

**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

IA(IBC)/226/KOB/2025

IN

CP (IB)/10/KOB/2025

*(Under Section 65 of the Insolvency
and Bankruptcy Code, 2016)*

&

CP (IB)/10/KOB/2025

*(Under Section 7 of IBC, 2016, read with
Rule 4 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority)
Rules, 2016)*

In the matter of:

**M/s. Euro Tech Maritime Academy Private
Limited**

IA(IBC)/226/KOB/2025

MEMO OF PARTIES:

**M/s. Euro Tech Maritime Academy Private
Limited**

37/2746 Opp. TVS near
Deshabhimani Junction, Ernakulam, Kerala

..... Applicant

-Vs-

M/s. Axis Bank Limited

3rd Floor, Opp. Samartheshwa Temple, Law
Garden, Ellisbridge Ahmedabad, Gujarat, India,
380006

.....Respondent

CP (IB)/10/KOB/2025

MEMO OF PARTIES:

M/s. Axis Bank Limited

Trishul 3rd Floor, Opp. Samartheshwa Temple,
Law Garden, Ellisbridge Ahmedabad, Gujarat,
India, 380006 and having its branch office at 1st
Floor "Pukalakkat City Centre & Sivadas Towers
M.K.K. Nair Road, Palarivattom, Kochi 82025,
Kerala.

...Petitioner/Financial Creditor

-Vs-

**M/s. Euro Tech Maritime Academy Private
Limited**

37/2746 Vakils Building Opp. TVS near
Deshabhimani Junction, Ernakulam, Kerala

...Respondent/Corporate Debtor

Order delivered on:22.08.2025

Coram:

HON'BLE MEMBER (JUDICIAL) : SHRI. VINAY GOEL

HON'BLE MEMBER (TECHNICAL) : SMT. MADHU SINHA

Appearances:

For the Petitioner : Ms. Surbhi Pareek, Advocate.

For the Respondent : Ld. Sr. Counsel, Mr. Anil D Nair, Advocate.

ORDER

Per Coram

1. The Company Petition CP (IB)/10/KOB/2025 has been filed by the Axis Bank on 13.03.2025 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred as 'the Code'), r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating the Corporate Insolvency Resolution Process, declaring moratorium and for appointment of Interim Resolution Professional, against the Corporate Debtor viz. M/s Euro Tech Maritime Private Limited.
2. Part I of the petition sets out the details of the Financial Creditor from which it is evident that the Financial Creditor is registered under the Companies Act, 1956, as a banking company and regulated by the Reserve Bank India. As per Part II of the application, the Corporate Debtor is a Private Limited Company with Corporate Identification Number: U80302KL1999PTC012868, and having its registered office at 37/2746 Vakils Building Opp. TVS near Deshabhimani Junction, Ernakulam, Kerala. Therefore, this Bench has jurisdiction to deal with this petition.
3. As per Part III of the petition, the Financial Creditor has proposed the name of AAA Insolvency Professionals LLP, IBBI Registration Number: IBBI/IPE-002/IPA-1/2022-23/50001, as the Insolvency Resolution Professional. Part IV of the petition signifies the amount of debt to the tune of Rs. 14,60,97,359.10/- as on 25.02.2025. A tabular computation of the defaulted amounts and

corresponding default dates, annexed to the petition as Annexure A30, is reproduced below:

Sr. No.	Facility	Account Number	Total Outstanding Dues (as on 25-Feb-2025)			Initial Date of Default	Days of Default till 25-Feb-2025
			Principal	Interest	Total		
1.	Overdraft - I	917030062986465	2,49,98,301.68	43,83,171.44	2,93,81,473.12	31-Oct-2023	483
2.	Term Loan M Power - I	917060063101277	1,07,14,283.00	19,17,997.43	1,26,32,280.43	31-Oct-2023	483
3.	Term Loan - I	918060101556446	5,93,82,881.70	1,12,11,198	7,05,94,079.31	31-Oct-2023	483
4.	ECLGS Loan - I	920060049818014	1,22,22,230.00	17,64,307	1,39,86,537.35	31-Oct-2023	483
5.	Restructuring Agreement	920060050636304		2,46,549.40	2,46,549.40	30-Nov-2023	453
6.	Restructuring Agreement	920060050636317		25,03,220.32	25,03,220.32	31-Oct-2023	483
7.	ECLGS Loan - II	921060054724134	88,88,892.00	12,65,626	1,01,54,517.81	31-Oct-2023	483
8.	ECLGS Loan - III	921060057381602	58,38,319.00	7,60,382.35	65,98,701.35	30-Nov-2023	453
	Total			14,60,97,359.10			

4. Part V of the petition describes the particulars of Financial Debt; documents, records and evidence of default as described below:

