



IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH, BENGALURU
(Through Physical Hearing / VC Mode (Hybrid))

ITEM No.09
C.P. (IB)No.71/BB/2024

IN THE MATTER OF:

Biotechnology Industry Research Assistance Council (BIRAC) ... Petitioner
Vs.
M/s. Labland Biotechs Pvt. Ltd. ... Respondent

Order under Section 7 of IBC, 2016

Order delivered on: 13.06.2025

CORAM:

SHRI SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)

SHRI RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Petitioner : Ms. Rani Nalwa
For the Respondent : Shri Vijay Prabhu

ORDER

1. Heard the Ld. Counsels appearing for the parties.
2. C.P.(IB)No.71/BB/2024 is allowed and Respondent is admitted to the CIRP.
3. List the case on **05.08.2025**, for submitting the report.

-Sd-

RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-

SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)

Shruthi

IN THE NATIONAL COMPANY LAW TRIBUNAL
BENGALURU BENCH
(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)
(Through physical/web based video conferencing platform)

CP (IB) No. 71/BB/2024
Application U/s. 7 of the Insolvency & Bankruptcy Code, 2016
R/w Rule 4 of the Insolvency & Bankruptcy
(Application to Adjudicating Authority) Rules, 2016

IN THE MATTER OF:

Biotechnology Industry Research Assistance Council (BIRAC)

5th Floor, NSIC Business Park, NSIC Bhawan,

Okhla Industrial Estate, New delhi- 110020

... Petitioner/Financial Creditor

VERSUS

M/s. Labland Biotechs Private Limited

Metagalli Post, 8th, KRS Main Road,

Mysore, Karnataka- 570016

... Respondent/Corporate Debtor

Order delivered on: 13/06/2025

Coram:

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

2. Hon'ble Shri. Radhakrishna Sreepada, Member (Technical)

Present:

For the Petitioners : Ms. Rani Nalwa

For the Respondent : Sri Manoj Kumar B./ Shri Vijay Prabhu

ORDER

1. The present Petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the *IBC* or *the Code*) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, on

24.01.2024 by **M/s. Biotechnology Industry Research Assistance Council (BIRAC)**. The Petitioner seeks initiation of the Corporate Insolvency Resolution Process (CIRP) against **M/s. Labland Biotechs Private Limited** in respect of a financial debt. The total amount disbursed by the Petitioner was ₹2,42,53,000/- (Rupees Two Crore Forty-Two Lakh Fifty-Three Thousand only), out of which the principal amount outstanding as on 31.03.2023 stood at ₹2,36,53,000/-. As per the agreed terms, interest was chargeable at 1% per annum for amounts up to ₹1 crore and at 2% per annum for amounts exceeding ₹1 crore, up to 31.03.2023. Accordingly, the total interest accrued amounts to ₹2,92,04,895.20/-, making the total amount in default ₹5,28,57,895.28/-. The Date of First Default is stated as 03.08.2010, as mentioned in Part IV of Form 1 filed along with the Petition.

2. Brief facts of the Petition are given hereunder:

- i. The Petitioner was incorporated on 20.03.2012 having its registered office at 5th Floor, NSIC Business Park, NSIC Bhawan, Okhla Industrial Estate, New delhi- 110020.
- ii. The Corporate Debtor, incorporated on 09.08.1994 under the Companies Act, 1956 having registered office at Metagalli Post, 8th, KRS Main Road, Mysore, Karnataka- 570016.
- iii. The Corporate Debtor had sought financial assistance from the Govt of India under the scheme entitled “Small Business Innovation Research Initiative” (SIBRI) for a project entitled “Micro Propagation of Jatropha curcas L for sustainable and enhanced production of biodiesel (Phase II). A sanction order
- iv. dated 03.08.2007 was issued by the Department of Biotechnology (Govt of India), and loan amounts were disbursed to the Corporate Debtor vide release orders dated 03.08.2007, 22.04.2009, and 03.10.2009 aggregating to a sum of Rs. 242.53 Lakhs.
- v. The terms and conditions of the loan were governed by the Original Agreement dated 03.08.2007, Transfer Orders dated 25.09.2012 and 09.05.2014, and Supplementary Agreement dated 01.12.2016. The repayment obligation was further secured by a Deed of Hypothecation dated 06.03.2009, bearing Charge ID No. 10147530 for an amount of Rs. 1,71,90,000/-, registered on the MCA

portal, and a Personal Guarantee executed by Dr. Sudheer Shetty, Managing Director of the Corporate Debtor.

