NATIONAL COMPANY LAW TRIBUNAL
CUTTACK BENCH
CP (IB) No. 43/CB/2026

(An application filed u/s 10 of Insolvency and Bankruptcy Code, 2016)

IN THE MATTER OF:

M/s. MABELLO DOORS AND FURNITURE PRIVATE LIMITED
AT-Haradanga, Near Vairabi Temple,
PO: Kanisi, Dist: Ganjam, Pin-761008 ..... **CORPORATE APPLICANT**

VERSUS

INDIAN BANK
At: Fire Station Road, Berhampur,
Dist: Ganjam-760001, Odisha ..... **RESPONDENT**

ORDER PRONOUNCED ON: 04.11.2026

CORAM: CHEEKATI RADHA KRISHNA, MEMBER (JUDICIAL)
BANWARI LAL MEENA, MEMBER (TECHNICAL)

APPEARANCE:

FOR APPLICANT: MR. GOPINATH NAYAK,
CS MS. POOJA SONI, CS.

FOR RESPONDENT: MR. AJIT KUMAR MOHAPATRA, ADV.
MR. SUBHAM AGARWAL, ADV. FOR INDIAN BANK

ORDER

PER: BANWARI LAL MEENA, MEMBER (TECHNICAL)

1. The instant application has been filed by **Mabello Doors and Furniture Private Limited** (hereinafter referred to as the **"Corporate Applicant/CA"**) under Section 10 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the **"IBC/Code"**) read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as the **"Adjudicating Authority Rules"**), seeking initiation of Corporate Insolvency Resolution Process (hereinafter referred to as **"CIRP"**) of itself on account of its inability to repay its debts and the alleged default of **Rs. 7,78,35,499/-**.

2. The Corporate Applicant was incorporated as a private limited company on **12.11.2020** under the provisions of the Companies Act. The Corporate Applicant is stated to be engaged in the business of doors and furniture.

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The Corporate Applicant has filed the present Application seeking initiation of CIRP of itself with a view to save, revive and rehabilitate its business and assets under the provisions of the Code. The Corporate Applicant has relied upon the Extraordinary General Meeting Resolution dated 15.05.2026 as the document authorising initiation of the CIRP proceedings.

SUMMARY OF PLEADINGS

3. The submissions made by the Corporate Applicant are summarized hereunder:

3.1. The Corporate Applicant submitted that it had availed financial facilities from the Respondent Bank and that the financial operations/debt in question commenced on 06.08.2022, being the date of creation of charge, with the charge subsequently modified on 13.09.2023. The Corporate Applicant has stated that an amount of Rs. 7,78,35,499/- is outstanding in default.

3.2. The Corporate Applicant submitted that the Respondent Bank initiated proceedings against the Corporate Applicant under the provisions of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as the "SARFAESI Act"). It is alleged that the Respondent Bank published a notice in the daily newspaper "The Statesman" dated 22.11.2025, whereby the property of the Corporate Applicant was sought to be dealt with as property allegedly mortgaged in connection with the loan account, notwithstanding the contention of the Corporate Applicant that no valid security interest had been created over the said property.

3.3. The Corporate Applicant further submitted that the Respondent Bank did not register the alleged security interest with the Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI), as contemplated under Section 26-D of the SARFAESI Act.

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It is further alleged that the Respondent Bank issued a second demand notice dated 09.09.2025, without revoking the earlier demand notice dated 12.11.2024, and thereafter proceeded with the alleged possession proceedings in respect of the property of the Corporate Applicant.

3.4. The Corporate Applicant submitted that the Respondent Bank thereafter published another notice in the daily newspaper "The Statesman" dated 06.12.2025, whereby the property allegedly mortgaged to the Corporate Applicant was sought to be put to auction, fixing the date of auction as 15.01.2026. According to the Corporate Applicant, the actions undertaken by the Respondent Bank were arbitrary and were carried out without following the procedure prescribed under the SARFAESI Act and the rules framed thereunder.

3.5. The Corporate Applicant further submits that the action of the Respondent Bank in taking possession of the purported mortgaged property has been challenged by it on the ground that the procedure adopted by the Respondent Bank was contrary to the principles of natural justice, equity and fair play and was also in violation of the statutory requirements relating to service, affixation and publication of notices prescribed under the SARFAESI Act.

3.6. It is further submitted by the Corporate Applicant that the Respondent Bank has not issued or served any possession notice upon it and has failed to comply with the requirements of Rule 8 of the Security Interest (Enforcement) Rules, 2002. According to the Corporate Applicant, on account of such alleged non-compliance, the proceedings undertaken by the Respondent Bank are liable to be declared null and void.

3.7. The Corporate Applicant submitted that under Rule 8(6) of the Security Interest (Enforcement) Rules, 2002, the borrower is required to be given clear 30 days' notice before the secured asset is put to sale

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by public auction or other mode of sale. It is stated that although the Respondent Bank published the auction notice on 06.12.2025, fixing the date of auction as 15.01.2026, the notice under Rule 8(6) was received by the Corporate Applicant only on 08.12.2025. The Corporate Applicant therefore contends that the mandatory period of 30 clear days was not duly complied with before proceeding towards the auction.

3.8. The Corporate Applicant further submitted that the Respondent Bank has failed to register the alleged security interest with the Central Registry as required under Section 26-D of the SARFAESI Act. On this basis, the Corporate Applicant contends that the actions taken by the Respondent Bank in enforcement of the alleged security interest are illegal and void ab initio.

3.9. The Corporate Applicant also submitted that the Respondent Bank failed to comply with the notification dated 29.05.2015 issued by the Central Government and further alleges violation of the provisions of Section 9 of the Micro, Small and Medium Enterprises Development Act, 2006 (MSMED Act) and Sections 21 and 35-A of the Reserve Bank of India Act. According to the Corporate Applicant, the Respondent Bank declared the loan account as NPA without undertaking the requisite process for revival or rehabilitation of the Corporate Applicant as an MSME unit.

