

NATIONAL COMPANY LAW TRIBUNAL
INDORE SPECIAL BENCH
COURT NO. 1

ITEM No.203

CP(IB)/50(MP)2024

Order under Section 7 IBC

IN THE MATTER OF:

Drip Capital Inc.

.....Applicant

V/s

Eco Gold Nutri & Organics LLP

.....Respondent

Order delivered on 17/06/2025

Coram:

Shammi Khan, Hon'ble Member(J)

Sanjeev Kumar Sharma, Hon'ble Member(T)

ORDER
(Hybrid Mode)

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

Sd/-
SANJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Sd/-
SHAMMI KHAN
MEMBER (JUDICIAL)

Neeraj

**BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
SPECIAL BENCH AT INDORE**

CP (IB)/50(MP)2024

(An application under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the matter of **Eco Gold Nutri & Organics LLP**

Drip Capital Inc.

A company incorporated
under the laws of the
United States of America,
Having Employer
Identification Number (EIN): 47-1674445,

Registered Address:

555 Bryant St, #356,
Palo Alto, CA 94301,
United States of America.

... Applicant/Financial Creditor

VERSUS

Eco Gold Nutri & Organics LLP

A Limited Liability Partnership
incorporated under the
Limited Liability Partnership Act, 2008,
Having LLPIN No.: AAJ-1557,

Registered Address:

337/1/1/2/2, Gram Dakachy, A,
Tehsil Sanwer, District Indore,
Indore - 453771,
Madhya Pradesh, India.

Administrative Office:

512, 5th Floor, Shekhar Central,

Plot No. 4-5, Manorama Ganj, A.B. Road,
Indore, Madhya Pradesh, India.

... Respondent/Corporate Debtor

Order pronounced on: 17.06.2025

C O R A M :

SH. SHAMMI KHAN, HON'BLE MEMBER (JUDICIAL)

SH. SANJEEV KUMAR SHARMA, HON'BLE MEMBER (TECHNICAL)

A P P E A R A N C E:

For the Applicant/ FC : Mr. Chandrashekhar Chakalabbi, Adv.

For the Respondent/CD : Mr. B.M. Maheshwari, Adv.

O R D E R

1. The present Petition is filed on 26.05.2024 by the Applicant **Drip Capital Inc.** (hereinafter referred to as "**Financial Creditor**") against the Respondent **Eco Gold Nutri & Organics LLP** (hereinafter referred to as "**Corporate Debtor**") under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**IBC, 2016**") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "**IB (AAA) Rules, 2016**") for initiation of Corporate Insolvency Resolution Process (**CIRP**), to appoint Interim Resolution Professional (hereinafter referred to as "**IRP**")

and declare the moratorium for having default in payment of a financial debt of USD 417,674.00, equivalent to Rs. 3,48,50,719/- as on 04.04.2024 @ USD INR exchange Rate of Rs.83.44/-.

2. On perusal of Part-I of the Form-1 revealed that Financial Creditor, Drip Capital Inc., is a company incorporated in the United States with Employer Identification Number 47-1674445, engaged in export financing through the acquisition of receivables on a recourse basis. Its registered office is at 555 Bryant St, #356, Palo Alto, CA 94301, USA, as evidenced by EIN document annexed as Annexure P/1 and Certificate of Incorporation is Annexure P/2. This Petition has been filed through its Manager Legal Ms. Shivani Khairajani, who has been authorised by Board Resolution dated 20.07.2023, which is annexed at

Annexure-P/3

3. On perusal of Part-II of the Form-1 revealed that the Respondent/Corporate Debtor is one Eco Gold Nutri & Organics LLP, is a Limited Liability Partnership incorporated on 13.04.2017 with LLPIN AAJ-1557, engaged in the export

of soya bean products, with its registered office at 337/1/1/2/2, Gram Dakachy, A, Tehsil Sanwer, District Indore - 453771, Madhya Pradesh, India, and an administrative office at 512, 5th Floor, Shekhar Central, Plot No. 4-5, Manorama Ganj, A.B. Road, Indore, Madhya Pradesh. Its total obligation of contribution is Rs. 7,50,000, as per Annexure P/4 (Master Data from MCA website).