- vi. As per Clause 8(ii) of the Agreement, the loan was to be repaid in 10 equal monthly installments starting from February 2010, including a moratorium period of 2 years and 6 months.
 - vii. However, the Corporate Debtor failed to adhere to the repayment schedule, thereby committing a default, with the first date of default being 03.08.2010, in terms of Clause 8(v) of the Agreement.
 - viii. The Corporate Debtor has from time to time acknowledged the debt in its financial statements from the Financial Year 2009-10 until Financial Year 2018-19. A part payment of Rs. 2,00,000/- was made by the Corporate Debtor on 21.01.2015. A recall notice was issued by the Financial Creditor on 22.10.2018. Subsequently, the Corporate Debtor, vide its letter and form dated 23.09.2019, requested rescheduling of the loan, which was not agreed to by the Financial Creditor.
 - ix. Further, by letter dated 05.10.2019, the Corporate Debtor again assured repayment and made a payment of Rs. 4,00,000/- on 20.02.2020. However, no further payments were made thereafter. A legal notice was issued on 28.02.2020, followed by a final reminder dated 13.07.2021. On 21.12.2021, the Corporate Debtor requested a complete waiver of the loan.
 - x. As on 31.03.2023, the principal amount outstanding is Rs. 2,36,53,000/- and interest accrued is Rs. 2,92,04,895.28/-, making the total amount in default Rs. 5,28,57,895.28/-. In view of the continuing default and failure of the Corporate Debtor to repay the outstanding debt, the Financial Creditor is constrained to file the present petition under Section 7 of the Insolvency and Bankruptcy Code, 2016.
3. The Respondent has filed the Statement of Objection, vide, Diary No: 7195, dated 17.12.2024 and contended as under:

- i. The Corporate Debtor states that the present petition under Section 7 of the IBC is false, frivolous, and an abuse of the process of law. The counsel for the respondent alleged that the Petitioner has approached the Tribunal with unclean hands and suppressed material facts, and hence the petition is liable to be dismissed.
- ii. The Corporate Debtor submits that the original loan agreement dated 03.08.2007 was executed with the Department of Biotechnology, Government of India under the SBIRI Scheme, and that there was no valid assignment of rights in favour of the Petitioner. Though a Transfer Order dated 25.09.2012 and a subsequent order dated 09.05.2014 were issued, there was no lawful assignment agreement transferring the debt or the rights under the said loan agreement to the Petitioner. Accordingly, the Petitioner lacks *locus standi* to initiate proceedings under Section 7.
- iii. It is further contended that the Supplementary Agreement dated 01.12.2016 entered with the Petitioner is not enforceable in law as it was not a tripartite agreement and was executed under unequal bargaining conditions.
- iv. The Corporate Debtor avers that the funding was utilized entirely for the intended project on Jatropha micropropagation, which later became commercially unviable due to changing market conditions, withdrawal of government support, and the impact of COVID-19. The Debtor claims to have invested Rs. 250 Lakhs of its own funds in addition to the project funding and blames the failure to repay on financial hardship and force majeure conditions.
- v. It is also submitted that payments made to the Petitioner were under the belief that the Petitioner was acting merely as a collection agent of the Government and not due to acknowledgment of any financial debt.
- vi. The Respondent denies that any “financial debt” exists under Section 5(8) of the IBC. It is contended that the funding did not involve disbursal for consideration of time value of money and hence cannot be termed a financial debt. Accordingly, the application does not satisfy the threshold conditions for admission under Section 7 of the Code.