3.10. It is further submitted that the Corporate Applicant had approached the Debts Recovery Tribunal, Cuttack, seeking protection of its properties from the alleged illegal possession proceedings initiated by the Respondent Bank and to safeguard its rights in respect of the property in question.

3.11. The Corporate Applicant submitted that notwithstanding the financial difficulties and the proceedings initiated by the Respondent Bank, its business has the potential to be revived and rehabilitated.

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It is stated that the Corporate Applicant has an excellent track record and possesses the necessary infrastructure for the smooth functioning of its business. According to the Corporate Applicant, its business and properties can be saved and revived under the framework provided under the Code.

4. Upon perusal of the record, it is observed that the Corporate Applicant has filed an Additional Affidavit along with certain additional documents, seeking to place the same on record. The said Additional Affidavit has been filed pursuant to the observations/directions of this Adjudicating Authority during the hearing dated 17.06.2026, inter alia, for bringing on record the specific date of default, which was inadvertently not mentioned in the Main Application. The Corporate Applicant has stated that the date of default is 09.09.2025 and has annexed the relevant document in support thereof as Annexure-A. Since the said Additional Affidavit and the accompanying documents are relevant for proper adjudication of the present Application, the same are taken on record.

5. The submissions made by the Respondent Bank in its Reply Affidavit are summarised hereunder:

5.1. The Respondent Bank submitted that the present Application under Section 10 of the Code is misconceived and has not been filed bona fide, but has been instituted at a belated stage with the alleged intention of frustrating and stalling the recovery proceedings initiated by the Respondent Bank under the SARFAESI Act, 2002.

5.2. The Respondent Bank denies the allegations of the Corporate Applicant regarding non-compliance with the provisions of the SARFAESI Act and the Security Interest (Enforcement) Rules, 2002 (hereinafter referred to as the "SARFAESI Rules") and submits that all requisite statutory measures were undertaken in accordance with law.

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5.3. It was submitted that the loan account of the Corporate Applicant was classified as a Non-Performing Asset (NPA) on 08.09.2025 in accordance with the applicable regulatory norms and the records maintained by the Respondent Bank. Thereafter, upon the Corporate Applicant committing default in repayment of the secured debt, the Respondent Bank issued a demand notice dated 09.09.2025 under Section 13(2) of the SARFAESI Act, calling upon the Corporate Applicant to discharge its outstanding liability within the statutory period.

5.4. The Respondent Bank submitted that upon failure of the Corporate Applicant to discharge the outstanding liability within the prescribed period, it proceeded to take measures under Section 13(4) of the SARFAESI Act. In this regard, a Possession Notice dated 21.11.2025 was issued and the same was published in the newspapers on 22.11.2025, besides being served/affixed in the manner prescribed under the SARFAESI Rules.

5.5. The Respondent Bank further submitted that the allegation of the Corporate Applicant that the relevant security interest was not registered with the Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI) is incorrect. According to the Respondent Bank, the relevant security interest was duly registered with CERSAI.

5.6. It is further submitted that the Respondent Bank thereafter proceeded with the sale of the secured asset(s) in accordance with the SARFAESI Act and the SARFAESI Rules. The Respondent Bank states that the earlier attempts for sale did not fructify and, consequently, the present sale notice constitutes the third/subsequent sale notice in respect of the secured asset(s).

5.7. The Respondent Bank submitted that on 01.08.2026, a fresh auction notice was published under the SARFAESI Act and the SARFAESI

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Rules in respect of the secured properties of the Corporate Applicant mortgaged with the Respondent Bank. The auction was scheduled to be conducted on 27.08.2026.

5.8. The Respondent Bank has further contended that the issue raised by the Corporate Applicant regarding alleged non-compliance with Rule 9(1) of the SARFAESI Rules in relation to publication of the auction notice falls within the statutory adjudicatory jurisdiction of the Debts Recovery Tribunal and cannot be adjudicated upon by this Adjudicating Authority in the present proceedings.

5.9. It is submitted that, as on 31.07.2026, an amount of Rs. 8,72,43,283/- was due and payable by the Corporate Applicant to the Respondent Bank, apart from further interest, costs and other charges accruing thereafter.

5.10. The Respondent Bank submitted that instead of taking bona fide steps towards repayment of its admitted financial indebtedness, the Corporate Applicant has approached this Adjudicating Authority under Section 10 of the Code at a stage when the Respondent Bank had already undertaken substantial statutory measures under the SARFAESI Act.

5.11. It is further submitted that the object of the Code is resolution and revival of a genuinely distressed corporate debtor and that the insolvency process ought not to be utilised merely as a device to defeat or delay lawful recovery proceedings. The Respondent Bank has relied upon **Section 65 of the Code**, which empowers the Adjudicating Authority to take appropriate action where insolvency proceedings have been initiated fraudulently or with malicious intent for a purpose other than resolution of insolvency.

5.12. The Respondent Bank submitted that although the pendency of SARFAESI proceedings does not, by itself, constitute an absolute bar against filing an application under Section 10 of the Code, the same

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cannot be permitted to be used where the insolvency proceedings are alleged to have been initiated for a purpose other than genuine insolvency resolution or with fraudulent or malicious intent. According to the Respondent Bank, the present case falls within the latter category having regard to the circumstances in which the present Application has been filed.

5.13. The Respondent Bank specifically denied the contention of the Corporate Applicant that its loan account was not declared NPA. It reiterates that the loan account was duly classified as NPA on 08.09.2025 in accordance with the applicable banking norms and that the demand notice under Section 13(2) of the SARFAESI Act was issued on 09.09.2025.

5.14. The Respondent Bank submitted that the Corporate Applicant was thus aware of the alleged default, classification of its account as NPA and the enforcement proceedings initiated by the Bank much prior to filing of the present Application under Section 10 of the Code.