1. Sanction Letters dated 29.08.2017, 09.10.2018, 31.10.2018, 27.07.2020, 22.06.2021, 07.03.2022
2. Modified Sanction Letters dated 29.06.2021,
3. Loan agreement dated 07.09.2017.
 1. Overdraft Facility Agreement dated 09.07.2017,
 2. Term Loan Agreement dated 05.11.2018,
 3. Link Document Cum Amendment Agreement for Facilities under Emergency Credit Line Guarantee Scheme dated 17.08.2020, 25.06.2021, 11.03.2022,

4. Link Document Cum Amendment Agreement for Restructuring of Facilities dated 25.06.2021.
 5. Working Capital Loan Agreement dated 07.10.2021,
 6. Statements of accounts of the Financial Creditor demonstrating the disbursal of the sanctioned amounts to the Corporate Debtor.
 7. Table demonstrating dates of disbursement of the sanctioned amounts.
 8. Acknowledgement of Debt letter issued by the Financial Creditor to the Corporate Debtor dated 11.03.2022, 02.02.2024.
 9. Deed of hypothecation dated 05.11.2018.
 10. Memorandum of Entry dated 07.11.2018.
 11. Declaration cum Deed of Confirmation for the Extension of Mortgage dated 05.11.2018.
 12. Circular issued by the Reserve Bank of India
 13. Recall Notice dated 26.09.2024.
 14. Record from NESL.
5. IA(IBC)/226/KOB/2025 has been filed by the respondent in the main CP(IBC)/10/KOB/2025 under Section 65 of the IBC, 2016 seeking to declare the main company petition has been initiated maliciously for purposes other than resolution of insolvency, and to dismiss the same imposing a penalty on the petitioner in the main Company Petition.

Facts of the Case and Submissions made by Ld. Counsel for the Petitioner:

6. The Financial Creditor, Axis Bank Ltd., has preferred this petition under Section 7 of the Insolvency and Bankruptcy Code, 2016, seeking initiation of Corporate Insolvency Resolution Process against Euro Tech Maritime Academy Pvt. Ltd., the Corporate Debtor, in respect of an admitted debt of INR 14,60,97,359.10.

Notwithstanding repeated reminders and restructuring of facilities, the Corporate Debtor has defaulted on its repayment obligations. The Corporate Debtor's liability is unequivocally acknowledged in its letter dated 11.03.2022, confirming the debt as due and payable to the Financial Creditor.

7. It is stated by the petitioner that, between August 2011 and August 2020, the Corporate Debtor availed various facilities under the Business M Power Scheme and ECGLS Scheme. In response to the COVID-19 pandemic, these facilities were restructured, and additional facilities were extended to support the Corporate Debtor's business operations. However, despite these measures, the Corporate Debtor persistently failed to service its debt obligations, culminating in its accounts being classified as Non-Performing Assets (NPA) on 29.01.2024.
8. It is submitted that on 26.09.2024, the Financial Creditor issued a recall notice to the Corporate Debtor, demanding repayment of INR 14,10,29,464/- within seven days. Upon the Corporate Debtor's failure to comply with the notice, the Financial Creditor has approached this Hon'ble Tribunal, seeking appropriate reliefs in respect of the outstanding debt.

Submissions on behalf of the Respondent: -

9. On 16.06.2025, the Corporate Debtor filed its reply statement stating that the Respondent availed loans from Kerala State Industrial Development Corporation, which were taken over by the Petitioner in 2017 with a sanctioned credit facility of INR 1000 lakhs as per the terms and conditions of the sanction letter dated 29.08.2017. Additional loans were sanctioned on 31.10.2018, increasing the total sanctioned amount to INR 1461.31 lakhs. Further loans of INR 365 lakhs were sanctioned under the Emergency Credit Line Guarantee Scheme during the COVID-19 period. The credit facilities were

periodically renewed, reviewed, and modified. Notably, on 22.06.2021, the Petitioner restructured the loan under COVID relief guidelines, providing an 18-month moratorium on principal repayment. The Respondent made payments totalling INR 636.60 lakhs between 2017-2023.