- vii. Without prejudice to the above, it is submitted that the alleged funding was in the nature of a grant provided by the Department of Biotechnology, Government of India, under a public scheme aimed at nurturing biotechnology enterprises. Such grants do not constitute "financial debt" within the meaning of Section 5(8) of the IBC, as they are not disbursed against consideration for time value of money, nor were they intended to be commercial loans. Therefore, even assuming the Petitioner had locus, the nature of the transaction itself falls outside the purview of the Code.
- viii. Furthermore, the claim is ex facie barred by limitation. The Original Agreement was executed in 2007, and the repayment schedule concluded in 2018. The recall notice was issued on 22.10.2018, and there is no acknowledgment of debt thereafter in any balance sheets or correspondence. As such, the limitation period for initiating proceedings expired in 2021, and the present petition is time-barred under Article 137 of the Limitation Act, 1963.
- ix. The Respondent also submits that there exists a pre-existing dispute regarding the computation of the alleged dues. The Petitioner has charged dual interest 2% and 12% on the same principal amount, which is contrary to the terms of the Original Agreement. Clause 8 provides for 2% interest during the repayment period and 12% simple interest only upon default. Charging compounds or overlapping interest amounts to unjust enrichment, and such arbitrary imposition is disputed.
- x. It is reiterated that the purpose of IBC is resolution and revival, not recovery. The Respondent has sought reschedulement of the funding on multiple occasions, which the Petitioner has declined without justification. Given the nature of the grant and the continuing willingness of the Respondent to settle the matter, invocation of the IBC is wholly inappropriate. The Petition has been filed with mala fides and amounts to an abuse of process.
- xi. Additionally, the impact of the COVID-19 pandemic severely affected the Respondent's operations. Despite this, the Petitioner proceeded with coercive action without acknowledging the difficulties faced, contrary to the principles of equity and fair play. The conduct of the Petitioner reflects lack of bona fides.

- xii. Settlement discussions have taken place in good faith, and the Respondent has expressed willingness to repay under a rescheduled structure. However, the Petitioner has neither shown authority to restructure nor allowed any flexibility, indicating that it lacks control over the original grant. The Tribunal is therefore requested to encourage settlement, in alignment with the objective of the Code to revive viable companies and not push them into liquidation due to procedural rigidity.
 - xiii. Finally, the Respondent submits that the Original Agreement was signed by a Scientist of the Department of Biotechnology, without producing any valid authorization for executing such agreements. Similarly, the Supplementary Agreement signed by the Petitioner's Managing Director is unsupported by any Board Resolution hence it is null and void.
 - xiv. The Authorization Letter relied upon is issued by a Company Secretary, who does not possess independent authority to bind the company. As such, both the Agreements and the Petition filed are vitiated for want of valid authorization and are liable to be rejected *in limine*.
4. The petitioner has submitted a memo of limitation vide Diary no. 2460 dated 23.04.2024 wherein it was stated:
- i. The Petitioner submitted that the present petition has been filed within limitation. As per Annexure 3 to the Original Agreement dated 03.08.2007, the loan was to be repaid in installments w.e.f. 03.02.2010 till 03.02.2018 and accordingly, 03.02.2010 is the first date of default mentioned in Part IV of Form 1, with the first limitation period expiring on 03.02.2013. However, the default has been continuously acknowledged within the limitation period by the Corporate Debtor in its correspondence (email dated 22.08.2012 & others) and in its Balance Sheets where the debt is shown as "SIBRI LOAN ACCOUNT."
 - ii. The Balance Sheets for FY 2009-10 to FY 2018-19 have been filed. Relying on settled principles, the Petitioner cites the NCLT Mumbai order dated 06.10.2021 in *Standard Chartered Bank, London v. Khubchandani Hospitals* to state that right to sue accrues with every default. It further relies on Section 18 of the

Limitation Act and the Supreme Court decision in *Asset Reconstruction Company (India) Ltd. v. Bishal Jaiswal*, 2021 SCC OnLine SC 321, to contend that such entries in Balance Sheets amount to acknowledgment of debt, giving rise to a fresh limitation period.