5.15. It is further submitted that the Corporate Applicant has already challenged the measures undertaken by the Respondent Bank under the SARFAESI Act before the learned Debts Recovery Tribunal, Cuttack, by filing S.A. No. 218 of 2025. According to the Respondent Bank, the validity of the measures taken under Section 13(4) of the SARFAESI Act and the SARFAESI Rules, including the possession and sale measures, falls within the statutory adjudicatory framework of the Debts Recovery Tribunal.

5.16. The Respondent Bank therefore submitted that the Corporate Applicant cannot be permitted to use the present proceedings as a substitute for, or as a means of circumventing, the statutory adjudication of the SARFAESI measures already challenged before the learned Debts Recovery Tribunal.

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5.17. The Respondent Bank submitted that it does not dispute the statutory right of a Corporate Debtor, subject to fulfilment of the requirements of Section 10 of the Code, to seek initiation of CIRP. However, according to the Respondent Bank, such right cannot be exercised fraudulently or for a purpose other than genuine insolvency resolution.

5.18. The Respondent Bank submitted that the circumstances surrounding the filing of the present Application demonstrate, according to it, that the immediate and proximate purpose of the Application is to obstruct the auction scheduled for **27.08.2026** and prevent the Respondent Bank from realising its security.

5.19. In support of its aforesaid contention, the Respondent Bank has placed reliance upon the following sequence of events:

- **i.** the loan account was classified as NPA on 08.09.2025;
- **ii.** the demand notice under Section 13(2) of the SARFAESI Act was issued on 09.09.2025;
- **iii.** the Possession Notice was issued on 21.11.2025;
- **iv.** the Possession Notice was published on 22.11.2025;
- **v.** earlier attempts for sale of the secured asset(s) did not fructify;
- **vi.** the present third/subsequent Sale Notice was issued on 31.07.2026;
- **vii.** the said Sale Notice was published on 01.08.2026;
- **viii.** the e-auction was scheduled for 27.08.2026; and
- **ix.** the Corporate Applicant approached this Adjudicating Authority under Section 10 at a stage immediately preceding the scheduled auction.

5.20. On the basis of the aforesaid chronology, the Respondent Bank submitted that the present Application is closely connected with the imminent auction proceedings and has been filed with the alleged

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object of preventing the Respondent Bank from realising its lawful security.

5.21. The Respondent Bank reiterated that an amount of Rs. 8,72,43,283/- remained due and payable by the Corporate Applicant as on 31.07.2026, apart from further interest, costs and other charges.

5.22. It is further submitted that the mere filing of an Application under Section 10 of the Code at a stage when auction of the secured asset is imminent cannot, according to the Respondent Bank, by itself establish that the Application has been filed as a genuine attempt at insolvency resolution.

5.23. The Respondent Bank has further submitted that the Corporate Applicant has not made a complete and candid disclosure of the sequence of SARFAESI proceedings and the documents relied upon by the Respondent Bank to demonstrate compliance with the statutory requirements. According to the Respondent Bank, such facts are material for determining whether the present Application is a bona fide insolvency application or has been filed with the object of obtaining the benefit of moratorium and thereby frustrating the enforcement proceedings initiated by the Bank.

5.24. The Respondent Bank submits that the contentions raised by the Corporate Applicant are contrary to the documentary record maintained by the Bank and denies the averments made in the Application except to the extent expressly admitted in its Reply Affidavit.

5.25. The Respondent Bank has further submitted that the filing of the present Application does not amount to a waiver of any right, remedy, claim, security or proceeding available to it under the SARFAESI Act, the Recovery of Debts and Bankruptcy Act, 1993, the Code, the contractual documents or any other applicable law.

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6. The submissions made by the Corporate Applicant in its Rejoinder Affidavit are summarised hereunder:

6.1 The Corporate Applicant submitted that the Respondent Bank, in its Reply Affidavit, has itself admitted the existence of financial debt and the default committed by the Corporate Applicant. It is pointed out that the Respondent Bank has admitted that an amount of **Rs. 8,72,43,283/-** was outstanding and payable by the Corporate Applicant as on **31.07.2026**, apart from further interest, costs and charges. It is further submitted that the Respondent Bank has admitted that the loan account of the Corporate Applicant was classified as NPA and that the Corporate Applicant had failed to discharge its outstanding liability.

6.2 According to the Corporate Applicant, the aforesaid admissions establish the existence of financial debt and the inability of the Corporate Applicant to repay its financial obligations. It is submitted that the present Application has been filed under Section 10 of the Code on account of such inability to repay its debts and liabilities and that the requisite particulars relating to the financial debt, amount in default and other statutory requirements have been disclosed in the Application.

6.3 The Corporate Applicant further submits that the Respondent Bank, being the principal Financial Creditor, has neither disputed the existence of the financial debt nor the factum of default. On the contrary, according to the Corporate Applicant, the Respondent Bank has expressly admitted the continuing outstanding liability.

6.4 The Corporate Applicant has specifically denied the contention of the Respondent Bank that the present Application has been filed with the intention of stalling or frustrating the proceedings initiated under the SARFAESI Act. It is submitted that the mere pendency of recovery proceedings or the initiation of proceedings under the

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SARFAESI Act prior to filing of an Application under Section 10 of the Code cannot, by itself, render the Application non-maintainable or establish that the same has been filed mala fide.

6.5 It is further submitted that the Respondent Bank itself has admitted that a Corporate Debtor satisfying the requirements of Section 10 has a statutory right to seek initiation of CIRP. According to the Corporate Applicant, once the statutory requirements under Section 10 are fulfilled and the Corporate Debtor establishes its inability to repay its debts, the mere existence of parallel recovery proceedings cannot constitute a ground for refusing initiation of CIRP.

6.6 The Corporate Applicant submits that the chronology of the SARFAESI proceedings, including the proposed auction of the secured asset, cannot displace the underlying financial position of the Corporate Applicant. According to the Corporate Applicant, the Respondent Bank's own pleadings regarding classification of the account as NPA, issuance of demand notice, possession proceedings and the substantial outstanding liability demonstrate the continuing financial default and inability of the Corporate Applicant to service its debts.