10. Further, it is submitted that the Respondent had a good payment track record from 2017 to February 2020. However, the COVID-19 pandemic and subsequent lockdown severely impacted its financial position. the Respondent requested a 24-month moratorium on both principal and interest repayments, but the Petitioner approved only an 18-month moratorium on principal repayment, citing the RBI's Resolution Framework for COVID-19-related Stress dated 06.08.2020. Despite the Respondent's concerns that this period was insufficient for financial stability, the Petitioner issued a sanction letter for COVID restructuring on 22.06.2021. Although the Respondent serviced the interest portion regularly post-restructuring, it faced difficulties repaying the principal portion starting December 2022 due to the pandemic's ongoing impact on revenue. As an MSME entity, the Respondent is eligible for benefits under relevant government and RBI notifications, which mandate the revival and restructuring of loans in a prescribed manner.
11. It is stated that the Respondent submitted restructuring proposals on 21.07.2023, 09.01.2024, and 20.09.2024. However, these proposals were rejected by the Petitioner on 15.01.2024 and 01.10.2024 respectively, leaving the Respondent's debt restructuring requests unapproved.
12. It is stated that the Petitioner issued a recall notice dated 26.09.2024, demanding repayment of the credit facilities. The Respondent, being an MSME entity, is eligible for benefits under the Central Government's notification dated 29.05.2015, and the RBI's revised framework for revival and rehabilitation of

MSMEs dated 17.03.2016. Additionally, the RBI's Master Direction on Lending to the MSME Sector, updated as of 11.06.2024, and initially issued on 24.07.2017, provides regulatory guidelines for MSME lending, including restructuring and rehabilitation of loans. At this juncture, respondents relied upon the judgment of the Hon'ble Supreme Court in the matter of "M/S. Pro Knits vs The Board of Directors of Canara Bank, SLP (C) NO. 7898 of 2024. The relevant portion of the judgement is reproduced here as under: -

"The Instructions/Directions issued by the Central Government under Section 9 of the MSMED Act and by the RBI under Section 21 and Section 35A have statutory force and are binding to all the Banking companies".

13. The above aspect was brought to the notice of the petitioner. However, the rejection letter (Annexure-VI) and loan recall communication (Annexure-VII) without considering the restructuring application violated the mandatory prescriptions under Annexure-VIII, IX, and X. The Respondent then approached the Hon'ble High Court of Kerala with a writ petition (WP (C) 40037/2024) seeking enforcement of circulars for MSME revival, citing a Supreme Court judgment (SLP (C) NO. 7898 of 2024) that Instructions/Directions under the MSMED Act and RBI have statutory force. The Petitioner objected, and the court granted liberty to file a fresh writ petition, which was done on 13.02.2025.
14. Following the court's liberty granted on 13.02.2025, the Respondent filed another writ petition (WP(C) 9487/2025) on 09.03.2025. This petition seeks directions for the Petitioner to comply with statutory mandates under the MSME Act and RBI Act for revival, quash the loan recall proceedings, and restructure the loan account in accordance with the Supreme Court's judgment. The dispute regarding non-compliance with circulars and statutory mandates

for loan restructuring is pending before the Hon'ble High Court. The writ petitions are admitted, and the matter is sub judice.

15. Further, it is submitted that the petitioner, a banking institution, failed to initiate a Corrective Action Plan as mandated by the Ministry of MSME's Gazette Notification (29.03.2015) and RBI Master Direction (24.07.2017). The Hon'ble Supreme Court's recent judgment in *M/s. Pro Knits vs. Canara Bank* (01.08.2024) reinforced these obligations, emphasizing that banks must constitute a Committee for Stressed MSME Accounts to initiate corrective measures before classifying an MSME loan account as NPA. In this case, no such committee was formed, and no revival or rehabilitation steps were taken before classifying the Corporate Debtor's account as NPA, rendering the classification improper, invalid and void ab initio.
16. It is stated that the petitioner failed to comply with mandatory obligations under the 2015 MSME framework and RBI Master Circular, disregarding requests to constitute a Committee for Corrective Action Plan to explore revival measures before classifying the MSME account as NPA. This non-compliance renders the NPA classification void and unsustainable. Considering the discretionary nature of admitting Section 7 petitions under the IBC, as emphasized in *Vidarbha Industries Power Ltd Vs Axis Bank Ltd (2022)*, the Respondent submits that the petition should be rejected, as the creditor's interests are adequately safeguarded.
17. The Respondent argues that the current petition is pre-empted by prior proceedings before the High Court, which would become redundant if this petition is admitted due to the moratorium's impact on the Respondent's legal recourse. Notably, the Company Petition omitted mention of these proceedings. The affidavit in company petition was signed on 11.03.2025, and

the petition was filed the next day, with defects cured and refiled later. The Respondent claims that ongoing High Court proceedings would be undermined if this petition is accepted, and the Petitioner intentionally filed this petition to interfere with those proceedings, rather than genuinely seeking insolvency resolution. This is evident from the suspicious timing of the filing.