4. On perusal of Part-III of the Form-1 reveals that the Financial Creditor has named **Primus Insolvency Resolution & Valuation Private Ltd**, having Registration No. IBBI/IPE-0072/IPA-2/2022-2023/50002, having address: C-4 E/135, Janakpuri, New Delhi 110058 (**e-mail:** info@primusresolutions.in) Mobile No.98100-41074, under section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**). However, as per the details available on the IBBI Website, its **AFA** is not valid as of the date. Therefore, the Tribunal will appoint a new IRP due to the current invalidity if so required.
5. Part-IV of the Form-1 reveals that total dues as claimed by the Financial Creditor is USD 417,674.00, equivalent to Rs.

3,48,50,719/- as on 04.04.2024 @ USD INR exchange Rate of Rs.83.44/-. The initial date of default by the Corporate Debtor is 30.07.2023, when the Corporate Debtor was required to repay the entire outstanding amount due and payable to the Financial Creditor, as per the terms of the Acknowledgement.

6. It is sated that the Financial Creditor and the Corporate Debtor entered into a **Receivable Purchase Factoring Agreement**, referred to as the Master Agreement, on 04.04.2019, **governing the purchase of receivables with recourse to the Corporate Debtor upon non-payment by buyers**, as per Annexure P/5 (**Master Agreement with Letter of Authority**). **The Master Agreement defines a Remedy Event, including non-payment by the Account Debtor, triggering the Financial Creditor's right to demand payment from the Corporate Debtor.** Additional agreements include the Undertaking for Factoring with Recourse dated 04.04.2019 (Annexure P/6), Collateral Management Agreement dated 04.04.2019 (Annexure P/7), and Demand Promissory Note dated 04.04.2019 (Annexure P/8),

establishing the Corporate Debtor's liability for buyer defaults.

7. Between 14.02.2023 and 02.05.2023, the Corporate Debtor assigned six invoices totaling USD 842,520 to the Financial Creditor under Purchase Requests and Deeds of Assignment dated 24.03.2023, 04.04.2023, 14.04.2023, 19.04.2023, and 02.05.2023 (two requests), as per Annexures P/9 (Colly: Invoice EXP/36/22-23), P/10 (Colly: Invoice EXP/37/22-23), P/11 (Colly: Invoice EXP/38/22-23), P/12 (Colly: Invoice EXP/39/22-23), P/13 (Colly: Invoice EXP/40/22-23), and P/14 (Colly: Invoice EXP/44/22-23). The invoices, issued to CapRock Grain, with payment due directly to the Financial Creditor by the specified Invoice Due Dates (24.05.2023 to 07.06.2023). These invoices are: EXP/40/22-23 (USD 84,420), EXP/44/22-23 (USD 84,420), EXP/38/22-23 (USD 168,840), EXP/36/22-23 (USD 168,840), EXP/37/22-23 (USD 168,000), and EXP/39/22-23 (USD 168,000). The Corporate Debtor deposited original bills of lading with the Financial Creditor as collateral, as

required by the Collateral Management Agreement (Annexure P/7).

8. However, CapRock Grain failed to pay the invoices by the due dates, triggering a Recourse Event under Clause 7.2 of the Master Agreement (Annexure P/5) and the Recourse Undertaking (Annexure P/6). The Corporate Debtor informed the Financial Creditor of CapRock Grain's temporary financial difficulties and assured payment, as per email communications dated 16.06.2023 to 23.08.2023 (Annexure P/16). The Corporate Debtor requested the release of the bills of lading to avoid storage costs and risks of destruction under U.S. customs regulations. On 20.06.2023, the Corporate Debtor executed a Deed of Undertaking, acknowledging liability to pay USD 691,318 (USD 302,400 by 01.07.2023 and USD 388,918 plus fees, interest, and charges by 30.07.2023) if CapRock Grain failed to pay, as per Annexure P/15.

9. Based on the Deed of Undertaking (Annexure P/15), the Financial Creditor released the bills of lading to the Corporate Debtor. The Corporate Debtor made partial

payments totalling USD 474,920 between 09.06.2023 and 24.07.2023, as evidenced by the Invoice Schedule (Annexure P/17). The outstanding amount of USD 417,674 (approximately Rs. 3,48,50,719 at an exchange rate of Rs. 83.44 per USD) as on 04.04.2024 remained unpaid, constituting a default. The Financial Creditor issued a Demand cum Default Notice on 23.08.2023, demanding USD 414,193 within seven days (Annexure P/18), followed by a Legal Notice on 15.09.2023 for USD 415,246 (Annexure P/19) and a Follow-on Legal Notice on 28.09.2023 (Annexure P/20). The Corporate Debtor neither paid nor responded to these notices.