6.7 The allegation that the present Application has been filed only to obstruct the proposed auction has been specifically denied by the Corporate Applicant. It is submitted that filing of an Application under Section 10 is a statutory remedy available to a Corporate Debtor which has become unable to repay its debts and that the Corporate Applicant cannot be deprived of such remedy merely because the Respondent Bank has independently initiated enforcement proceedings against the secured assets.

6.8 The Corporate Applicant has also disputed the reliance placed by the Respondent Bank upon Section 65 of the Code. It was submitted that a mere allegation of mala fide intention, without supporting

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material, cannot by itself attract Section 65 of the Code. According to the Corporate Applicant, the Respondent Bank has not placed any material to establish that the present Application has been instituted fraudulently or maliciously or for a purpose other than insolvency resolution.

6.9 The Corporate Applicant submitted that the mere pendency of SARFAESI proceedings or the proximity of an auction cannot, without further material, establish that the initiation of CIRP is fraudulent or malicious.

6.10 In response to the objections raised by the Respondent Bank concerning the validity of the measures undertaken under the SARFAESI Act, the Corporate Applicant submits that such issues are independent of the adjudication of the present Application under Section 10 of the Code. It is stated that the Corporate Applicant has already disclosed the pendency of S.A. No. 218 of 2025 before the learned Debts Recovery Tribunal, Cuttack.

6.11 The Corporate Applicant submitted that the disputes concerning the validity of the SARFAESI measures are matters pending before the learned Debts Recovery Tribunal and, according to the Corporate Applicant, do not constitute the basis for determining whether the present Application under Section 10 satisfies the requirements of the Code.

6.12 It was further submitted that the Respondent Bank has itself admitted that an amount exceeding Rs. 8.72 Crores remains due and payable by the Corporate Applicant. According to the Corporate Applicant, irrespective of the disputes concerning the SARFAESI proceedings, the fundamental fact remains that the Corporate Applicant is unable to repay its financial debt and has committed default.

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6.13 The Corporate Applicant submits that the Respondent Bank has not disputed the essential particulars relating to the financial indebtedness and default disclosed by the Corporate Applicant. According to the Corporate Applicant, the Reply Affidavit proceeds principally on the apprehension that admission of the Application may affect the recovery proceedings initiated by the Respondent Bank, which, according to the Corporate Applicant, cannot override the statutory scheme of the Code or constitute a ground for rejection of an otherwise maintainable Application under Section 10.

6.14 It was further submitted that the object of the Code is resolution of insolvency of the Corporate Debtor in a collective manner. The Corporate Applicant contends that initiation of CIRP does not extinguish or destroy the claim or security interest of the Respondent Bank and that the Respondent Bank, being a Financial Creditor, would be entitled to participate in the CIRP in accordance with the provisions of the Code. According to the Corporate Applicant, the apprehension of the Respondent Bank regarding its recovery proceedings therefore cannot constitute a valid ground for rejection of the present Application.

6.15 The Corporate Applicant submits that the remaining contentions raised by the Respondent Bank have either been dealt with in the foregoing submissions or are, according to the Corporate Applicant, not relevant for determining the maintainability of the present Application under Section 10 and, therefore, need not be repeated.

6.16 The Corporate Applicant reiterated that the Reply Affidavit filed by the Respondent Bank itself establishes the existence of substantial financial debt, classification of the loan account as NPA, continuing default and the inability of the Corporate Applicant to discharge its outstanding liability. According to the Corporate Applicant, the objections raised by the Respondent Bank, principally founded upon

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the pendency and stage of the SARFAESI proceedings, do not constitute a valid ground for rejection of the present Application.

7. Pursuant to the directions contained in the order dated 10.09.2026, the Corporate Applicant has filed its Written Note of Arguments. The submissions advanced therein are summarised hereunder:

7.1 The Corporate Applicant submits that the present Application has been filed under **Section 10 of the Code** seeking initiation of CIRP against itself on account of its inability to discharge its financial liabilities. It is submitted that the Application contains the particulars of the Financial Creditor, financial debt and amount in default and is supported by the relevant financial statements, ledger accounts, SARFAESI proceedings and other documents. The Application has also been duly authorised by the Corporate Applicant pursuant to the resolution dated 15.05.2026.

7.2 The Corporate Applicant submits that the existence of financial debt and the occurrence of default are not disputed by the Respondent Bank. According to the Corporate Applicant, the Respondent Bank has itself stated that the loan account was classified as NPA and that the Corporate Applicant failed to discharge its outstanding liability.

7.3 It is further submitted that the Respondent Bank has categorically stated that, as on 31.07.2026, a sum of Rs. 8,72,43,283/- was due and payable by the Corporate Applicant, apart from further interest, costs and other charges. According to the Corporate Applicant, the aforesaid statement constitutes an admission of the subsisting financial debt and continuing default.

7.4 The Corporate Applicant submits that the Respondent Bank has not disputed the underlying loan transaction, financial liability, NPA classification or the fact that the outstanding amount remains unpaid. Therefore, according to the Corporate Applicant, there is no

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dispute regarding the foundational facts of existence of financial debt and default.

7.5 The Corporate Applicant further submits that Section 10 of the Code provides a statutory mechanism to a Corporate Debtor which has committed default and seeks commencement of the insolvency resolution process against itself. According to the Corporate Applicant, the existence of default is therefore the foundational requirement for invocation of Section 10 and the same stands established from the documents placed on record as well as the admissions contained in the Reply Affidavit of the Respondent Bank.

7.6 It was submitted that the Respondent Bank itself, in paragraph 24 of its Reply Affidavit, has acknowledged the statutory right of a Corporate Debtor satisfying the requirements of Section 10 to seek initiation of CIRP. According to the Corporate Applicant, the Respondent Bank has therefore not challenged the statutory maintainability of a Section 10 Application as such.

