

NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI

Item No. P-1
C.P. (IB)1203/MB/2025

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **20.01.2026**

NAME OF THE PARTIES: DRIP CAPITAL INC

Vs.

ALBYS AGRO PRIVATE LIMITED

Under Section 7 of the IBC.

ORDER

The case is fixed for the pronouncement of the order. The order is pronounced in the open court, *vide* separate order. A detailed order is being uploaded on the NCLT portal today.

Sd/-

SAMEER KAKAR
MEMBER (TECHNICAL)

//SJ//

Sd/-

NILESH SHARMA
MEMBER (JUDICIAL)

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/1203/MB/2025

[Under Section 7 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]

DRIP CAPITAL INC

[EIN Assigned No.: 47-1674445]

555, Bryant Street #356, Palo Alto ,CA 94301

United States Of America

...Financial Creditor

V/s

ALBYS AGRO PRIVATE LIMITED

[CIN No.: U01403GA2010PTC006442]

Plot No. 2/1 To 2/6, Sanguem Industrial Estate

Sanguem Xelpem, South Goa, Goa - 403704

...Corporate Debtor

Pronounced: 20.01.2026

CORAM:

HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)

HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

For Applicant: Paradigm Law Associates

For Respondent: Adv. Supriya Majumdar

ORDER

[PER: CORAM]

1. BACKGROUND

1.1 This C.P. (IB) No.1203/MB/2025 (Application) was filed on 06/11/2025 by Drip Capital Inc, the Financial Creditor (FC), under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of M/s Albys Agro Private limited, the Corporate Debtor (CD) having CIN No.: U01403GA2010PTC006442

1.2 This Application has been affirmed by one Mrs. Soumyadri Chattopadhyay, authorised signatory of the Applicant through board resolution dated 1st November 2024.

1.3 As per Part IV of the Application, the default amount under the Agreement is USD 180,057.00 (US Dollar One Hundred and Eighty Thousand and Fifty-Seven Only) approximately equivalent to Rs 1,59,83,660/- (One Crore Fifty-Nine Lakh Eighty-Three Thousand Six Hundred and Sixty) @ USD - INR rate of 88.77 and the date of default is 20.05.2025

1.4 The Applicant has proposed Primus Insolvency Resolution & Valuation Private Limited, having Registration No. IBBI/IPE-0072/IPA-2/2022-23/50002, to act as the Interim Resolution Professional (IRP).

2. CONTENTIONS OF APPLICANT (FC)

2.1 The Financial Creditor is an offshore company based out of Delaware, USA is engaged in 'Factoring Business'.

2.2 The financial creditor submits that a Receivables Purchase Agreement dated 21.09.2023 was executed between the Financial Creditor and Corporate Debtor for availing Export Factoring Facility. The Financial Creditor advanced an aggregate amount of USD 262,759.00(USD Two Hundred and Sixty-Two Thousand Seven Hundred and Fifty-Nine only) to Corporate Debtor towards assignment of its 3 Invoices.

2.3 The financial creditor submits that the aforesaid amount to the tune of USD 262,759.00 (USD Two Hundred and Sixty-Two Thousand Seven Hundred and Fifty-Nine only) was disbursed to Corporate Debtor pursuant to the Agreement and Purchase Request Letters issued by the Corporate Debtor in favour of Financial Creditor as under:(Copy of invoices are attached as exhibit – to the petition)

| Purchase Request Letter | Disbursement Date | Disbursement Amount (in USD) |
|--------------------------------|------------------------------|-------------------------------------|
| 22-01-2025 | 22-01-2025 | 82,332.00 |
| 10-03-2025 | 10-03-2025 | 101,567.00 |
| 17-03-2025 | 17-03-2025 | 78,840.00 |
| | Total Amount (In USD) | 262,759 |

2.4 The Financial Creditor submits that as per the Agreement and irrevocable deed of Undertaking provided by Corporate Debtor , the Corporate Debtor executed Purchase Request and Deed of Assignment in favour of Financial Creditor towards assignment of 3 invoices ("Invoices") raised by Corporate Debtor. The Corporate Debtor also provided an In- Transit Undertaking and

No Objection Certificate for change of consignee, in favour of Financial Creditor. The Corporate Debtor deposited the Original Bill of Lading ("OBL") with Financial Creditor. The Financial Creditor was required to release the OBL to the buyer/account debtor only against receipt of payments.