Submissions on behalf of the petitioner in the rejoinder states as follows:

18. On 24.06.2025, the petitioner filed a rejoinder in response to the Corporate Debtor's reply. In their rejoinder, the petitioner denies the Corporate Debtor's allegations and reaffirms the facts stated in the Company Petition. The Corporate Debtor has not disputed the debt or default as stated in Part IV of the petition. The petitioner has complied with the Notification dated 29.05.2015, the Framework and the Master Directions, and has lawfully classified the Corporate Debtor's account as NPA. The petitioner argues that the Corporate Debtor's reliance on Vidarbha and Pro Knits cases is misconcieved, as they are distinguishable from the present case. Further, it is stated that the petitioner made genuine efforts to restructure the debt, but the Corporate Debtor failed to meet its debt obligations. The petitioner seeks admission of the petition under Section 7 of the Insolvency and Bankruptcy Code, 2016, and dismissal of the Section 65 Application filed by the Corporate Debtor, as the Corporate Debtor is liable for insolvency proceedings due to its default.

FINDINGS: -

19. Counsel for the petitioner during the course of the arguments submitted that the respondents had availed the following credit facilities from the applicant bank for the period from August 2017 to November 2019: -

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- a. Term Loan under Business M Power-I Scheme Rs. 2,50,00,000/-
 - b. Term Loan under Business M Power-II Scheme Rs. 5,00,00,000/-
 - c. Overdraft facility for an amount of INR 2,50,00,000/-
 - d. Term loan- I aggregating to INR 10,00,00,000/-
 - e. ECLGS Loan – I for an amount of Rs. 2,00,00,000/-
 - f. ECLGS Loan – II for an amount of Rs. 1,00,00,000/-
 - g. Additional working capital loan under the ECLGS Scheme aggregating to INR 1,00,00,000/-
 - h. ECLGS Loan – III for an amount of Rs. 61,50,000/-

20. In June 2021, the Corporate Debtor underwent restructuring under the MSME restructuring of advances circular dated 06.08.2020. Subsequently, the Corporate Debtor executed a letter of acknowledgement of debt on 11.03.2022. Despite the restructuring, the Corporate Debtor failed to maintain financial discipline as per the bank's requirements. Thereafter, in 28.12.2023, under the MSME framework, a committee for revival and rehabilitation of MSME units' set up for the consideration of stressed accounts held a meeting for various accounts, including the account of the Corporate Debtor. The Corporate Debtor filed for debt restructuring largely along similar lines as the restructuring proposals submitted in July 2023. The Financial Creditor apprised the Corporate Debtor and the proposal is not agreeable. On 25.01.2024 committee meeting was convened in accordance with MSME directions, and after due consideration, the committee recommended appropriate action against the Corporate Debtor. The matter before the Hon'ble High Court is regarding the classification of an account as a fraud account, and that has no bearing on the present proceedings.

21. It is further gathered from the documents that there is existence of debt and default, and the said default is continuing to date. As such, there is no bar to proceed under Section 7 of the IBC, 2016.

22. The Ld. Counsel for the Financial Creditor submitted that reliance on *Pro Knits v. The Board of Directors of Canara Bank and Ors* case is misconceived and misleading, and there is no fraudulent or malicious intent on behalf of the Financial Creditor to initiate CIRP against the Corporate Debtor. The Financial Creditor relied upon the judgment of the ***Hon'ble Supreme Court Suresh Kumar Reddy vs. Canara Bank & Ors. (2023) 8 SCC 387***, wherein the Hon'ble Court held that:

"11. Thus, once NCLT is satisfied that the default has occurred, there is hardly a discretion left with NCLT to refuse admission of the application under Section 7. "Default" is defined under sub-section (12) of Section 3 IBC which reads thus:

"3. Definitions. In this Code, unless the context otherwise requires- (12) "default" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [paid] by the debtor or the corporate debtor, as the case may be." Thus, even the non-payment of a part of debt when it becomes due and payable will amount to default on the part of a corporate debtor. In such a case, an order of admission under Section 7 IBC must follow. If NCLT finds that there is a debt, but it has not become due and payable, the application under Section 7 can be rejected. Otherwise, there is no ground available to reject the application."

23. The Financial Creditor's reliance on the concept of debt and default as a basis for initiating CIRP is further supported by judgments such as, ***Innovative Industries Ltd. v. ICICI Bank [(2018) 1 SCC 407]***, ***E.S. Krishnamurthy & Ors. v. Bharath Hi-Tech Builders Pvt. Ltd. [(2022) 3 SCC 161]***, ***Vidarbha Industries Power Limited v. Axis Bank Ltd. [(2022) 8 SCC 352]*** and ***Axis Bank Ltd. v. Vidarbha Industries Power Limited (2023) 7 SCC 321]***, and ***M. Suresh***

Kumar Reddy v. Canara Bank & Ors. [(2023) 8 SCC 387], all decided by Division Benches of the Supreme Court of India.