7.7 The Corporate Applicant submitted that once the existence of financial debt and default is admitted, the Respondent Bank is required to establish a legally sustainable ground for refusing the statutory remedy invoked by the Corporate Applicant. According to the Corporate Applicant, the Respondent Bank cannot rely upon the default for enforcing its recovery rights and simultaneously seek to defeat the invocation of the Code merely by alleging that the Application is not bona fide.

7.8 The Corporate Applicant has specifically disputed the allegation of the Respondent Bank that the present Application was filed with the immediate and proximate purpose of obstructing the auction scheduled for 27.08.2026. It is submitted that the Section 10 Application was filed on 19.05.2026, whereas the Respondent Bank

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has stated that the fresh e-auction notice was published only on 01.08.2026, fixing the auction for 27.08.2026.

7.9 According to the Corporate Applicant, the aforesaid chronology demonstrates that the Section 10 Application was filed more than two months prior to the issuance/publication of the auction notice dated 01.08.2026. It is therefore contended that an auction which had not been scheduled or notified as on the date of filing of the Section 10 Application could not have constituted the proximate purpose for institution of the said Application.

7.10 The Corporate Applicant submits that although earlier SARFAESI measures and sale attempts may have been pending, such circumstances do not establish that the Corporate Applicant invoked Section 10 for any purpose other than insolvency resolution. According to the Corporate Applicant, the Application was filed in the backdrop of continuing financial distress and default which existed independently of the subsequent auction notice dated 01.08.2026.

7.11 The Corporate Applicant further submitted that the pendency of proceedings under the SARFAESI Act does not, by itself, create a statutory bar to an Application under Section 10 of the Code. It is submitted that the Corporate Applicant is not seeking adjudication in the present proceedings regarding the validity of the SARFAESI measures, as the same have already been challenged before the learned Debts Recovery Tribunal, Cuttack, in S.A. No. 218 of 2025.

7.12 According to the Corporate Applicant, the validity of the SARFAESI measures is a matter for adjudication before the competent forum and is distinct from the question as to whether the Corporate Applicant has committed default and whether it has invoked the insolvency resolution mechanism in accordance with the Code.

7.13 The Corporate Applicant has also disputed the reliance placed by the Respondent Bank upon Section 65 of the Code. It is submitted that

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the allegation that the present proceedings have been initiated fraudulently or with malicious intent for a purpose other than insolvency resolution is unsupported by independent material.

7.14 The Corporate Applicant submits that no material has been placed on record by the Respondent Bank to demonstrate that the Corporate Applicant fabricated its financial position, created a fictitious default, suppressed its liabilities, manipulated the insolvency process or instituted the proceedings for an object wholly unrelated to insolvency resolution.

7.15 On the contrary, the Corporate Applicant submits that it has disclosed its financial indebtedness, default, NPA proceedings and the pendency of S.A. No. 218 of 2025 before the learned Debts Recovery Tribunal. According to the Corporate Applicant, the very basis of invocation of Section 10 is its inability to discharge its admitted financial obligations.

7.16 It is further submitted that the mere fact that commencement of CIRP may affect the manner in which an individual creditor may pursue enforcement of its security cannot, by itself, establish mala fide or malicious intent. According to the Corporate Applicant, acceptance of such an objection would effectively deprive a Corporate Debtor of the statutory remedy under Section 10 at the very stage when it is facing recovery action from its creditors.

7.17 The Corporate Applicant submitted that the Reply Affidavit of the Respondent Bank, when read as a whole, establishes that the Corporate Applicant had availed financial facilities from the Respondent Bank, the account was classified as NPA, default was committed, a substantial amount remains due and payable, and the Respondent Bank itself does not dispute the statutory right of the Corporate Applicant to invoke Section 10 subject to fulfilment of the statutory requirements.

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7.18 According to the Corporate Applicant, the objection of the Respondent Bank is essentially not with regard to the existence of debt or default, but with regard to the invocation of the Code on the ground that SARFAESI proceedings were already underway. It is submitted that, in the absence of a statutory bar or cogent material satisfying the ingredients of Section 65, such objection cannot override the statutory framework of the Code.

7.19 The Corporate Applicant further submitted that the Respondent Bank has itself stated that earlier attempts for sale of the secured assets did not fructify and that the auction notice dated 01.08.2026 constituted a third/subsequent sale notice. According to the Corporate Applicant, the failure of earlier sale attempts cannot, by itself, be construed as evidence of mala fide on the part of the Corporate Applicant in seeking collective insolvency resolution.

7.20 It is further submitted that the object of the present proceedings is to place the financial affairs of the Corporate Applicant within the collective and structured insolvency resolution framework contemplated under the Code. According to the Corporate Applicant, the rights and claims of the Respondent Bank are not extinguished merely upon commencement of CIRP and the Respondent Bank would be entitled to participate in the process in accordance with the provisions of the Code.

ANALYSIS AND FINDINGS

8. We have heard the Ld. Counsel appearing for the Corporate Applicant and the Ld. Counsel appearing for the Respondent Bank and have perused the pleadings, documents and material available on record. The following are the issues in consideration which needs to be evaluated:

I. *Whether the present Application filed by the Corporate Applicant under Section 10 of the Code is complete and maintainable in law,*

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and whether the Corporate Applicant fulfils the statutory requirements for initiation of CIRP?

II. *Whether there exists a financial debt due and payable by the Corporate Applicant and whether a default has occurred within the meaning of the Code?*

III. *Whether the pendency of proceedings initiated by the Respondent Bank under the SARFAESI Act, including proceedings before the Debts Recovery Tribunal, Cuttack, constitutes a bar to initiation of CIRP under Section 10 of the Code?*

IV. *Whether the Respondent Bank has established that the present Application has been initiated fraudulently or with malicious intent, or for any purpose other than for the resolution of insolvency, so as to attract Section 65 of the Code?*

V. *Whether, in the facts and circumstances of the present case, the Corporate Applicant is entitled to admission of the Application under Section 10 of the Code and consequential initiation of CIRP?*

9. For the Issues No. i and ii:

9.1 At the outset, it is necessary to examine the statutory requirements governing an application under Section 10 of the Code. A Corporate Applicant, having committed a default, is entitled to make an application for initiation of CIRP against itself in the manner prescribed under the Code and the Rules framed thereunder. The essential jurisdictional requirement is the existence of debt and occurrence of default, subject to the other statutory requirements including completeness of the application and absence of any disqualification under Section 11 of the Code.

