



**IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH**

*[Through Physical hearing/VC Mode (Hybrid)]*

**ITEM No.02**  
**C.P. (IB) No. 91/BB/2025**

**IN THE MATTER OF:**

M/s Blue Cube Germany Assets GMBH & Co.KG

... Petitioner

Vs.

Vivimed Labs Ltd.

... Respondent

**Petition under Section 9 of I&B Code, 2016**

**Order delivered on: 15.04.2026**

**CORAM:**

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

**SHRI RADHAKRISHNA SREEPADA**  
**HON'BLE MEMBER (TECHNICAL)**

**COUNSELS PRESENT:**

For the Petitioner : Shri Kajal Kumari

For the Respondent : Shri Saji P John

**ORDER**

The Respondent is **admitted** to CIRP vide separate order. **IRP is appointed.**

**List the case on 24.06.2026, awaiting for IRP 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)*

*(Through Physical Hearing/ VC Mode (Hybrid))*

**CP (IB) No. 91/BB/2025**

**U/s. 9 of the IBC, 2016 read with Rule 6 of the IBC (AAA) Rules, 2016**

**IN THE MATTER OF:**

**Blue Cube Germany Assets GmbH & Co. KG**

Having its registered office at  
Butzflether Sand 2, 21683 Stade,  
Germany

- Operational Creditor/Petitioner

**VERSUS**

**Vivimed Labs Limited**

Having its registered office at  
Plot No. 78-A, Kolhar Industrial Area,  
Bidar – 585403, Karnataka, India.

- Corporate Debtor/Respondent

**Order delivered on: 15.04.2026**

**CORAM:**

**Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)**

**Shri Radhakrishna Sreepada, Hon'ble Member (Technical)**

**COUNSELS PRESENT**

For the Petitioner : Shri Kajal Kumari

For the Respondent : Mr. Saji P John

**ORDER**

1. The Company Petition was filed on 30.04.2025 by **Blue Cube Germany Assets GmbH & Co. KG** (hereinafter referred to as the “Operational Creditor”/“OC”) under Section 9 of the Insolvency and Bankruptcy Code, 2016



(hereinafter referred to as the “Code”) read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 through its Authorised Representative Mr. Mukund Bhore who was conferred a Power of Attorney dated 27.11.2024 *inter-alia* authorising initiation of legal proceedings against the CD, seeking initiation of Corporate Insolvency Resolution Process (“CIRP”) against **Vivimed Labs Limited** (hereinafter referred to as the “Corporate Debtor”/“CD”) for committing default in repayment of operational debt amounting to ₹2,78,60,844/- (inclusive of interest), the Corporate Debtor having failed to honour its undertaking dated 07.12.2021, with defaults commencing from 07.03.2022 and continuing thereafter.

2. The OC is a foreign entity incorporated under the laws of Germany and claims to have acquired rights and liabilities under an Asset Transfer Agreement dated 01.05.2015 from Dow Europe GmbH.
3. The brief facts of the case, as submitted by the OC, are as follows:
  - a. Dow Europe GmbH had entered into an Agreement dated 01.01.2012 with the CD for supply of “perchloroethylene” for a period of three years. Pursuant to the said agreement, the CD had placed purchase orders between **December 2012** and **January 2014**, and the material was supplied in terms thereof. Invoices were raised between January 2014 and March 2014 for the material supplied.
  - b. After adjusting certain credits, an amount of USD 202,596.24 (equivalent to INR 1,37,76,544.30) remained outstanding and payable by the CD. Despite repeated follow-ups and communications, the CD failed to discharge the said liability, though it had acknowledged the outstanding dues through various email communications in the year 2015.
  - c. The OC became entitled to recover the said dues pursuant to an Asset Transfer Agreement dated 01.05.2015 executed between Dow Europe



GmbH and the OC, whereby contractual rights and receivables were assigned in its favour.

- d. A legal notice dated 10.11.2015 was issued demanding payment of the outstanding amount, to which the CD replied on 09.12.2015 admitting the liability and undertaking to make payment within two months. However, no payment was made.
  - e. Thereafter, the OC had instituted a civil suit bearing **C.O.S. No. 04 of 2016** before the Commercial Court at Rangareddy District, Telangana for recovery of the outstanding dues. The said suit was decreed in its favour by a judgment and **decree dated 12.04.2019** directing payment of the amount of INR 1,81,60,708/- with future interest @ 6 % per annum on principal sum of INR 1,37,76,544/- and costs INR 4,57,423/-
  - f. The failure of CD to make payment, compelled the OC to initiate execution proceedings. During the pendency whereof, the CD filed memos dated 10.11.2021 and 07.12.2021 undertaking to pay the outstanding dues in instalments, however, the CD failed to honour even the said undertakings.
  - g. A demand notice dated 23.11.2024 under Section 8 of the Code was then issued to the CD demanding payment of a total sum of **INR 2,78,11,759/-** including interest. The said notice was duly served but neither any reply was received nor was any payment made by the CD. Hence this petition.
4. The CD has filed its Statement of Objections on 16.10.2025 stating:
- a. The petition is not maintainable and is a misuse of the provisions of the Code, 2016, having been filed solely for recovery of money and with an intention to pressurize the CD. The initiation of CIRP for recovery purposes is impermissible in law and attracts the rigour of Section 65 of the Code.





