proceedings under the aforesaid provision ineffective.

- ii. Further, the contention that the date of default is not to be considered since the record of default issued by NeSL was not produced, is baseless. It is pertinent to note that the record of default with the information utility is not a requirement for a section 10 Application under the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 and IBBI (Insolvency resolution Process for Corporate Persons) Regulations, 2016. For a section 10 Application, the only requirements that are to be fulfilled are those which are provided in section 10 of the Code and Form 6 of the Rules. The Petitioner has complied with the requirements under section 10 and Form 6. The aforesaid is applicable in principle to the balance sheets produced by the Petitioner and in view of the same the documents produced by the Petitioner are authentic and prove the existence of a debt. In fact, the Financial Creditor itself has claimed that the Petitioner has defaulted in payment towards the credit facility availed by it and as such a debt is owed to the Financial Creditor.
- iii. In addition to the above contentions, the Financial Creditor has also contended that the application was filed with a malicious intent of safeguarding the company from the recovery process under the Recovery of Debts and Bankruptcy Act, 1993. Such a contention is self-defeating. Admittedly, the proceedings before the Debt Recovery Tribunal in O.A.No.1013/2017 have concluded. Further it is not the Financial Creditor’s case that the Petitioner is capable of paying the debt or that these proceedings are intended to avoid payment of such debts fraudulently despite the Petitioner having the means to repay



the debt. The Financial Creditor has failed to bring anything on record to establish that the Petitioner can discharge liability towards the debt owed to the Financial Creditor.

5. The Petitioner has filed Proof of Service vide diary no. 5618 dated 27.09.2024 and further paper publication was also made by the Petitioner on 05.11.2024 in Financial Express and Praja Vahini filed vide memo dated 12.11.2024.
6. On 19.08.2024, the Petitioner was directed to file **a)** Audited Financials as on 31.03.2023 and two preceding years containing position of Loans and Advances, Debtors and Inventory along with Auditors report; **b)** Financials/Books of accounts in a pen drive; **c)** Affidavit under Section 11 of IBC, 2016; **d)** Affidavit regarding pending legal proceedings; **e)** An affidavit to the effect that whether it has received any notice under SARFAESI Act and this Application is not to defeat the provisions of law. The compliance of the said direction was made by the petitioner vide Diary No. 5564, dated 25/09/2024.
7. Heard arguments on behalf of the parties and carefully perused the material on record and relevant legal provisions.
8. As per Section 10 of Insolvency and Bankruptcy Code, 2016 a Corporate Applicant can file an application before the Adjudicating Authority for being admitted into Corporate Insolvency Resolution Process for committing default in payment of debt to creditors, in prescribed form by enclosing the following:
 - a. The information relating to its books of account and such other documents for such period as may be specified:
 - b. The information relating to the resolution professional proposed to be appointed as an interim resolution professional; and
 - c. The Special resolution passed by the shareholders of the Corporate Applicant or the resolution passed by at least three-fourth of the total number of partners of the Corporate Applicant, as the case may be, approving filing of the application.

Further, as per sub-section 4 of Section 10 the Adjudicating Authority can admit an application if the same is complete and no disciplinary proceedings are pending against the proposed Resolution Professional.



9. Regarding the objection on limitation, reliance may be placed upon the matter of **Worldview Tours Pvt. Ltd. (CP IB No. 865/ND/2020)**, wherein NCLT New Delhi Bench-V by order dated 09.03.2021 held that the Limitation Act, 1963 under Section 10 of IBC is not applicable and further stated in para 15:

*“The Hon'ble Supreme Court in the case of **B.K. Educational Services Pvt. Ltd. V. Parag Gupta and Associates [AIR 2018 SC 5601]** has held that Section 238A of the IBC is only applicable to Section 7 and 9 of the IBC. There is no mention of the same being applicable to an application under Section 10 of the IBC. In fact, para 28.3 of the Committee Report (cited above) has been instrumental in determining the ambit of Section 238A in the said case and thus, it is humbly submitted that the recommendations of the Committee be taken as the intention of the legislature and Section 238A be held inapplicable to an application under Section 10 of the IBC.”*

No contrary reasons/logic has been put forth. It thus culls out that there is no delay in filing of the Application by the Corporate Applicant under section 10 of IBC, 2016 due to the non-application of The Limitation Act, 1963.