10. On 08.01.2024, the Financial Creditor sent an email demanding payment, to which the Corporate Debtor's advocate responded on 17.01.2024, acknowledging liability but requesting time to clear the dues, as per Annexure P/21. The Financial Creditor replied on 29.01.2024, reiterating the demand and offering reassignment of unpaid invoices to the Corporate Debtor upon payment (Annexure P/22). The Corporate Debtor's advocate responded on

03.02.2024, again acknowledging liability and seeking time until March 2024 (Annexure P/23). The outstanding amount, updated to USD 417,674 (approximately Rs. 3,48,50,719 at an exchange rate of Rs. 83.44 per USD) which exceeds the Rs. 1.00 crore threshold under Section 4 of the IBC.

11. The Corporate Debtor on 22.01.2025 filed its reply to the Petition. The Corporate Debtor raises a preliminary objection that Drip Capital Inc. is not a Financial Creditor as the claimed amount does not constitute a "Financial Debt" under Section 5(8)(e) of the IBC. The factoring facilities were provided on a non-recourse basis, excluded from financial debt under Section 5(8)(e). The Corporate Debtor submits that the application is not maintainable and should be rejected with costs.

12. The Corporate Debtor details the factoring facilities availed from Drip Capital Inc. under a Master Agreement dated 04.04.2019, filed by the Financial Creditor as Annexure P/5. Key clauses include Clause 7.1, stating **non-recourse to the Corporate Debtor in case of debtor non-payment due**

to insolvency or protracted default, and Clause 8.1, specifying balance amount payment terms except in case of a Remedy Event, defined in Clause 1.1, filed as Annexure P/5. Clause 16.11 provides that provisions prohibited by law are varied or omitted to comply with the law, filed as Annexure P/5.

13. The Corporate Debtor submits that the factoring facilities were sanctioned on a non-recourse basis as it is an MSME, and Reserve Bank of India (RBI) guidelines dated 02.07.2018, expanded on 07.06.2023, mandate non-recourse factoring for MSMEs, enclosed as Annexure R/4. Simultaneous to the Master Agreement, Drip Capital Inc. executed an "Irrevocable Undertaking for With Recourse Factoring of Receivables" and "Factoring With Recourse Terms and Conditions," filed as Annexure P/5.

14. The Corporate Debtor states that the approved factoring limit on 04.04.2019 was USD 250,000, increased to USD 1,400,000 from 10.11.2020, filed as Annexure P/5. Factoring within the limit was non-recourse, and recourse terms beyond the limit were invalid per RBI guidelines,

enclosed as Annexure R/4. The Corporate Debtor operated within the approved limit, rendering recourse terms inapplicable.

- 15.** The Corporate Debtor submits that Drip Capital Inc. communicated with its bankers and clients regarding the petition, causing the stoppage of factory operations and losses. Copies of communications by Drip Capital Inc. and replies by the Corporate Debtor are enclosed as Annexures R/5 and R/6, respectively. These actions led to the bank raising concerns, resulting in no further liquidity availability.
- 16.** The Corporate Debtor states that Drip Capital Inc. filed a cheque bouncing case in Mumbai Court to harass and pressurize the Corporate Debtor and its promoters, despite the non-recourse factoring. No annexures are referenced in this paragraph.
- 17.** The Corporate Debtor argues that the petition is not maintainable on two grounds: the debt is not a financial debt under Section 5(8)(e) of the IBC, and factoring was

within the approved limit, making recourse terms inapplicable.