24. The respondent primarily insisted on non-compliance with the mandatory MSME framework, separation of pending Writ proceedings, and MSME status. The Ld. Counsel for the respondent further argued that the present proceedings are a misuse of IBC under Section 65 of the IBC, 2016. The proposal for restructuring has not been properly considered by the petitioner, and upon admission of the petition, the respondents would suffer irreparable prejudice and render the pending Writ Petition infructuous.
25. During the course of the hearing, Ld. Counsel for the respondent apprised this Tribunal that in the pending Writ Petition, there is an interim protection in favor of the respondent. As such, this Tribunal cannot proceed further. This Tribunal put a specific query to Ld. Counsel for the respondent as to whether the respondent has filed any application before the Hon'ble High Court for stay or any interim protection in respect of this application filed under Section 7 of the IBC, 2016, or whether the respondent ever made any prayer before the Hon'ble High Court to stay the present proceedings during the pendency of Writ Petition. Counsel for the respondent at bar fairly replied in negative.
26. We have heard both sides and also gone through the records. The respondent in the present case is not disputing the avilment of credit facilities, execution of loan and security documents, commission of default, creation of security interest, execution of acknowledgement of debt, issuance of demand notices, grant of additional credit facility during Covid-19, and restructuring of the loan. Even though there is no dispute about the date of default, the respondent primarily banged upon non-compliance with the mandatory MSME framework and the pendency of the Writ petition before the Hon'ble High Court of Kerala.

Whereas the applicant has placed on record minutes of the committee. It is the case of the applicant that before filing an application under Section 7 of the IBC, 2016, the case of the respondent was sent to a duly constituted committee under the MSME framework, and that committee, after deliberation and consideration, came to the conclusion that to proceed against the Corporate Debtor in accordance with the law. Thus, the committee finds no reason to give restructuring benefits again to the respondent.

27. It is a fact that the petitioner in its petition under Section 7 nowhere ever referred to the compliance of the MSME framework and the Reserve Bank of India guidelines as applicable to MSME units, and only in their rejoinder did the petitioner refer to that fact, along with certain documents. Having considered this peculiar defence taken by the respondent, we are of the opinion that the petition under Section 7 is a proforma-based petition, and the petitioner is required to answer specific columns as appeared in various parts of the said petition. So, if the petitioner has failed to mention any such compliance, being not asked for in the format of the petition, it would not be treated as a lapse on the part of the petitioner. Once the respondent had taken the defence in its written submission, the petitioner, at the first opportune time in its rejoinder, explained all such facts and also annexed documents. This is one aspect of the defence.
28. Now, coming to the decision of the committee in compliance with the Reserve Bank of India guidelines, it appears that the bank, in its ordinary course of working and to facilitate compliance with the mandatory guidelines of the Reserve Bank of India/MSME units, formed a permanent committee consisting of the following members

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1. Chaired By : Shri R Vinod, Geography Head South-1 Geography
 2. Officer In-charge : Mr. J Manuel Joel, SEG Collections Head, South-1
 3. Geography CBG
 4. Officers Attended : Mr. M Sriram, SEG GCH, South-1 Geography CBG
 5. Officers Attended : Mr. Anil Kumar Chandrasekharan, SEG ACH, South 1, Geography CBG
 6. Officers Attended : Mr. Alagappan Ramanathan, SCF GCH, South Geography.
 7. State Government/Retired
Executive of another bank : Mr. SKN Swamy, Retired AGM from SBI
 8. Independent Expert : Mr.T S Nagaraja Rao, Retired AGM from SBI (Not attended)

29. The case of the respondent was referred to the said committee along with other MSME loan accounts, namely Crystal Granites Limited, Margin Free Super Market, Dales Building Solutions, VGC Beena Private Limited, M S Enterprises, Poothokaren Agencies, V S V Enterprises, Jas Granite Aggregates Private Limited, Grown Up Systems, Sri Rubber Industries, Athira Plywood, Smeara Enterprises, Hi Care Gloves Private Limited, Marthoma Granites And Tulsi Developers India Pvt Ltd. Once the bank has established a permanent setup for compliance with the guidelines of the Reserve Bank of India, this Tribunal, under these summary proceedings, would not go into the detailed intricacies of the system so adopted. The Bank has placed on record all such relevant documents, and we find no prima facie irregularity in the system adopted by the Bank to comply with the Reserve Bank of India guidelines.