- iii. It is further submitted that the use of the term “SIBRI LOAN ACCOUNT” stems from the original loan granted under the SIBRI scheme by the Department of Biotechnology, later transferred to BIRAC vide GOI Orders dated 25.09.2012 and 09.05.2014. In view of the above, the Petitioner prays that the petition be admitted and notice issued to the Corporate Debtor.

5. The Respondent submitted the following additional written arguments vide memo dated 05.06.2024:

- i. Petitioner lacks locus standi to maintain the present Petition as it was not a party to the original agreement dated 03.08.2007 between the Department of Biotechnology (DBT), Government of India, and the Respondent. It was also not a signatory to the Deed of Hypothecation dated 06.03.2009 or the Personal Guarantee. No valid deed of assignment has been executed in accordance with Section 130 of the Transfer of Property Act, 1882, and mere internal government communications or administrative orders—even if approved at the Cabinet level—cannot substitute a legally valid assignment. The Supplementary Agreement dated 01.12.2016 does not amount to a tripartite contract nor does it carry any specific transfer of rights in law. The Transfer Orders relied upon by the Petitioner only reflect ministerial decisions concerning scheme migration and not any enforceable transfer of rights. The Respondent relies on the judgment in *ICICI Bank Ltd. v. Official Liquidator of APS Star Industries Ltd., (2010) 10 SCC 1*, to contend that an assignment must be express, specific, and legally executed, which is not the case here.
- ii. It is further submitted that the Petition is not maintainable as there is no financial debt owed to the Petitioner under Section 5(8) of the IBC. The original funding under the SBIRI scheme was made in furtherance of public interest objectives without any element of commercial intent or time value of money. No funds were disbursed by BIRAC itself, and in the absence of a valid assignment from DBT, BIRAC cannot assert creditor status. The alleged funding carried no commercial

interest rate, credit risk, or contractual obligation for repayment akin to a loan, and thus fails to meet the statutory test under the Code. Reliance is placed on *Anuj Jain IRP v. Axis Bank Ltd.*, (2020) 8 SCC 401, particularly paragraphs 46 to 50, which clarify that the existence of consideration for the time value of money is essential for a claim to qualify as financial debt under the Code.

- iii. The Respondent further submits that the Petitioner has failed to place on record any resolution of its Board of Directors authorizing the filing of this Petition or the execution of related documents. Instead, reliance has been placed on an internal authorization issued by the Company Secretary, which is not sufficient under law for initiating insolvency proceedings. Filing of a Section 7 Petition is a material corporate action with significant legal consequences, and in the absence of proper board authorization, the present Petition is not maintainable. In this regard, reliance is placed on *Nibro Ltd. v. National Insurance Co. Ltd.*, (1991) ILR (Del) 1, and *Jambudwip Exports and Imports Ltd. v. U.P. Bone Mills Pvt. Ltd.*, CP(IB)-447(ND)/2021, NCLT Delhi.
 - iv. In light of the above submissions, the Respondent submits that the Petitioner lacks the legal authority to invoke the provisions of the Insolvency and Bankruptcy Code. There is no privity of contract, no valid assignment in accordance with law, no financial debt, and no proper corporate authorization. The present Petition amounts to an attempt to invoke insolvency proceedings in relation to what is essentially a disputed, non-commercial policy grant and represents a misuse of the IBC framework. The Petition is therefore liable to be dismissed with costs.
6. The Petitioner has chosen not to file rejoinder albeit pursuant to order dated 30.04.2024 a memo with record of email dated 26.12.2022 containing acknowledgment, was filed on 10.05.2024.
 7. Heard Ld. Counsel for the parties and perused the file. The instant petition was filed on 24.01.2024, while the date of first default indicated in Part IV, Form No. 1 as 03.08.2010, as per the record of Default ('ROD') issued by NESL.
 8. The contention of the Respondent that the present matter is barred by limitation is devoid of merit. The Respondent asserts that the debt is time-barred. It is settled law that limitation under IBC is governed by Article 137 of the Limitation Act, 1963, prescribing a three-year period from the date of default. However, acknowledgment of