9.2 In the present case, the Corporate Applicant has stated that it availed financial facilities from the Respondent Bank and that an amount of Rs.7,78,35,499/- was in default. The Application was authorised by

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the Extraordinary General Meeting Resolution dated 15.05.2026. During the course of hearing, this Adjudicating Authority had specifically directed the Corporate Applicant to place on record the date of default, which had inadvertently not been mentioned in the Main Application. Pursuant thereto, the Corporate Applicant filed an Additional Affidavit stating the date of default as **09.09.2025**, along with the supporting document. The said Additional Affidavit has already been taken on record.

9.3 Significantly, the existence of the underlying financial transaction and the subsisting liability is not disputed by the Respondent Bank. On the contrary, the Respondent Bank has specifically stated that the loan account of the Corporate Applicant was classified as NPA on 08.09.2025, followed by issuance of demand notice dated 09.09.2025 under Section 13(2) of the SARFAESI Act. The Respondent Bank has further stated that an amount of Rs.8,72,43,283/- was due and payable by the Corporate Applicant as on 31.07.2026, apart from further interest, costs and charges.

9.4 Thus, although there is a variation between the amount of default stated by the Corporate Applicant in the Application, i.e., Rs.7,78,35,499/-, and the amount subsequently stated by the Respondent Bank, i.e., Rs.8,72,43,283/-, such variation does not affect the existence of the underlying financial debt or the factum of default. The latter amount, in fact, represents the outstanding liability as stated by the Respondent Bank at a subsequent point of time and is inclusive of the continuing accruals, as pleaded by the Bank.

9.5 The Respondent Bank has nowhere disputed the underlying loan transaction or asserted that the amount claimed by it has already been discharged. Rather, its own case is that the Corporate Applicant committed default, its account was classified as NPA and the Bank was

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consequently constrained to initiate measures under the SARFAESI Act.

9.6 The material on record therefore establishes that the Corporate Applicant had availed financial facilities from the Respondent Bank, that the financial liability became due, and that the Corporate Applicant failed to discharge the same. The Respondent Bank's own pleadings and the documents relied upon by it corroborate the occurrence of default.

9.7 In this regard, the principle laid down by the Hon'ble Supreme Court in ***Innoventive Industries Ltd. v. ICICI Bank Ltd.*, (2018) 1 SCC 407,** concerning the statutory scheme governing insolvency proceedings, has been specifically applied by the Hon'ble NCLAT to proceedings under Section 10. In ***M/s Unigreen Global Pvt. Ltd. v. Punjab National Bank & Ors.*, Company Appeal (AT) (Insolvency) No.81 of 2017**, the Hon'ble NCLAT held that the two foundational factors in an application under Section 10 are that the debt is due and that a default has occurred, and that where the application is complete and the Corporate Applicant is not ineligible under Section 11, the Adjudicating Authority is required to admit the same. The same principle was reiterated **in *Leo Duct Engineers & Consultants Ltd. v. Canara Bank & Anr.*, Company Appeal (AT) (Insolvency) No.100 of 2017.**

9.8 In the present case, the Respondent Bank has not demonstrated that the Corporate Applicant is ineligible under any of the clauses of Section 11 of the Code. The Corporate Applicant has also placed on record the requisite authorisation for institution of the present proceedings. The omission regarding the date of default in the Main Application stood subsequently clarified by way of the Additional Affidavit pursuant to the specific direction of this Adjudicating Authority.

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9.9 We are therefore satisfied that the essential requirements concerning existence of financial debt and occurrence of default stand established from the record.

10. <u>For the Issue No. III:</u>

10.1 The principal objection raised by the Respondent Bank is that the Corporate Applicant has approached this Adjudicating Authority only after the commencement of recovery proceedings under the SARFAESI Act and that the present proceedings would interfere with the Bank's statutory remedies. It has also been pointed out that the Corporate Applicant has already instituted **S.A. No.218 of 2025** before the learned Debts Recovery Tribunal, Cuttack, challenging the measures undertaken by the Bank.

10.2 It is important to clarify at this stage that the present Adjudication does not require this Adjudicating Authority to determine the validity or otherwise of the measures taken by the Respondent Bank under the SARFAESI Act. The allegations concerning CERSAI registration, validity of possession notice, compliance with Rule 8 or Rule 9 of the SARFAESI Rules, service of notices and the legality of the sale/auction measures are matters falling within the statutory jurisdiction of the learned Debts Recovery Tribunal in the proceedings already instituted by the Corporate Applicant.

10.3 In *Unigreen Global Pvt. Ltd. v. Punjab National Bank & Ors.*, the Hon'ble NCLAT specifically considered the effect of proceedings under Section 13(4) of the SARFAESI Act and proceedings before the DRT and held that pendency of such proceedings cannot, by itself, constitute a ground for rejection of a complete application under Section 10. The said principle was reiterated in *Leo Duct Engineers & Consultants Ltd.*, wherein the NCLAT set aside the rejection of a Section 10 application which had been declined merely on the ground that SARFAESI proceedings had already been initiated.

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10.4 Thus, the fact that the Respondent Bank had already initiated proceedings under the SARFAESI Act cannot, in itself, create a statutory bar against initiation of CIRP under Section 10. The two proceedings operate in different statutory fields, and the existence of recovery proceedings does not efface the factum of insolvency or default where the statutory ingredients of Section 10 are otherwise satisfied.