30. In this case, the account was declared as NPA on 29.01.2024. The respondents themselves have annexed their correspondence through email with the Bank dated 21.07.2023 and 09.01.2024, wherein the respondent sought

restructuring and also additional funding to the tune of Rs. 3 crores, later reduced to Rs. 2 crores. The respondent pleaded that restructuring be extended to the loans availed under the Emergency Credit Line Guarantee Scheme (ECLGS), launched by the Indian government to provide financial support to businesses, particularly Micro, Small and Medium Enterprises (MSMEs), affected by the COVID-19 pandemic. Whereas vide sanction letter dated 27.07.2020 annexed as Annexure A13 by the applicant, under ECLGS working capital term loan of Rs. 2 Crores was sanctioned in favor of the respondent, and the respondent availed the same upon execution of link document cum amendment agreement for facilities under ECLGS on 17.08.2020. Thereafter, vide sanction letter dated 22.06.2021, ECLGS limit was enhanced from 2 Crores to 3 Crores as per sanction letter dated 22.06.2021 annexed as Annexure A16 for which the respondent executed link document cum amendment agreement for restructuring of facilities dated 25.06.2021 annexed as Annexure A17. The Bank also pleaded subsequent modifications and renewals in the repayment schedule and tenure, for which the respondent, time to time, executed documents. So in a nutshell, whatever the respondent sought in the email about the ECLGS had already been availed by it, and at no point of time he had invoked provisions of the MSME Act before the account was declared as NPA. The respondent referred to such a circular for the first time in its letter dated 20.09.2024, thus, after the account was declared as NPA. It can be said that the respondent failed to invoke the relevant provisions at the relevant time. This Tribunal would find it appropriate to rely upon the judgment of the Supreme Court of India in the matter of Shri Shri Swami Samarth Construction & Finance Solutions and Another vs. The Board of Directors of NKGSB Co.Op. Bank Ltd and Others. The relevant portion of the judgment is reproduced herein below:

6. *The way Mr. Nedumpara urges us to read the Notification and the terms of the FRAMEWORK, if accepted, would lead to the conclusion that every lending bank/secured creditor under the SARFAESI Act would be obliged to find out in every event of continuing default, likely to give rise to classification of the relevant account as NPA, whether the borrower is an MSME to which the FRAMEWORK applies, whether its business has failed or whether it is suffering from any disability to pay its debts; and upon receiving a response, to apply the terms thereof by, inter alia, including the account in the Special Mention Account for the claim for a corrective action plan to be considered by the Committee for stressed MSMEs. This could not have been the intention behind introduction of the FRAMEWORK to aid the MSMEs which, for reasons personal to them, is unable to clear its debt and require revival and rehabilitation that the FRAMEWORK envisages. If indeed it is only the obligation of the lending bank/secured creditor to identify incipient stress in the account, sub-paragraphs 2 and 3 of paragraph 1 would be rendered redundant. An MSME, despite finding that its business is failing or that it is unable to pay its debts or accumulation of losses equals to half or more of its entire net worth and classification of its account as NPA is imminent, it would rest on its oars believing that it has no responsibility and that its account will not be classified as NPA because it is the entire obligation of the lending bank/secured creditor to do what the FRAMEWORK requires. We would read and interpret the seemingly confusing terms of the FRAMEWORK harmoniously to ensure that a right under the MSME Act is not destroyed by the SARFAESI Act or vice versa. In our reading, the terms of the FRAMEWORK do not prohibit the lending bank/secured creditor (assuming that it has no conscious knowledge that the defaulting borrower is an MSME) to classify the account of the defaulting MSME as NPA and to even issue the demand notice under Section 13(2) of the SARFAESI Act without such identification of incipient stress in the account of the defaulting borrower (MSME); however, upon receipt of the demand notice, if such borrower in its response under Section 13(3-A) of the SARFAESI Act asserts that it an MSME and claims the benefit of the FRAMEWORK citing reasons supported by an affidavit, the lending bank/secured creditor would then be mandatorily bound to look into such claim keeping further action under the SARFAESI Act in abeyance; and, should the claim be found to be worthy of acceptance within the framework of the FRAMEWORK, to act in terms thereof for securing revival and rehabilitation of the defaulting borrower.*
7. *As has been noted above, the petitioning enterprise does not seem to have ever claimed the benefit of the terms of the FRAMEWORK*

after the demand notice under Section 13(2) of the SARFAESI Act was issued. It is at the stage of compliance with an order passed by the relevant Magistrate under Section 14 of the SARFAESI Act that this writ petition has been presented before this Court claiming benefits of the FRAMEWORK to restrain the respondent no.2 and its officers from proceeding further under the SARFAESI Act and other enactments except in the manner contemplated under the said Notification. We find the bona fides of the petitioning enterprise to be suspect.