10. Further, the Financial Creditor has failed to establish that the Petitioner is evading payment of debt. The proceedings before Debt Recovery Tribunal in O.A.No.1013/2017 having been concluded, there is no impediment to the efficacy of its Section 10 Application.
11. A careful examination of the facts of the case clearly brings out that there is a debt due against the petitioner above prescribed threshold which has become overdue and there has been a default in payment of the same. It is also observed that the Petitioner has not been earning profit to repay its debts. The recovery certificate no. 209/2019, further establishes debt of Rs.10,77,89,498.37/- (Rupees Ten Crore Seventy-Seven Lakhs Eighty-Nine Thousand Four Hundred Ninety-Eight and Thirty-Seven paise only) as on 24.01.2019. Additionally, the Petition was supported with the special resolution **Annexure D**, passed in the Extraordinary General Meeting of the Corporate Applicant.
12. It is relevant to note certain legal principles decided by the Hon'ble NCLAT, New Delhi regarding the Petitions filed u/S.10 of the IBC, 2016 as under:



- i. ***M/s. Unigreen Global Private Limited Vs. Punjab National Bank & 3 Ors., in Company Appeal (AT) (Insolvency) No.81 of 2017*** dated 01.12.2017, it was observed that:

*“...20. Under both Section 7 and Section 10, the two factors are common i.e. the debt is due and there is a default. Sub-section (4) of Section 7 is similar to that of sub-section (4) of Section 10. Therefore, we hold that the law laid down by the Hon’ble Supreme Court in **“Innoventive Industries Ltd. (Supra)** is applicable for Section 10 also, wherein the Hon’ble Supreme Court observed as “The moment the adjudicating authority is satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority.”*

21. In an application under Section 10, the ‘financial creditor’ or ‘operational creditor’, may dispute that there is no default or that debt is not due and is not payable in law or in fact. They may also oppose admission on the ground that the Corporate Applicant is not eligible to make application in view of ineligibility under Section 11 of the I&B Code. The Adjudicating Authority on hearing the parties and on perusal of record, if satisfied that there is a debt and default has occurred and the Corporate Applicant is not ineligible under Section 11, the Adjudicating Authority has no option but to admit the application, unless it is incomplete, in which case the Corporate Applicant is to be granted time to rectify the defects.

22. Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under Section 10 and the information as required to be submitted in Form 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 subject to ineligibility prescribed under Section 11. If all informations are provided by an Applicant as required under Section 10 and Form 6 and if the Corporate Applicant is otherwise not ineligible under Section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground.

23. Any fact unrelated or beyond the requirement under I & B Code or Forms prescribed under Adjudicating Authority Rules (Form 6 in the present case) are not required to be stated or pleaded. Non-disclosure of any fact, unrelated to Section 10 and Form 6 cannot be termed to be suppression of facts or to hold that the Corporate Applicant has not come with clean hand except the application where the “Corporate Applicant” has not disclosed disqualification, if any, under Section 11. Non-disclosure of facts, such as that the ‘Corporate Debtor’ is undergoing a corporate insolvency resolution process; or that the ‘Corporate Debtor’ has completed corporate insolvency resolution



process twelve months preceding the date of making of the application; or that the corporate debtor has violated any of the terms of resolution plan which was approved twelve months before the date of making of an application under the said Chapter; or that the corporate debtor is one in respect of whom a liquidation order has already been made can be a ground to reject the application under Section 10 on the ground of suppression of fact/not come with clean hand.

- ii. *In Armada Singapore Pte. Ltd. Vs. Ashapura Minechem Ltd., in I.A.No.3052 of 2019 in Company Appeal (AT) (Insolvency)No.350 of 2019 and batch order dated 30.09.2019, the Hon'ble NCLAT held that a Petition filed under Section 10 of IBC, 2016 is not maintainable without the approval of the shareholders of the Corporate Debtor in its 'Annual General Meeting/Extra-Ordinary General Meeting'.*
- iii. *In Vyomit Shares Stock & Investments Pvt. Ltd. vs. Securities and Exchange Board of India (SEBI) in Company Appeal (AT) (Insolvency) No.258 of 2019 dated 15.05.2019, the Hon'ble NCLAT held that an Application filed under Section 10 of the IBC, 2016, can be rejected on the ground that the 'Corporate Debtor' is earning sufficient profit.*