2.5 The Financial Creditor submits that as per the definition of 'Commercial Dispute' and 'Dilution', read with 'Event of Default' and clause 7.2 and 7.3 of the Agreement, the Financial Creditor has full recourse against the Corporate Debtor in case of occurrence of, either of the following:

- i. non-payment of any Invoices to Financial Creditor within Invoice Due Date;
- ii. Commercial Dispute asserted by Account Debtor; or
- iii. Direct Payment of Invoices to Corporate Debtor

2.6 The Financial Creditor submits that the first invoice became due on 16/03/2025, that remained unpaid to Financial Creditor. Thereafter other invoices also became due on 06/05/2025, all of which remained unpaid to the Financial Creditor on Invoice Due Date.

2.7 The Financial Creditor issued default cum demand notice vide its letter dated 24.04.2025 for repayment of Outstanding Receivables (financial debt) under the overdue Invoices.

2.8 The financial creditor submits that certain additional invoices also became due, therefore in order to grant another opportunity to make payment under the Demand Notice, the Financial Creditor again exercised recourse on Corporate Debtor by sending legal notice through its advocates, dated 13/05/2025 to Corporate Debtor demanding payment of the Default Amount.

However, the Corporate Debtor failed to repay the default amount to Financial Creditor till date.

2.9 The Financial Creditor further states that in response to said Legal Notice, the Corporate Debtor expressly admitted its liability to pay the balance amounts to Financial Creditor vide their email dated 17/05/2025 and committed that it shall pay the outstanding amounts within 22/05/2025. In furtherance, to its acknowledgement of liability, the Corporate Debtor also made a part payment of USD 111,480.00 (US Dollar One Hundred and Eleven Thousand Four Hundred and Eighty only) to the Financial Creditor. The Financial Creditor adjusted the said amounts towards part payment of the outstanding amounts under the Invoices.

2.10 The Financial Creditor again sent 2nd Notice of Default cum Demand and exercised recourse on Corporate Debtor, and called upon the Corporate Debtor to pay the outstanding amounts (Financial Debt). However, till date the balance outstanding amounts remained unpaid to Financial Creditor, either by the buyer or Corporate Debtor.

2.11 The Financial Creditor states that continuous follow ups were taken with the Corporate Debtor however till date the balance outstanding amounts remained unpaid to Financial Creditor. The Corporate Debtor has failed to repay the admitted outstanding amounts to Financial Creditor, and therefore the Corporate Debtor is in default of its acknowledged obligations to pay its financial debt due to the Financial Creditor.

2.12 Given the above facts, it is clear that the CD has failed to repay the financial debt owed to the Applicant.

2.13 The Applicant has attached the following documents along with the Application:

- a. Copy of EIN Assignment documents with certificate of incorporation
- b. Authorisation letter of Soumyadri Chattpadhyaya
- c. Master data of the corporate debtor
- d. Copy of invoices
- e. Copy of receivable purchase agreement
- f. Copy of Irrevocable Deed of Undertaking
- g. Copies of email communication dated 13/05/2025 to 02/06/2025 including acknowledgement
- h. Copies of 3 Invoices containing necessary details together with respective copies of Purchase Order, Packing List, bill of lading and Shipping Bill
- i. copy of transaction details evidencing disbursement
- j. copy of legal notice dated 13/05/2025
- k. copy of default cum demand notice dated 24/04/2025 and 03/06/2025
- l. copy of record of default
- m. Computation relating to the default amount and days of default.