- 18.** The Financial Creditor on 11.03.2025 filed a rejoinder to the Reply filed by the Corporate Debtor. The Financial Creditor asserts that the Corporate Debtor's defences lack substantiation and aim to delay proceedings. The Financial Creditor disbursed USD 842,580.00, of which USD 417,674.00 remains outstanding as on 04.04.2024, acknowledged via an Undertaking dated 20.06.2023, with a Demand Notice issued on 23.08.2023. The Corporate Debtor does not dispute the debt, documents, recourse terms, or default, supporting admission of the petition.
- 19.** The Corporate Debtor executed a Receivable Purchase Factoring Agreement, Undertaking for recourse, and Demand Promissory Note, all dated 04.04.2019, and six Purchase Requests dated 24.03.2023 to 02.05.2023 for invoices payable by CapRock Grain. The USD 842,580.00 disbursed constitutes a financial debt under Section 5(8)(e) of the IBC, secured by Original Bills of Lading.

- 20.** The Recourse Terms supersede the Master Agreement. The Corporate Debtor acknowledged USD 691,318.00 liability on 20.06.2023, agreeing to pay USD 302,400.00 by 30.07.2023 and USD 388,918.00 later. Non-payment after the 23.08.2023 Demand Notice constitutes default.
- 21.** The Corporate Debtor received double payments for the invoices from the Financial Creditor and High Caliber Transloading & Storage LLC, with USD 183,000.00 recovered by 03.09.2024 per a Consent Judgment dated 06.06.2024, annexed as Annexure - R/3. Clause 5.2 of the Master Agreement required payment to the Financial Creditor, which was not done. Annexure - R/3 includes the Corporate Debtor's counsel's application.
- 22.** The Financial Creditor's written submission on 22.04.2025 reiterates the recourse nature of the factoring facility, supported by Clauses 3 and 4 of the Recourse Undertaking (Annexure P/6), which define "Recourse Receivables" and "Recourse Event," and the Deed of Undertaking (Annexure P/15), which specifies payment obligations. The Financial Creditor alleges double payment to the Corporate Debtor,

having received USD 842,520 from the Financial Creditor and USD 183,000 from High Caliber Transloading & Storage LLC, as per a U.S. District Court of Maryland consent judgment dated 06.06.2024 (Annexure R/3 of Rejoinder), violating Clause 5.2 of the Master Agreement (Annexure P/5), which requires such proceeds to be held in trust. The Financial Creditor rejects the applicability of TReDS guidelines, as the transaction was not conducted on a TReDS platform, and denies the Corporate Debtor's counterclaim of USD 323,719.

- 23.** The Corporate Debtor's written submission on 22.04.2025 reiterates that Clause 7.1 of the Master Agreement (Annexure P/5) applies due to CapRock Capital LLC's insolvency, excluding the debt from financial debt under Section 5(8)(e). The Corporate Debtor denies liability under the Recourse Undertaking (Annexure P/6), claiming it applies only to receivables beyond the USD 1,400,000 limit. The Corporate Debtor submits that the Deed of Undertaking (Annexure P/15) was administrative to release bills of lading and does not supersede the Master Agreement. The

Corporate Debtor claims an excess payment of USD 140,719 to the Financial Creditor after adjusting USD 183,000 received from High Caliber, and cites RBI guidelines mandating non-recourse factoring for MSMEs (Annexure R/1). The Corporate Debtor alleges financial distress due to the Financial Creditor's communications (Annexures R/5, R/6) and notes no default record exists with NeSL, as per Annexure P/24.

24. The Financial Creditor relies on the following judgments:

- Drip Capital Inc. vs. Shivani Trendz Pvt. Ltd. (NCLT Mumbai, 07.09.2021: Admitted CIRP for a recourse factoring debt of USD.
- Drip Capital Inc. vs. Janshank Impex Pvt. Ltd. (NCLT Court-I Ahmedabad, 02.08.2021): Confirmed recourse debt of USD.
- Drip Capital Inc. vs. Concord Creations (India) Pvt. Ltd. (NCLAT Chennai, 08.11.2021: Overturned NCLT dismissal, holding that recourse debt qualifies as financial debt under Section 5(8)(e).
- Drip Capital Inc. vs. Sun Bio Naturals (India) Pvt. Ltd. (NCLT Chennai, 06.06.2023): Admitted CIRP for USD, rejecting partial payment defence.
- Drip Capital Inc. vs. Al Saqib Exports Pvt. Ltd. (NCLT New Delhi, 23.05.2023: Admitted CIRP for USD, confirming recourse debt.