8. *8. Pro-Knits (supra) is a decision of a coordinate Bench of this Court holding, inter alia, that the Notification is binding on the lending banks/secured creditors. Finding to the contrary by the High Court of Bombay in the judgment and order under challenge in the appeal was, thus, quashed. Though while stressing that the terms of the FRAMEWORK need to be followed by the lending banks/secured creditors before the account of an MSME is classified as NPA, this decision also lays stress on the obligation of the MSMEs by holding that "it would be equally incumbent on the part of the MSMEs concerned to be vigilant enough to follow the process laid down under the said Framework, and bring to the notice of the Banks concerned, by producing authenticated and verifiable documents/material to show its eligibility to get the benefit of the said Framework". It was cautioned that "if such an Enterprise allows the entire process for enforcement of security interest under the SARFAESI Act to be over, or it having challenged such action of the bank/creditor concerned in the court of law/tribunal and having failed, such an Enterprise could not be permitted to misuse the process of law for thwarting the actions taken under the SARFAESI Act by raising the plea of being an MSME at a belated stage". This decision, however, left unsaid something which we have explained hereinabove while construing the terms consistently to prevent undermining of rights that one central enactment confers by another.*
9. *9. No case for interference under Article 32 of the Constitution has been set up. There being no merit in the writ petition, the same is accordingly ordered to be dismissed. Pending applications, if any, stand closed.*

31. The judgment quoted above would be squarely applicable to the facts and circumstances of the present case as in this case also the respondent has failed to invoke said provisions at opportune time rather in present case in hand the Bank referred the matter to a committee constituted under the provisions of

Reserve Bank of India circular and the said committee instead of selecting this case for restructuring, observed for further legal action.

32. Having considered this factual position, we are of the considered opinion that once the Bank has followed the procedure in terms of guidelines of the RBI and there exist debt and default, there is no legal impediment to proceed under IBC, which is a special code and the threshold limit to proceed under Section 7 is one crore and the debt for which Section 7 application has been filed is within time. So, the contentions as raised on behalf of the respondent are not tenable at this stage. The Financial Creditor relied upon the order of the **Hon'ble NCLAT, in the matter of Rajesh Kedia v. Phoenix ARC (P) Ltd**, wherein the Hon'ble Appellate Tribunal held that the Adjudicating Authority is not required to ascertain the quantum of default as long as it meets the threshold in Section 4 of the IBC, 2016. The relevant portion of the order is reproduced here as under: -

"13. In so far as the contention of the appellant qua the quantum of payment of debt is considered, we are of the earnest view that the same does not fall for consideration before the Adjudicating Authority at the stage of "admission" of the application under section 7 of the Code. The only requirement is that the minimum outstanding debt should be more than the threshold amount provided for under the Code. The actual amount of "claim" is to be ascertained by the resolution professional after collating the "claims" and their verification which comes at a later stage. Keeping in view all the aforementioned reasons, this Tribunal is satisfied that there is an admission of "debt" and "default" as defined under the Code and we do not find any illegality or infirmity in the impugned order dated October 7, 2021 passed by the learned Adjudicating Authority."

33. The petitioner further relies on several orders that support the aforementioned proposition, citing cases such as **Suzlon Synthetics Ltd. v. Stressed Asset Stabilization Fund (2022 SCC Online NCLAT 4600)** decided by the NCLAT Principal Bench, Division Bench, and **Guruprasad V. Hishobkar v. Shree**

Aashraya Souhard Credit Society Ltd. (2023 SCC Online NCLAT 299), decided by the NCLAT, Chennai Bench, Division Bench.

34. Further, the respondent has approached the Hon'ble High Court of Kerala against some action of the Bank by which the Bank declared the account of the respondent as a fraudulent account. The Hon'ble High Court of Kerala has stayed the implementation of one circular as interim protection. The respondent has filed that Writ Petition and is contesting in the present Company Petition as the respondent. The respondent has failed to file any application before the Hon'ble High Court about the present proceedings despite having the opportunity to that effect. It speaks volumes in itself. So, the declaration or classification of the account as NPA or not has nothing to do with the insolvency application filed before this Adjudicating Authority. Upon satisfaction of the mandatory requirements about the debt, default, and threshold limit for claim, this Tribunal shall proceed further in accordance with the law as discussed earlier.
35. At the cost of repetition, the action of the Bank in categorizing the account as a fraudulent account is a separate cause of action on the administrative side of the Bank and has no bearing on the insolvency process. An application under Section 7 of the IBC is maintainable against the Corporate Debtor if there exists a debt of more than one crore rupees and the Corporate Debtor has committed a default in complying with the terms under which the loan was sanctioned. The Bank has also approached this Tribunal within the limitation period, fulfilling the necessary prerequisites. If the Financial Creditor would prove all such facts and ingredients, the scope of defence of the Corporate Debtor would become very limited. In this case, the respondent has practically admitted all basic ingredients required to initiate the insolvency process under the Act, and

whatever defences he has taken either have been adequately addressed by the Financial Creditor or are not pertinent to the insolvency process.