3. Reply by the corporate debtor

3.1 The affidavit in reply dated 12.12.2025 was filed by the respondent through Mr. Piyush Jari, who is stated to be an authorized signatory vide board resolution.

3.2 The Corporate Debtor submits that it is a registered MSME , engaged in the business of aquaculture and seafood export.

3.3 Further, corporate debtor submits that it had availed credit facilities from Saraswat Bank but due to default the same has been declared NPA and the bank has invoked SARFAESI provisions against the corporate debtor.

3.4 The Corporate Debtor submits that a payment of USD 111,480 has been made to the Financial Creditor however despite all efforts, certain dues remained to be paid for reasons which are beyond the control of the Corporate Debtor.

3.5 The Corporate Debtor submits that it is admitted position that there is default of over Rs. 1 crore owed to the petitioner and the he is unable to pay the same.

3.6 The corporate debtor submits that he has already filed application under section 10 of the insolvency and bankruptcy code being Company Petition 996 of 2025 with a hope of revival of business and resolution of debts. The company petition is pending for hearing .

3.7 Further, Corporate Debtor submits that he has no objection to initiation of insolvency proceedings against itself.

4. ANALYSIS AND FINDINGS

4.1. We have perused the documents as placed before us and heard the Ld. Counsels for the Applicant and the corporate Debtor.

4.2. The present application is being filed under section 7 of the Insolvency and Bankruptcy Code 2016 for a default of USD 180,057.00 (US Dollar One

Hundred and Eighty Thousand and Fifty-Seven Only) approximately equivalent to INR 1,59,83,660/- (One Crore Fifty-Nine Lakh Eighty-Three Thousand Six Hundred and Sixty only) @ USD - INR rate of 88.77 and date of default is 20/05/2025 as per part IV of the application. The evidentiary record placed before us includes NeSL report in Form D, Details of unpaid outstanding, Receivables Purchase Agreement, copies of invoices, Demand Notices and email correspondence of Acknowledgement.

4.3. The disbursement was done on 22.01.2025, 10.03.2025 & 17.03.2025 with an amount of USD 82332, USD 101587 & USD 78840 respectively which can be proved by the Exhibit – K as attached in the petition.

4.4. Perusal of the NeSL record of default reveals that the same is in a “deemed to be authenticated” status. The default amount is USD 162431 and the date of default is 06.06.2025 which clearly show that CD is in default for an amount of more than Rupees One Crore with the minor variation in the defaulted amount and the date of default as per application and in NeSL form D which can be ignored as in any case the outstanding default is more than Rs 1 crore and the debt falls within the limitation period.

4.5. The corporate debtor has stated that an application under section 10 has already been filed and the same has been pending for hearing.

4.6. The corporate debtor vide its reply admits that there is a default of dues over Rs 1 crore to the petitioner and there is no objection for initiation of insolvency proceedings. The relevant paragraph is reproduced as below.

“4. Further, due to increase in tariff on Indian exports by the United States of America and the erratic monsoons which affected the shrimp

culture, the Corporate Debtor faced continuous setback in business, resulting in its consignments and payments being stuck. I say that on account of multiple defaults, Saraswat Bank, classified the account of the Corporate Debtor as an NPA with effect from 28.05.2025 As of 30.06.2025, the financial debt claimed to be in default by Saraswat Bank amounted to Rs. 57.08 Crores. I say that Saraswat Bank has also invoked provisions of the SARFAESI Act, 2002 in respect of the movable and immovable assets of the Corporate Debtor, including perishable stock of shrimps, which have been deteriorating in value with every passing day. I have approached the Bank seeking consent to sell off the stocks to interested buyers to retain the present value of the stock, for better recovery of the dues of the Bank. However, I have not received any favourable response in respect thereof. Thus, the Corporate Debtor has made all plausible efforts to repay its creditors and there is no deliberate delay or negligence in refusing payment. However, it is an admitted position that there is a default of over Rs. 1 crore owed to the Petitioner and the Corporate Debtor is unable to pay the same".