- d. With regard to limitation, the OC contends that the petition is well within time in view of the acknowledgments of liability made by the CD in the year 2021, which extended the period of limitation under Section 18 of the Limitation Act, 1963. Further the period of limitation stood extended in view of the orders passed by the Hon'ble Supreme Court in **Suo Motu Writ Petition (C) No. 3 of 2020** excluding the period from 15.03.2020 to 28.02.2022.
  - e. The OC has denied that the present proceedings amount to forum shopping, submitting that pendency of execution proceedings does not bar initiation of proceedings under the Code. A decree holder is also an OC within the meaning of Section 5(20) of the Code and is entitled to invoke the provisions of the Code for enforcement of its dues.
  - f. The OC has disputed the contention that the CD is a financially sound entity and has placed reliance on its financial statements and an e-auction notice issued by State Bank of India to contend that the CD is financially stressed and unable to discharge its liabilities. The substratum of the CD has eroded and it is unable to meet its financial obligations.
  - g. In view of the above, the OC has prayed for admission of the present petition and initiation of CIRP against the CD.
6. We have heard the Learned Counsels for the OC and the CD and perused the material available on record. The core issue here is whether the CD has committed a default in payment of operational debt as defined under the Code, 2016, and whether there is any pre-existing dispute as contemplated under Section 8(2) of the Code so as to render the present petition not maintainable.
7. At the outset, it is observed that the debt in question arises out of supply of goods, namely '*perchloroethylene*', by the predecessor-in-interest of the OC to the CD, to which the claim subsequently culminated in a decree passed by the Civil Court on 12.04.2019. The existence of such decree, coupled with the admitted status that the CD has failed to discharge the decretal dues, clearly



establishes the existence of an operational debt and default. It is a settled position of law that the mere passing of a decree does not alter the nature of the underlying transaction, which continues to be an 'operational debt' within the meaning of the Code.

8. The CD has raised an objection that the present petition is not maintainable on account of pendency of execution proceedings. However, this contention cannot be sustained. The remedy available under the Code is independent and distinct from execution proceedings. The pendency of execution proceedings does not operate as a bar to initiation of proceedings under Section 9 of the Code, provided the ingredients of operational debt and default are satisfied. The objection that the present petition is a recovery proceeding is therefore rejected.
9. With regard to limitation, the CD has contended that the present petition is barred being filed beyond three years from the date of decree. However, the record reflects that the CD has acknowledged its liability during the pendency of execution proceedings by filing memos dated 10.11.2021 and 07.12.2021, undertaking to repay the dues in instalments. Such written acknowledgments clearly attract the provisions of Section 18 of the Limitation Act, 1963, thereby extending the period of limitation. Moreover, on exclusion of the period granted by Hon'ble Supreme Court on account of COVID-19 pandemic, brings the petition well within the prescribed period of limitation.
10. An examination of the important aspect regarding any pre-existing dispute between the parties, reveals that repeated emails of the OC seeking payment from the CD had not elicited any replies or comments. Even the demand notice issued under Section 8 of the Code has not been responded by the CD despite being duly served. There have rather been clear, unambiguous and categorical admission of liability by the CD including in judicial proceedings. This rules out any semblance of pre-existing dispute between the parties capable of clouding the petition. Even the objections filed to the petition do not really raise any dispute regarding the debt nor it could have been raised as the decree passed by the learned Civil Court, Rangareddy, Telangana had become final.



11. It is pertinent to note that the Hon'ble Supreme Court in *Innoventive Industries Ltd. v. ICICI Bank* has clearly held that at the stage of admission of a petition under the Code, the Adjudicating Authority is required to ascertain the existence of a debt and default, and once the same is established, the petition must be admitted unless it is incomplete or hit by any legal bar. The scope of enquiry is summary in nature and does not extend to adjudication of disputes beyond the limited parameters prescribed under Sections 8 and 9 of the Code.
12. The contention of the CD that the present petition has been filed with malicious intent or to pressurize the CD is also devoid of merit. Once the existence of debt above prescribed threshold and default is established and the statutory requirements under Sections 8 and 9 are satisfied, the Adjudicating Authority is bound to admit the petition. The financial status of the CD or its claim of being a going concern is not a determinative factor at the stage of admission. In any case, the failure of CD to service the undisputed debt for more than a decade speaks volumes about its financial standing.
13. As has been pointed out, It is noticeable that two more petitions being CP(IB) 52 /2026 and TP No. (IBC) 02/2024 (CP No. 225/2015) invoking the identical provisions are pending against the CD in today's cause list which in itself speaks volumes about the claim of CD of meeting its financial obligations.
14. The CD itself has filed IB(PP) no. 01/2026 under section 54C of the Code which is also listed today. Ld Counsel for the CD had pressed for accepting said petition filed with proposed Resolution Plan which however, was opposed by Ld Counsel for the OC. On examining the legal proposition, it has transpired that as per Section 11(3) of the Code, where a petition under Section 54C of the Code for initiation of a pre-packaged insolvency resolution process (PPIRP) is filed after fourteen days from the filing of a petition under Sections 7, 9, or 10 against the same Corporate Debtor, the Adjudicating Authority is required to first dispose of the petition filed under Sections 7, 9, or 10 before considering the petition under Section 54C. In the instant case, the petition under Section 9 against the Corporate Debtor was filed on 30.04.2025, whereas the petition