36. This case was reserved on 24.07.2025. Subsequently, on 04.08.2025, this Tribunal received an official communication from the Hon'ble High Court regarding OP(C) No. 1861 of 2025, wherein the respondent had sought a stay of the present proceedings before this Tribunal. In view of the fact that the prayer for stay has been rejected by the Hon'ble High Court of Kerala, this case shall be decided on its merits.

37. In accordance with the Insolvency and Bankruptcy Code, 2016, a Financial Creditor is defined under Section 5(7) as any person to whom a Financial Debt is owed, including those to whom such debt has been legally assigned or transferred. The petitioner herein qualifies as a Financial Creditor. Based on the records presented, it is evident that a 'Debt' exists between the parties, which meets the definition of 'Financial Debt' under Section 5(8) of the IBC, 2016. Furthermore, the Corporate Debtor has defaulted on the repayment of the Financial Debt due and payable to the Financial Creditor.

38. Considering the aforementioned conditions, this Tribunal finds it imperative to proceed with the Corporate Insolvency Resolution Process against the Corporate Debtor, notwithstanding any objections raised. In light of the facts, circumstances, and legal provisions outlined in the preceding paragraphs, we conclude that the application submitted by the Petitioner-Financial Creditor under Section 7 of the IBC, 2016, merits admission.

39. We hereby **admit CP(IBC)/10/KOB/2025.** Accordingly, **IA(IBC)/226/KOB/2025** has become **infructuous** and **disposed of.**

40. In view of the aforesaid observations, we pass the following Orders.

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- i. The petition bearing CP (IB)/10/KOB/2025, by Axis Bank Limited, the Financial Creditor, under section 7 of Insolvency and Bankruptcy Code 2016 read with rule 4 (1) of Insolvency and Bankruptcy (Petition to Adjudicating Authority) Rules, 2016 for initiating CIRP against the **Euro Tech Maritime Academy Private Limited**, (CIN: U80302KL1999PTC012868), the corporate debtor is **ADMITTED**.
 - ii. There will be a moratorium under section 14 of the Code.
 - iii. The moratorium shall have effect from the date of this order till the completion of the CIRP or until the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of IBC or passes an order for liquidation of Corporate Debtor under section 33 of the Code, as the case may be.
 - iv. Public announcement of the CIRP shall be made immediately as specified under section 13 of the code read with regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations 2016.
 - v. The Financial Creditor has proposed the name of **AAA Insolvency Professionals LLP (Insolvency Professional Entity)**, **IBBI Registration Number: IBBI/IPE- 002/IPA-1/2022-23/50001**, as Interim Resolution Professional, and they had filed their written communication in the format prescribed under Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016. There is a declaration made by them that no disciplinary proceedings are pending against them with the Board or the Indian Institute of Insolvency Professionals of the Institute of Chartered Accountants of India. AAA Insolvency Professionals LLP has

made all necessary disclosures by the requirements of the IBBI Regulations. Accordingly, the entity satisfies the requirement of Section 7(3)(b) of the Code. Hence, we appoint **AAA Insolvency Professionals LLP** as the Interim Resolution Professional of the Respondent/Corporate Debtor.

- vi. During the Corporate Insolvency Resolution Process period, the management of the affairs of the Corporate Debtor shall vest with the Interim Resolution Professional or, as the case may be, the Resolution Professional in terms of section 17 of the Code. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish all information within their knowledge to the Interim Resolution Professional within one week from the date of receipt of this order, in default of which coercive steps will follow.
- vii. The Interim Resolution Professional/ Resolution Professional shall submit to this Adjudicating Authority periodical reports concerning the progress of the Corporate Insolvency Resolution Process in respect of the Corporate Debtor.
- viii. The Petitioner/ Financial Creditor shall deposit a sum of Rs. 2,00,000/- (Rupees Two Lakhs only) with the Interim Resolution Professional to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to the approval of the Committee of Creditors.
- ix. In terms of section 7 (5)(a) of the Code, the Registry is hereby directed to communicate a copy of this Order to the Financial Creditor, the corporate debtor and IRP by Speed Post & e-mail immediately, and in any case, not later than two days from the date of this order.

x. Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Kerala, by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Tribunal within seven days from the date of receipt a copy of this order.

xi. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.

41. The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

42. Let the Certified Copy of this order be issued, if applied for, upon compliance with all requisite formalities.

SD/-
MADHU SINHA
(MEMBER TECHNICAL)

SD/-
VINAY GOEL
(MEMBER JUDICIAL)

Signed on this the 22nd day of August, 2025.

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