13. From the audited financials of petitioner for the years 2020-2021 to 2022-2023, it is seen that the Corporate Applicant is suffering substantial Losses. The financial statements of Corporate Applicant are attached as **Annexure A & B** to the Memo dated 25.09.2024. The Petition is also supported by an Affidavit that the Corporate Applicant does not suffer from any disqualification under section 11 of the IBC, 2016. Further, Special Resolution passed by the Petitioner on 12.03.2024 is **Annexure D** to the Petition.
14. The Applicant has suggested a qualified Resolution Professional namely **Ms. B. Akhila**, with IBBI Registration No: IBBI/IPA-002/IP-N01259/2023-2024/14315, who has also filed written consent in Form 2 dated 05.04.2024, by declaring that she is eligible to be appointed as resolution professional in respect of the Corporate Applicant and there are no disciplinary proceedings pending against her with the Board or Indian Institute of Insolvency Professionals of ICAI.
15. In view of the above facts and circumstances of the case, and the settled position of law on the issue, the petition **CP(IB) 149/BB/2024 is allowed and the Corporate Applicant is directed to undergo Corporate Insolvency Resolution Process.** Simultaneously we declare Moratorium in terms of sub-section (1) of Section 14 of the Code for compliance by all concerned as under: -



- a. The institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgement, 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 Securitization 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 the possession of the Corporate Debtor.
16. The order of moratorium shall have effect from the date of this order till completion of the Corporate Insolvency Resolution Process or until this Authority approves the Resolution Plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, as the case may be.
17. In view of the above, we appoint **Ms. B. Akhila**, Insolvency Professional, bearing Registration No. IBBI/IPA-002/IP-N01259/2023-2024/14315 with email address **ip.akhilabolla@gmail.com**, mobile no.: **7386788418**, Address: Flat no.: B001, Opus Apartment No. 20, Second Cross, Vivekananda Nagar, Jai Bharath Nagar, Maruthi Sevanagar, Bengaluru, Karnataka- 560033, as Interim Resolution Professional of the Corporate Applicant with the following directions: -
- a. The term of appointment shall be in accordance with the provisions of Section 16(5) of the Code;
 - b. In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand suspended and the management of the affairs shall vest with the Interim Resolution Professional and the officers and the managers of the Corporate Debtor shall report to the Interim Resolution Professional, who shall be enjoined to exercise all the powers as are vested in her under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor etc. as provided in



Section 18 (1) (f) of the Code. The Interim Resolution Professional is directed to prepare a complete list of inventories of assets of the Corporate Debtor;

- c. The Interim Resolution Professional shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and moral.
- d. The Interim Resolution Professional shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the Corporate Insolvency Resolution Process in terms of Section 13 (1) (b) of the Code read with Section 15 calling for the submission of claims against Corporate Debtor.
- e. It is hereby directed that the Corporate Debtor, its Directors, personnel and the persons associated with management shall extend all cooperation to the Interim Resolution Professional in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;
- f. The Interim Resolution Professional shall after collation of all the claims received against the Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a committee of creditors and shall file a report, certifying of the committee to this Tribunal on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the committee within seven days of filing the report of constitution of the committee; and
- g. The Interim Resolution Professional is directed to send **monthly** progress report and comply with statutory requirements qua MCA and ROC regarding the Corporate Applicant.
- h. The Interim Resolution Professional shall separately & individually intimate the concerned PF Department, Employee state Insurance Corporation, Income Tax Department, Inspector of Factories, GST/VAT authorities, Registrar of Companies, Karnataka and other relevant statutory authorities about the



commencement of CIRP of the Corporate Debtor and specify the date of intimation to abovementioned statutory authorities in the progress report.

18. A copy of this order be communicated to the parties. The learned Counsel for the Petitioner shall deliver copy of this order to the Interim Resolution Professional forthwith. **The Registry shall also forward a soft copy of this order to the Interim Resolution Professional at her email address at ip.akhilabolla@gmail.com.**

**-Sd-
RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)**

**-Sd-
SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**