"6. In the above circumstances, I say that the Corporate Debtor has no objection to initiation of insolvency proceedings. The above facts and documents may be considered to pass appropriate orders in the present matter".

4.7. Further the Hon'ble Supreme Court in the case of **Innoventive Industries Limited v. ICICI Bank Limited**, (Civil Appeal Nos. 8337-8338 of 2017) (2017) 8SCR 33 has discussed extensively the scope of the power of the Adjudicating

Authority under section 7 of the IBC and has held that the same is limited to assessing the records provided by the financial creditor to satisfy itself that the default exceeding the threshold of Rs One Crore has occurred. The relevant portion of the said Judgment is reproduced below:

“28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor – it need not be a debt owed to the applicant financial creditor. Under Section 7(2), an application is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the

stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the “debt”, which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. 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. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.

.....

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”.

4.8. In view of the above discussion, the Applicant has successfully demonstrated the existence of a financial debt as the transaction involves financing of

receivables sold / discounted with recourse basis under section 5(8)(e), the occurrence of default, and the continuing nature of such default, all supported by clear documentary evidence and multiple admissions by the CD.

4.9. Applicant has also proposed the name of an Insolvency Professional Entity (IPE) i.e Primus Insolvency Resolution & Valuation Pvt Ltd as the proposed IRP, and as per the Form 2 attached along with the Application, no disciplinary proceedings are going on against the said IPE. Further, this Application is complete as all the required documents have been attached along with the Application. Accordingly, the present Application is fit for admission under Section 7 of the IBC, 2016.

4.10. We make it clear that at this stage we have not crystallised the amount as claimed in this Application; the same is left to be collated by the IRP.

ORDER

In view of the aforesaid findings, this Application bearing C.P. (IB) 1203/MB/2025 filed under Section 7 of IBC, 2016, by Drip Capital INC, the Applicant (FC) for initiating CIRP in respect of **Albys Agro Private Limited** having CIN No. U01403GA2010PTC006442, the CD, is **admitted**.

We further declare a moratorium under Section 14 of IBC, 2016 with consequential directions as mentioned below:

I. We prohibit:

a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor, including the 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, and;
- d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.

III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the IBC or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.

IV. That the public announcement of the CIRP shall be made immediately as specified under Section 13 of the IBC read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.

V. That this Bench hereby appoints **Primus Insolvency Resolution & Valuation Private Limited**, having Registration No. as **IBBI/IPE-0072/IPA-2/2022-23/50002**, , and e-mail address

neha@primusresolutions.in, having valid Authorisation for Assignment

up to 30.06.2026 as the IRP to carry out the functions under the IBC.

VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.

VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the IBC. The officers and managers of the Corporate Debtor are directed to provide all assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. Coercive steps will follow against them under the provisions of the IBC read with Rule 11 of the NCLT Rules for any violation of law.

VIII. That the IRP/IP shall submit to this Tribunal monthly reports with regard to the progress of the CIRP in respect of the Corporate Debtor.

IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Financial Creditor is directed to deposit a sum of Rs.3,00,000/- (Three Lakh Rupees) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Financial Creditor on priority upon the funds becoming available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.

X. A copy of this Order be sent to the Registrar of Companies, Goa for updating the Master Data of the Corporate Debtor.

XI. The IRP is directed to issue notice of Admission upon all the statutory authorities of Corporate debtor without Fail

XII. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.

XIII. The Registry is directed to immediately communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.

XIV. Compliance report of the order by Designated Registrar is to be submitted today.

Sd/-

**SAMEER KAKAR
MEMBER (TECHNICAL)**

//SJ//

Sd/-

**NILESH SHARMA
MEMBER (JUDICIAL)**