debt or part payment as contemplated under Sections 18 and 19 of the Limitation Act extends the period of limitation. Acknowledgement of monetary liability is evidenced every year in the Balance Sheets of the Corporate Debtor from Financial Year 2009–10 to 2018–2019. The respondent has also made part payments to the Petitioner between 21.01.2015 and 20.02.2020, which tantamount to acknowledgment of liability under Section 19 of the Limitation Act, 1963. Lastly, the liability was accepted by the Respondent in a letters dated 23.09.2019, 21.12.2021 and email dated 08.07.2022 all addressed to Ms Alka Sharma, Dy. Manager-Legal who is the signatory to the petition. Each such acknowledgment extends the period of limitation by three years under Section 18 read with Section 137 of the Limitation Act. Filing of such acknowledgment letters is therefore sufficient to extend limitation. Hence, we hold that the present Petition is not barred by limitation.

9. The loan in question was originally extended to the Corporate Debtor under the SBIRI Scheme pursuant to a Sanction Order dated 03.08.2007, issued by the Department of Biotechnology, Government of India. The corresponding Loan Agreement dated 03.08.2007 set out the terms of repayment, and the disbursal was completed in tranches vide release orders dated 03.08.2007, 22.04.2009, and 03.10.2009, aggregating to Rs. 2,42,53,000/-. To institutionalize the implementation of the scheme and manage the financial assistance portfolio, the Government of India incorporated the Petitioner, BIRAC, on 20.03.2012. Subsequently, the Department of Biotechnology, by way of Transfer Order dated 25.09.2012, formally assigned the administration of the SBIRI Scheme and its financial assets, including the subject loan, to the Petitioner. This was followed by a further Transfer Order dated 09.05.2014, reiterating and confirming the transfer of rights and obligations.
10. To formalize the operational transition, a Supplementary Agreement dated 01.12.2016 was executed between the Petitioner and the Corporate Debtor, expressly recording the continuation of the repayment obligation in favour of the Petitioner. It is also on record that the Corporate Debtor has made direct payments to the Petitioner, including part payments on 21.01.2015 and 20.02.2020, and continuously exchanged correspondence with the Petitioner for loan reschedulement including on 23.09.2019. These actions unequivocally evidence the Corporate Debtor's acknowledgment of the Petitioner as the legitimate successor-in-interest to the Department of Biotechnology in respect of

the financial debt. With overwhelming documents of respondent having accepted the petitioner to be the creditor, their challenge to locus of petitioner cannot be accepted.

11. Under Section 7 of the IBC, to initiate the CIRP, it is imperative for the Petitioner to establish the existence of a financial debt, as defined under Section 5(8) of the IBC, 2016, and to demonstrate that a default, as per Section 3(12), has occurred concerning that financial debt. In the present case, the material on record unequivocally establishes that the Corporate Debtor was extended a loan, which is further corroborated by the acknowledgment of the loan amount in the balance sheets of the Corporate Debtor for the financial years 2018-2019 through 2021-2022. Further, the Hon'ble Supreme Court in the case of ***Innoventive Industries Ltd. vs. ICICI Bank and Ors., (2018) 1 SCC 407*** has held as under:

“...30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of the information utility or other evidence produced by the financial creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is “due” i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise.”

12. The Hon'ble Apex Court in the above judgment has clearly pointed out to the records of the information utility reflecting the existence of a debt and a default to be a corroborative factor. In the instant matter the NeSL has also confirmed the date of default mentioned in Form D (Record of Default) and established the existence of the debt and the default.
13. The Respondent has vehemently contended that the funding was a grant/subsidy under a government scheme and not a financial debt. It is submitted that the disbursement was not for consideration of time value of money and hence falls outside the scope of Section 5(8) of the Code. However, we note that the funding was disbursed pursuant to a sanction order dated 03.08.2007 under the Small Business Innovation Research Initiative (SBIRI) Scheme, with clearly defined repayment obligations. The Original Agreement dated 03.08.2007, supported by the Supplementary Agreement dated

01.12.2016, sets out the terms of repayment, rate of interest, moratorium, and schedule, which unmistakably demonstrate the characteristics of a financial arrangement involving consideration for the time value of money. Moreover, a Deed of Hypothecation and a Personal Guarantee were executed to secure repayment. It is also undisputed that part payments were made by the Respondent from time to time, and the same have been acknowledged.