10.5 At the same time, the pendency of SARFAESI proceedings is not wholly irrelevant to the adjudication where the Respondent Bank alleges that the insolvency proceedings themselves have been initiated fraudulently or maliciously. Such an allegation has to be examined independently under Section 65 of the Code. Therefore, while SARFAESI proceedings do not constitute a bar by themselves, the surrounding circumstances may be examined to the limited extent necessary to determine whether the statutory requirements of Section 65 are satisfied.

10.6 In the present case, the Corporate Applicant has itself disclosed the pendency of the SARFAESI proceedings and the proceedings before the learned DRT. There is therefore no material before us to conclude that the Corporate Applicant has invoked Section 10 merely by suppressing the existence of the recovery proceedings.

11. For the Issue No. IV:

11.1 The next and more substantial question is whether the present Application has been filed fraudulently or with malicious intent or for any purpose other than resolution of insolvency, thereby attracting Section 65 of the Code.

11.2 The Respondent Bank has relied principally upon the chronology of events. According to the Bank, the account was classified as NPA on 08.09.2025; the demand notice under Section 13(2) of the SARFAESI Act was issued on 09.09.2025; possession notice was issued on 21.11.2025; possession notice was published on 22.11.2025; earlier

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attempts for sale did not fructify; and thereafter a fresh sale notice was issued on 31.07.2026 and published on 01.08.2026, fixing the auction for 27.08.2026. It is contended that the Section 10 proceedings were intended to obstruct the recovery and auction proceedings.

11.3 There can be no dispute with the proposition that the insolvency jurisdiction cannot be permitted to be utilised for a fraudulent or malicious purpose unrelated to resolution of insolvency. Section 65 of the Code specifically empowers the Adjudicating Authority to take action where proceedings have been initiated fraudulently or with malicious intent for any purpose other than the resolution of insolvency.

11.4 However, an allegation of mala fide or malicious intent cannot be founded merely upon the existence of recovery proceedings. There must be cogent material demonstrating that the dominant purpose of invoking the insolvency mechanism was something other than resolution of insolvency.

11.5 In the present case, the chronology relied upon by the Respondent Bank does not, in our considered view, establish such an intention. The Section 10 Application was filed on 19.05.2026, whereas the fresh auction notice relied upon by the Respondent Bank was issued on 31.07.2026 and published on 01.08.2026, with the auction scheduled for 27.08.2026.

11.6 Therefore, the particular auction which the Respondent Bank alleges was sought to be obstructed had not even been notified as on the date when the present Section 10 Application was instituted. Consequently, the subsequent publication of the auction notice dated 01.08.2026 cannot, by itself, be treated as the proximate cause or purpose for filing an application which had already been instituted on 19.05.2026.

11.7 We are conscious of the fact that SARFAESI proceedings had commenced much earlier and that earlier sale attempts had allegedly

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not fructified. However, the mere fact that recovery proceedings were pending when the Corporate Applicant invoked Section 10 does not, without something more, establish that the insolvency proceedings were fraudulent or malicious.

11.8 In ***Getz Cables Private Limited v. State Bank of India & Anr.*, Company Appeal (AT) (Insolvency) No.1953 of 2024**, the Hon'ble NCLAT considered a similar objection where a Section 10 application was alleged to have been filed to obstruct SARFAESI recovery proceedings. The Hon'ble NCLAT held that the mere initiation of SARFAESI proceedings prior to filing of the Section 10 application does not, by itself, establish fraudulent or malicious intent under Section 65. It was emphasised that there must be material on record demonstrating the ingredients of Section 65 and that prior recovery proceedings alone are insufficient.

11.9 The facts of the present case, when tested against the aforesaid principle, do not disclose any independent circumstance sufficient to establish that the Corporate Applicant invoked the Code for a purpose wholly unrelated to insolvency resolution. The Corporate Applicant has disclosed its financial indebtedness, the default, the NPA classification and the pendency of the proceedings before the learned DRT. The existence of the financial debt and continuing default is, in fact, substantially acknowledged by the Respondent Bank itself.

11.10 Further, the Corporate Applicant has specifically stated that the object of invoking Section 10 is to save, revive and rehabilitate its business and assets. The Corporate Applicant is engaged in the business of doors and furniture and has asserted that it possesses the infrastructure and potential for revival. Whether such revival ultimately succeeds is a matter for the insolvency resolution process and cannot, at the threshold, be equated with fraudulent intent.

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11.11 It is also relevant that the Corporate Applicant approached the learned DRT for adjudication of its grievances concerning the SARFAESI measures. The fact that the Corporate Applicant has pursued its remedies before the DRT and has separately invoked the insolvency jurisdiction cannot, in the absence of further material, be regarded as conclusive evidence of an intention to misuse the Code.

11.12 The Respondent Bank has also not placed before us any material demonstrating that the Corporate Applicant created a fictitious debt, manufactured a default, manipulated its financial records, suppressed a statutory disqualification under Section 11, or instituted the present proceedings through any fraudulent arrangement. The financial distress and default asserted by the Corporate Applicant are not fictitious; rather, they are corroborated by the Respondent Bank's own pleadings.

11.13 The Respondent Bank's principal grievance appears to be that commencement of CIRP would affect the manner in which it may proceed against the secured assets under the SARFAESI Act. Such consequence, however, flows from the statutory scheme of the Code itself and cannot, without more, be characterised as proof of malicious intent on the part of the Corporate Applicant.

11.14 In this context, the distinction between the **purpose of insolvency proceedings** and the **consequences of insolvency proceedings** assumes significance. The fact that admission of a Section 10 application may result in the statutory consequences contemplated under the Code, including the moratorium, does not necessarily mean that the Corporate Applicant invoked the Code with the object of obtaining such protection rather than for resolution of its insolvency.

11.15 The Respondent Bank has therefore failed to establish, on the basis of the material presently available on record, that the present Application

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was initiated fraudulently or with malicious intent for a purpose other than resolution of insolvency.

11.16 Accordingly, we find that the ingredients necessary for invoking Section 65 of the Code have not been established in the present case.