25. The Corporate Debtor relies on the following judgments: -

- Canbank Factors Ltd. vs. Metrochem API Pvt. Ltd. (NCLT Hyderabad, 28.09.2022, Annexure R/7), which dismissed a petition, holding that recourse factoring places liability on the assignor, not the debtor, and non-recourse factoring is excluded from financial debt under Section 5(8)(e). The judgment references:
- Phoenix ARC Private Limited vs. Spade Financial Services Limited (2021 SCC Online SC 51): Financial debt requires disbursal and time value of money.
- Swiss Ribbons Pvt. Ltd. vs. Union of India: Distinguishes financial and operational debt.
- Pioneer Urban Land and Infrastructure Ltd. vs. Union of India: Defines disbursal as payment from a fund.
- Factoring Regulation Act, 2011, and RBI Circular dated 30.07.2015: Define recourse and non-recourse factoring.

26. We have heard Ld. Counsel for the Financial Creditor as well as Ld. Counsel for the Corporate Debtor and perused the material available on record. The following issues arise for determination: -

- (a)** Whether the debt claimed by the Financial Creditor constitutes a **Financial Debt** under Section 5(8)(e) of the Insolvency and Bankruptcy Code, 2016?
- (b).** Whether a **Default** has occurred by the Corporate Debtor, entitling the Financial Creditor to initiate the Corporate Insolvency Resolution Process under Section 7 of IB Code?

- (c). Whether the petition is **maintainable** in light of the Corporate Debtor's objections regarding non-recourse factoring, arbitration, and RBI guidelines?
- (d). Whether the Financial Creditor has complied with procedural requirements under the Insolvency and Bankruptcy Code, 2016?

27. On the first issue of Financial Debt: Section 5(8)(e) of the IBC defines financial debt to include receivables sold or discounted on a recourse basis. The Master Agreement (Annexure P/5) provides for recourse against the Corporate Debtor upon a Remedy Event, such as non-payment by the buyer, as per Clause 7.2. The Recourse Undertaking (Annexure P/6) explicitly states in Clauses 3 and 4 that the Corporate Debtor is liable for Recourse Receivables upon a Recourse Event, including buyer non-payment. The Deed of Undertaking dated 20.06.2023 (Annexure P/15) further confirms the Corporate Debtor's liability to pay USD 691,318, with specific timelines (USD 302,400 by 01.07.2023 and USD 388,918 plus charges by 30.07.2023). The Corporate Debtor's advocate letters dated 17.01.2024 and 03.02.2024 (Annexures P/21, P/23) acknowledge liability, stating awareness of responsibility to clear dues.

28. The Corporate Debtor's reliance on Clause 7.1 of the Master Agreement (Annexure P/5), which provides no recourse in cases of debtor insolvency or protracted default, is countered by the Recourse Undertaking (Annexure P/6) and Deed of Undertaking (Annexure P/15), which govern the specific invoices. The Recourse Undertaking applies to non-payment events, not limited to amounts exceeding the USD 1,400,000 factoring limit, as evidenced by the Purchase Requests and Deeds of Assignment (Annexures P/9 to P/14). The Corporate Debtor's MSME status (Annexure R/3) and RBI guidelines (Annexure R/4) do not mandate non-recourse factoring, as the transaction was not conducted on a TReDS platform, and the Factoring Regulation Act, 2011, permits recourse factoring. The debt of USD 417,674.00, equivalent to Rs. 3,48,50,719/- qualifies as financial debt under Section 5(8)(e) of the IB Code, 2016.

29. On the second issue of Default: A default is established by the Corporate Debtor's failure to pay the outstanding amount after partial payments of USD 417,674.00, equivalent to Rs. 3,48,50,719/-, as per Annexure P/17. The

Demand cum Default Notice dated 23.08.2023 (Annexure P/18) demanded USD 414,193, followed by legal notices dated 15.09.2023 and 28.09.2023 (Annexures P/19, P/20). The Corporate Debtor's advocate letters (Annexures P/21, P/23) admit liability but cite financial constraints, confirming non-payment. The double payment issue, where the Corporate Debtor received USD 842,520 from the Financial Creditor and USD 183,000 from High Caliber Transloading & Storage LLC (Annexure R/3 of Rejoinder), violates Clause 5.2 of the Master Agreement (Annexure P/5), requiring proceeds to be held in trust. The USD 183,000 was not remitted to the Financial Creditor, and the Corporate Debtor's claim of an excess payment of USD 140,719 (Annexure R/3) is unsustainable, as the outstanding debt of USD 417,674 remains unpaid after partial payments, as per Annexure P/17.