under Section 54C for initiation of PPIRP was filed on 13.02.2026. Therefore, the PPIRP petition cannot get preference over the present petition.

15. For the above reasons **CP (IB) No. 91/BB/2025 is allowed** and the respondent **Vivimed Labs Limited** is admitted to undergo CIRP. Simultaneously moratorium is declared in terms of Section 14 of the Code imposing following prohibitions to be followed by all and sundry: -
- i. The institution of suits or continuation of pending suits or proceedings against the CD including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
  - ii. Transferring, encumbering, alienating or disposing of by the CD any of its assets or any legal right or beneficial interest therein;
  - iii. Any action to foreclose, recover or enforce any security interest created by the CD in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
  - iv. The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the CD;
16. It is further directed that the supply of essential goods or services to the CD as may be specified, shall not be terminated or suspended or interrupted during the moratorium period.
17. The provisions of Section 14(3) shall however, not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to a CD.
18. The order of moratorium shall have effect from the date of this order till completion of the CIRP or until approval of the Resolution Plan under sub-section (1) of Section 31 or passing of an order for liquidation of CD under Section 33 by this Authority as the case may be.
19. In part Part 3 of Form 5, the applicant abstained from proposing the name of the IRP and left it on this Authority in terms of Section 16 of the Code, 2016. From the Panel of Bengaluru based Insolvency Professionals provided by the Insolvency & Bankruptcy Board of India, Shri **T NARAYANA SWAMY**



having Registration No IBBI/IPA-002/IP-N01078/2020-2021/13427, registered address: No 15, Shubhadeepa, 7th Cross, Bhuvaneshwarinagar, Hebbal Kempapura, Bangalore North, Near Shakthi Ganapathi Temple, Bangalore, Karnataka-560024 Contact No: 9113537581, e-mail:tnswamyubi@gmail.com is appointed as Interim Resolution Professional(IRP) of the CD to carry on the functions as contemplated under IBC and Rules/Regulations framed thereunder. The IRP shall file his written consent within one week from the date of receipt of order. The IRP shall be entitled to fee as per the provisions of IBBI Regulations/Circulars/Directions issued on this behalf.

20. The OC shall deposit a sum of ₹2,00,000/- (Rupees Two Lakhs Only) with the IRP to meet the expenses arising out of issuance of public announcement and inviting claims. The said expenses shall be subject to approval by the CoC. The fee and other expenses of the IRP/Resolution Professional (RP) shall be fixed by the CoC in accordance with the relevant Regulations and Circulars issued by the IBBI.
21. The IRP/RP shall issue individual notices to the **Jurisdictional Income Tax Authority, Principal Commissioner of Income Tax (Judicial), Bengaluru, Regional Provident Fund Commissioner, GST Commissioner, Commercial Tax Authority, Employees' State Insurance Corporation (ESIC)**, recognised labour unions, and other statutory authorities, if any, and shall submit proof of service along with the first progress report.
22. The IRP shall after collation of all the claims received against Vivimed Labs Limited and the determination of the financial position of the CD constitute a CoC and file a report, certifying constitution of the Committee to this Authority 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 for filing the report of Constitution of the Committee. The IRP is further directed to send regular monthly progress reports of CIRP to this Authority. The suspended Board of Directors and all personnel of the CD shall extend full cooperation to the



IRP/RP in managing the affairs of the CD and in the conduct of the CIRP, as mandated under the provisions of the Code, 2016.

23. Upon taking control of the assets and management of the CD, the IRP/RP shall ensure that a notice board of appropriate size is affixed at a conspicuous place at the registered office and principal place of business of the CD, indicating that the CD is undergoing CIRP, along with the case number, title, and complete details and contact information of the IRP/RP, to enable stakeholders to submit their claims within the prescribed timelines.
24. On recovery of any amount of debt in these proceedings or any other proceedings, pending or that may be filed, the claim of the creditors shall immediately stand adjusted therewith and their vote share in CoC shall be accordingly modified.
25. A copy of the order shall be communicated to both the parties. Learned Counsel for the Petitioner shall deliver a copy of this order to the IRP forthwith. **The Registry is also directed to forward a softcopy hereof to the IRP as well as RoC at their e-mail addresses.**

-Sd-  
(RADHAKRISHNA SREEPADA)  
MEMBER (TECHNICAL)

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