12. For Issue No. V:

12.1. Having considered the aforesaid issues, the position that emerges is that the Corporate Applicant has availed financial facilities from the Respondent Bank; the financial liability is subsisting; the account was classified as NPA; default has occurred; and the Respondent Bank itself has stated that an amount of Rs.8,72,43,283/- remained due and payable as on 31.07.2026, apart from further interest, costs and charges.

12.2. The Corporate Applicant has also placed on record the date of default, i.e., 09.09.2025, by way of the Additional Affidavit filed pursuant to the directions of this Adjudicating Authority. The said Additional Affidavit and supporting document have already been taken on record.

12.3. The objection of the Respondent Bank based upon the pendency of SARFAESI proceedings cannot constitute an independent bar to the present Application. The validity of the SARFAESI measures is already the subject matter of proceedings before the learned Debts Recovery Tribunal, Cuttack, and we do not propose to express any opinion on the merits or legality of such measures.

12.4. More importantly, the allegation that the present Application was filed with the proximate purpose of obstructing the auction scheduled for 27.08.2026 is not borne out by the chronology placed before us. The present Section 10 Application was filed on 19.05.2026, whereas the fresh auction notice relied upon by the Respondent Bank was issued/published only on 31.07.2026/01.08.2026. The subsequent

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auction notice, therefore, could not have constituted the purpose for instituting the Application on 19.05.2026.

12.5. The earlier SARFAESI proceedings, though relevant to the factual background, do not by themselves establish that the Corporate Applicant had invoked the Code for a purpose other than resolution of insolvency. No independent and cogent material has been placed before us to attract Section 65 of the Code.

12.6. We are, therefore, satisfied that the statutory requirements for initiation of CIRP under Section 10 of the Code stand fulfilled. The Corporate Applicant has established the existence of financial debt and default, and no statutory bar or disqualification has been demonstrated by the Respondent Bank. The objection founded upon the pendency of SARFAESI proceedings does not render the present Application non-maintainable.

13. In view of the foregoing discussion and findings, the Application filed by the Corporate Applicant under Section 10 of the IBC, 2016 is eligible to be admitted, subject to the proposed Interim Resolution Professional satisfying the statutory requirements and the consequential directions being issued in accordance with the provisions of the Code.

14. It is clarified that nothing contained in this order shall be construed as an expression of opinion on the validity or otherwise of the measures taken by the Respondent Bank under the SARFAESI Act, including the possession, sale or auction proceedings, which are stated to be the subject matter of proceedings before the learned Debts Recovery Tribunal, Cuttack.

15. Accordingly, the Application under Section 10 of the Code stands **admitted** and CIRP of the Corporate Applicant is directed to be initiated in accordance with law.

16. Consequently, in terms of Section 13(1) of the Code, the following order is passed:

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i. In terms of Section 13(1)(a) of the Code, **Corporate Insolvency Resolution Process (CIRP)** is hereby initiated against **Mabello Doors and Furniture Private Limited**, the Corporate Applicant.

ii. In terms of Section 13(1)(b) read with Section 14 of the Code, a **moratorium** is declared in respect of the Corporate Applicant. The effect of such moratorium shall be as provided under Section 14 of the Code.

iii. In terms of Section 13(1)(c) of the Code, the public announcement of the initiation of CIRP shall be made immediately in accordance with the provisions of the Code and the Regulations made thereunder.

iv. The Interim Resolution Professional **Mr. Sanjit Kumar Das,** having **Registration No. IBBI/IPA-002/IP-N01174/2021-2022/13939** and having registered email id: sanjitdas_01@rediffmail.com and address Hi-62, Lumbini Vihar, Chandrasekharpur, Kendriya Vidyalaya-IV, Khordha, Orissa ,751021 is appointed as Interim Resolution Professional (IRP) of the Corporate Applicant to carry out the functions as per the Code, subject to his possessing a valid Authorisation for Assignment (AFA) in terms of 7 A of the Insolvency and Bankruptcy Board of India (insolvency Professional) Regulations, 2016.

v. The Interim Resolution Professional shall perform all functions and exercise all powers as provided under the Code, the rules and regulations framed thereunder.

vi. The personnel of the Corporate Applicant, its promoters, directors, officers and all persons associated with the management of the Corporate Applicant shall extend all assistance and cooperation to the Interim Resolution Professional as may be required for discharge of his/her functions under the Code.

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vii. The Interim Resolution Professional shall comply with the provisions of Sections 15, 17, 18 and other applicable provisions of the Code and the regulations framed thereunder.

viii. The moratorium declared under Section 14 of the Code shall remain in force from the date of this order till completion of the CIRP or until an order approving the resolution plan under Section 31 or an order for liquidation under Section 33 of the Code is passed, as the case may be.

17. It is made clear that this Adjudicating Authority has not expressed any opinion on the validity or otherwise of the measures undertaken by the Respondent Bank under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, including the possession, sale or auction proceedings, the validity of which is stated to be under challenge before the learned Debts Recovery Tribunal, Cuttack, in S.A. No. 218 of 2025. All such issues shall remain open for adjudication before the competent forum in accordance with law.

18. The Respondent Bank shall be at liberty to lodge its claim before the Interim Resolution Professional in accordance with the provisions of the Code and the regulations framed thereunder. The security interest, if any, of the Respondent Bank shall be dealt with in accordance with the provisions of the Code.

19. The Interim Resolution Professional shall submit a report to this Adjudicating Authority regarding compliance with the directions contained in this order and shall proceed with the CIRP in accordance with law.

20. The Registry is directed to communicate a copy of this order to the Corporate Applicant, the Respondent Bank, the Interim Resolution Professional and the Insolvency and Bankruptcy Board of India, forthwith.

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21. The commencement of CIRP shall take effect from the date of this order.

22. Accordingly, **CP No. 43/CB/2026 stands Allowed** in the aforesaid terms.

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BANWARI LAL MEENA
Member (Technical)

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CHEEKATI RADHA KRISHNA
Member (Judicial)