30. On the third issue of maintainability: The Corporate Debtor's objections are addressed as follows: -

- a. Non-Recourse Claim: The recourse nature is established by the agreements (Annexures P/5, P/6, P/15), overriding Clause 7.1 for the invoices in question.

- b. Arbitration Clause: Clause 17.2 of the Master Agreement (Annexure P/5) is not a bar, as Section 7 of the IBC prevails when debt and default are proven, per Drip Capital Vs. Concord Creations (NCLAT Chennai, 09.11.2021, Annexure D-5).
- c. RBI Guidelines: TReDS guidelines (Annexure R/4) are inapplicable, as the transaction was not on a TReDS platform. The Corporate Debtor's reliance on Canbank Factors (Annexure R/7) is distinguishable, as it involved recourse against the assignor, whereas here, the Corporate Debtor is the assignor with recourse liability.
- d. ECGC and NeSL: The ECGC claim rejection (Annexure R/2) and NeSL filing (Annexures P/24: Drip Capital email dated 04.11.2024, Respondent's response dated 14.11.2024) do not negate the recourse agreements. The Corporate Debtor's financial distress claims (Annexures R/5, R/6) and cheque bouncing case are irrelevant to the debt's existence.

31. On the fourth issue of compliance with procedural requirements: The Financial Creditor has complied with procedural requirements. The petition, filed on 26.05.2024, includes Annexure II (Form-2 by proposed Interim Resolution Professional), Annexure III (Proof of application fee dated 05.04.2024), Annexure IV (Proof of service to

Corporate Debtor and IBBI), and Annexure V (Affidavit verifying the application). The application is within the limitation period under Article 137 of the Limitation Act, 1963, as the default occurred on 30.07.2023 (Annexure P/15), and the Corporate Debtor's acknowledgments of liability dated 17.01.2024 and 03.02.2024 (Annexures P/21, P/23) extend the limitation period under Section 18 of the Limitation Act, 1963.

- 32.** The Financial Creditor's precedents, particularly Drip Capital vs. Sun Bio Naturals (NCLT Chennai, 06.06.2023, Annexure E-5) and Drip Capital vs. Al Saqib Exports (NCLT New Delhi, 23.05.2023, Annexure F-5), confirm that recourse factoring constitutes financial debt under Section 5(8)(e). The Corporate Debtor's reliance on Canbank Factors Ltd. vs. Metrochem API Pvt. Ltd. (NCLT Hyderabad, 28.09.2022, Annexure R/7) is inapplicable. In Canbank, the recourse was against a third-party assignor, and the debt was deemed non-financial due to the absence of direct liability. Here, the recourse agreements (Annexures P/6, P/15) explicitly establish the Corporate Debtor's liability for

non-payment by the buyer, supported by the Deed of Undertaking (Annexure P/15) and advocate acknowledgments (Annexures P/21, P/23), aligning with Section 5(8)(e).

- 33.** The Tribunal finds that the Financial Creditor has established a financial debt of USD 417,674.00, equivalent to Rs. 3,48,50,719/- and a default under Section 7(5)(a) of the IBC. The petition is maintainable, and the Corporate Debtor's objections are unsustainable.
- 34.** The present application is complete in terms of Section 7 (5) of the Code. The Financial Creditor is entitled to claim its dues, establishing the default in payment of the financial debt beyond doubt. The outstanding financial debt is of more than rupees one crore, which meets the threshold limit as per section 4 of the Code and is well within the limitation for filing the present application. Moreover, the default, occurring on 30.07.2023 (Annexure P/15), is not covered under Section 10A of the IBC, 2016, as it falls outside the exempted period of 25.03.2020 to 25.03.2021.

35. Hence, the Petition filed under Section 7(2) of the Insolvency and Bankruptcy Code, 2016, satisfies the conditions under Section 7(5)(a) and deserves to be admitted for initiation of the Corporate Insolvency Resolution Process against the Respondent/Corporate Debtor.