14. Had it been a grant, the Respondents would not have carried it forward for more than 10 years in their Annual Account Statements as the "SBIRI Loan Account." The Respondents would not have chased the Petitioner for settlement of claims, as is now being asserted, nor would they have made part payments. It is clearly explained how it got mentioned as "loan" in their various communications including a letter dated 21.12.2021, which has not been retracted. Law does not prescribe any specific threshold of interest rate for a transaction to qualify the consideration for time value of money. The Respondents' attempt to mischievously construe the financial facility executed by the Government of India at a substantially reduced interest rate as a "grant" is untenable, especially considering their failure to achieve the stated objectives even after 18 years. In view of the above, we hold that the debt in question qualifies as a "financial debt" under Section 5(8) of the Code.
15. The Respondent argues that there was no valid assignment of the loan from the Department of Biotechnology to BIRAC, and hence the Petitioner lacks locus standi. This contention is meritless. We have perused the Transfer Orders dated 25.09.2012 and 09.05.2014 and the Supplementary Agreement dated 01.12.2016, wherein the Petitioner is recognized as the successor-in-interest to the rights and obligations under the original loan. Further, the Respondent itself made payments to the Petitioner and sought reschedulement from the Petitioner. These actions by the Corporate Debtor amount to acknowledgment of the Petitioner's status as Financial Creditor. Thus, the Respondent cannot now turn around and question the locus after having accepted the Petitioner's position over years. Accordingly, we hold that the Petitioner has the locus standi to maintain the present Petition.
16. Having availed the facility originally from the Government of India for more than 17 years without accounting for the objectives of the scheme and having interacted with

the Petitioner over 8 years, it does not lie in the mouth of the Respondents to now question the assignment of debt to the Petitioner, particularly when the Corporate Debtor is faced with potential of serious consequences in the present Petition. The documents on record, including the Supplementary Agreement and letters acknowledging the Petitioner, clearly establish the Petitioner's locus as assignee of the financial debt.

17. The Respondent has argued that the present Petition suffers from lack of proper corporate authorization, as it is not accompanied by a Board Resolution and is instead the Letter of Authority signed by the Company Secretary. This contention is misconceived and legally unsustainable. It is settled law that a Company Secretary, being a Key Managerial Personnel under Section 2(51) of the Companies Act, 2013, is authorized to authenticate documents and initiate legal proceedings on behalf of the company, unless expressly restricted by the Articles of Association or by a contrary Board decision. Under Section 21 of the Companies Act, 2013, documents requiring authentication by a company may be signed by any Key Managerial Personnel or an officer duly authorized by the Board.
18. In the present case, the Company Secretary of BIRAC has issued the Authorization Letter accompanying the Petition. Furthermore, BIRAC is a Section 8 Government Company fully owned by the Government of India, functioning under the Department of Biotechnology, and the authorization flows from a competent official under established administrative protocols.
19. The reliance placed by the Respondent on *Nibro Ltd. v. National Insurance Co. Ltd.* and *Jambudwip Exports v. U.P. Bone Mills Pvt. Ltd.* is misplaced having been rendered in different factual matrix. In contrast, the present Petition is accompanied by a formal and express authorization from a Key Managerial Personnel, who is empowered under statute to represent the company in legal proceedings.
20. The authentication given by the Company Secretary (CS) has to be taken as an exercise of authority by a Principal Officer of Petitioner in the background of judgment of Hon'ble Supreme Court in ***United Bank of India vs. Naresh Kumar and Ors.* (1997) 4 SCC 599.**

"It cannot be disputed that a company can sue and be sued in its own name. Under Order 6 Rule 14 CPC, pleadings are to be signed by the party and its pleader. Since a company is a juristic entity, a natural person must sign on its behalf. Order 29 Rule 1 CPC provides that the Secretary, any Director, or other Principal Officer who is able to depose to the facts of the case may sign and verify pleadings. Even in the absence of formal authority or a power of attorney, a person referred to in Order 29 Rule 1 CPC, by virtue of his office, may sign and verify on behalf of the corporation. A company can also ratify such action expressly or impliedly. The Court may infer ratification from the circumstances of the case and the conduct of trial."

Accordingly, the objection raised by the Respondent regarding absence of a Board Resolution is rejected. It is further observed that the Petitioner has had email communication dated 26.12.2022, along with several prior instances, addressed to Ms. Alka Sharma, Deputy Legal Manager of BIRAC, as referred to in the Authorization Letter filed with the Petition. These internal communications clearly indicate that BIRAC recognized and acknowledged her official capacity to oversee and initiate legal proceedings on behalf of the company, thereby lending substantial credibility to the validity of the authorization.

21. The Respondent has argued that the Petitioner is seeking recovery under the guise of insolvency. This Bench is mindful of the judgment in ***Vidarbha Industries Power Ltd. v. Axis Bank Ltd. (2022) 8 SCC 352***, which recognizes that admission under Section 7 is not automatic. However, in the present case, the Respondent has failed to demonstrate either any viable revival plan or that it is solvent. The default is admitted; the debt is admitted; and the inability to pay is admitted. Mere invocation of hardship or COVID-19 cannot justify non-payment of admitted debt. The IBC is a special statute, and once the ingredients under Section 7 are satisfied, the Adjudicating Authority is duty-bound to admit the petition unless a legal bar is shown.
22. Accordingly, the instant Company Petition bearing CP (IB) No. 71/BB/2024 is **admitted** and moratorium is declared in terms of Section 14 of the Code. As a necessary consequences of the moratorium in terms of Section 14, following prohibitions are imposed for all concerned to comply with:

- a. The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, 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;
23. It is directed that the supply of essential goods or services to the Corporate Debtor, shall not be terminated or suspended or interrupted during the moratorium period in accordance with subsection (2) of Section 14 of the Code;
24. The provisions of Sub- section (3) of Section 14 of the Code 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 Corporate Debtor;
25. The order of moratorium shall have effect from the date of this order till completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under sub-section (1) of Section 31 of the Code, or passed an order for liquidation of Corporate Debtor under Section 33 of the IB Code, 2016 as the case may be;
26. In Part-III of Form No.1, Mrs Ramela Rangasamy, bearing Registration No. IBBI/IPA-002/IP-N00506/2017-2018/11700 has been proposed as Interim Resolution Professional (IRP). Her written consent and credentials have been given in Form No.2. In view of the above, we appoint **Ms Ramela Rangasamy**, Registration No.IBBI/IPA-002/IP-N00506/2017-2018/11700 (validity of her registration has been checked on the website of IBBI), having registered address at A6, Aryaa Harmony Apartment, Police Kandasamy Street, Olympus, Ramanathapuram ,Coimbatore, Tamil Nadu,641045, contact no.: **9442617180** and email: **rum_jai@yahoo.com** as the

Interim Resolution Professional. The IRP is directed to take the steps as mandated under the IBC, especially under Sections 15, 17, 18, 20 and 21 of IBC, 2016.

27. The Financial Creditor shall deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs Only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to approval by the Committee of Creditors.
28. The Interim Resolution Professional shall after collation of all the claims received against Corporate Debtor and the determination of the financial position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution 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 for filing the report of Constitution of the Committee. The Interim Resolution Professional is further directed to send regular monthly progress reports to this Adjudicating Authority.
29. A copy of the order shall be communicated to both the parties. The learned Counsel for the Petitioner shall deliver a copy of this order to the Interim Resolution Professional forthwith. The Registry is also directed to send the copy of this order to the Interim Resolution Professional at his email address forthwith.

-Sd-

RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)

-Sd-

SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)