36. Accordingly, in light of the above facts and circumstances, it is **hereby ordered** as under: -

- (i) The Respondent/Corporate Debtor **Eco Gold Nutri & Organics LLP** is **admitted** in Corporate Insolvency Resolution Process (**CIRP**) under section 7 of the IBC, 2016.
- (ii) As a consequence thereof, a moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code.
 - 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 Securitisation 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.*
- e. *The provisions of sub-Section (1) shall however, not apply to such transactions, agreements 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. The moratorium does not apply to transactions notified by the Central Government, as per Section 14(3)(a) of the IB Code, 2016.*

- (iii) The order of moratorium under section 14 of the Code shall come to effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of section 31 or passes an order for liquidation of the Corporate Debtor under Section 33 of the IBC 2016, as the case may be.
- (iv) However, in terms of Section 14(2) to 14(3) of the Code, the supply of essential goods or services to the Corporate Debtor as may be specified, if continuing, shall not be terminated or suspended, or interrupted during the moratorium period.
- (v) Since the **AFA** of the proposed IPE is not valid as of the date, as per the details available on the IBBI Website. Therefore, we appoint **Anand Mohan Pandeya**, having Registration No. IBBI/IPA-002/IP-N01243/2022-

2023/14223, **e-mail:** anand_pandeya@yahoo.com, Mobile No.9860937000 under Section 13 (1)(c) of the Code to act as Interim Resolution Professional (**IRP**) subject to submission of written consent and declaration, within three days, in terms of Regulation 3(1) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. He shall conduct the Corporate Insolvency Process as per the Insolvency and Bankruptcy Code, 2016 r.w. Regulations made thereunder.

- (vi) The IRP so appointed shall make a public announcement (e.g., newspapers, websites) under Regulation 6(2) of IBBI Regulations, 2016, of the initiation of the Corporate Insolvency Resolution Process and call for submissions of claims under section 15 within three days of appointment as per Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as required by Section 13(1)(b) of the Code.
- (vii) The IRP shall perform all his functions as contemplated, *inter-alia*, by sections 17, 18, 20 and 21 of the Code. It is further made clear that all personnel connected with the Corporate Debtor, its promoters, or any other person associated with the management of the Corporate Debtor are under legal obligation as per section 19 of the Code to extend every assistance and cooperation to the IRP. Where any personnel of the

Corporate Debtor, its promoters, or any other person required to assist or co-operate with IRP, do not assist or cooperate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.

- (viii) The IRP is expected to take full charge of the Corporate Debtor's assets and documents without any delay whatsoever within seven days of this order. He is also free to take police assistance in this regard, and this Court hereby directs the Police Authorities to render all assistance as may be required by the IRP in this regard.
- (ix) The IRP shall be under a duty to protect and preserve the value of the property of the 'Corporate Debtor company' and manage the operations of the Corporate Debtor company as a going concern as a part of the obligation imposed by section 20 of the Code.
- (x) The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority a periodical report with regard to the progress of the CIRP in respect of the Corporate Debtor.
- (xi) We direct the Financial Creditor to pay IRP a sum of **Rs.5,00,000/- (Rupees Five Lakh Only)** in advance within a period of 7 days from the date of this order to meet the cost of CIRP arising out of issuing public

notice and inviting claims etc. till the CoC decides about his fees/expenses. The payment shall be made to a designated bank account to be provided by the IRP within three days of appointment, and this amount shall be adjustable against the IRP's fees as approved by the Committee of Creditors under Regulation 33 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- (xii) The Registry is directed to communicate this order to the Financial Creditor, Corporate Debtor, and to the Interim Resolution Professional, the concerned Registrar of Companies and the Insolvency and Bankruptcy Board of India after completion of necessary formalities, within seven working days and upload the same on the website immediately after pronouncement of the order. The Registrar of Companies shall update the Master Data of the Corporate Debtor on the MCA portal to reflect its status as 'under Corporate Insolvency Resolution Process' pursuant to this order and shall forward the compliance report to the Registrar, NCLT.
- (xiii) The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.

37. Accordingly, this Petition being **CP(IB)/50/MP/2024** is hereby admitted. A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

Sd/-
SAJEEV KUMAR SHARMA
MEMBER (TECHNICAL)

Sd/-
SHAMMI KHAN
MEMBER (JUDICIAL)