

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

CP(IBC)/55/KOB/2024
(Under Section 10 of the IBC, 2016)

In the matter of:

Malayalam Vehicles India Private Limited

MEMO OF PARTIES:

Malayalam Vehicles India Private Limited, CIN: U50500KL2017PTC048854
CC No. 52/3171, 52/3172 Sharon Tower
Opp. Salafi Masjid Vyttila, Ernakulam,
Kerala, India, 682019.

... Petitioner/ Corporate Debtor

Mr. Rajwanth Ben

Managing Director of M/s Malayalam
Vehicles India Private Limited, CC No.
52/3171, 52/3172, Sharon Tower Opp.
Salafi Mazjid, Vyttila, Ernakulam,
Ernakulam, Kerala, India, 682019

...Petitioner/ Corporate Applicant

Order delivered on:04.04.2025

Coram:

Smt. Madhu Sinha

Shri. Vinay Goel

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Appearances:

For the Petitioners : Mr. Anil D Nair



ORDER

Per Coram

1. The instant application has been filed by M/s Malayalam Vehicles India Private Limited (hereinafter 'Corporate Debtor') and Mr. Rajwanth Ben (hereinafter 'Corporate Applicant'), Managing Director of M/s Malayalam Vehicles India Private Limited under Section 10 of the Insolvency & Bankruptcy Code, 2016 (hereinafter 'the Code') read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiation of Corporate Insolvency Resolution Process in respect of the Corporate Debtor, **Malayalam Vehicles India Private Limited**. The prayer made is to admit the Application, to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor, declare moratorium, and appoint an Interim Resolution Professional.
2. Part I of the application sets out the details of the Corporate Debtor is a Private Limited Company with Corporate Identification Number: U50500KL2017PTC048854 and having its registered office at CC No. 52/3171, 52/3172, Sharon Tower Opp. Salafi Mazjid, Vyttila, Ernakulam, Ernakulam, Kerala, India, 682019. Corporate Debtor has two directors and a paid-up share capital of Rs.3,82,25,000/-.
3. As per Part II of the application, the Corporate Applicant has proposed the name of one Mr. Jayaprakash M D, IBBI Registration



Number: IBBI/IPA-001/IP-P02683/2022-2023/14101 as the Interim Resolution Professional.

4. Part III of the application signifies the amount of financial debt to the tune of Rs. 53,44,31,080/- and a default of Rs. 37,30,30,718/- whereas the amount of operational debt to the tune of Rs.5,42,14,354/- and a default of Rs. 34,11,131/-. The particulars of financial/ operational Debt; documents, records, and evidence of default as described below:

- 1) Details of financial debts and operational debts availed and default thereof.
- 2) Current maturity details of long-term loans.
- 3) A list of charges created over the assets of the corporate applicant registered with the Registrar of Companies and available on the website of the 'Ministry of Corporate Affairs'.
- 4) Credit facility report obtained from the website of NeSL as on 07.11.2024.
- 5) Audited Financial Statement of Malayalam Vehicles India Private Limited for the financial years 2022-2023, 2023-2024, and Provisional financial statement from 01.04.2024 to 05.11.2024.
- 6) Statement of Affairs of the Company as on 05.11.2024.
- 7) Notice issued on behalf of Indian Bank dated 12.08.2024 and 16.08.2024.
- 8) Notice issued on behalf of Yes Bank dated 23.09.2024.



- 9) Notice issued on behalf of Tata Motors Finance Ltd. dated 25.09.2024.
 - 10) Notice issued on behalf of State Bank of India dated 30.09.2024.
 - 11) Notices issued on behalf of Tata Capital Ltd. dated 18.10.2024.
5. It is stated that an Extra Ordinary General Meeting of the Corporate Debtor was held on 10.10.2024 and passed the resolution for initiation of the Corporate Insolvency Resolution Process.
 6. One financial creditor and a few operation creditors of the Corporate Debtor and State Tax Officer had objected admission of this application.
 7. The financial creditor submitted that the debt of Rs. 35,40,456/- from M/s. Poonawala Fincorp Ltd. is incorrectly shown in the Company Petition, with Rs. 27,90,278.94 due as of 31.01.2025. The borrowers defaulted on repayment, and the assets of the Company have not been accurately disclosed.
 8. The operational creditors submitted that they are the landlords of the building wherein the Corporate Debtor's office is situated and they owed Rs. 1,32,66,673/- in unpaid rent and interest as of 31.01.2025. Despite repeated demands, the Corporate Debtor has failed to pay the arrears, causing significant financial loss to the landlords. Additionally, the Corporate Debtor has caused property damage and is illegally continuing business operations



in the building without paying rent. The Corporate Debtor is initiating the insolvency process with the intent to evade payment obligations, deliberately misrepresenting their assets and financial position by failing to disclose them, which constitutes a misuse of the law. The landlords seek to reclaim possession of the building and recover the due amount with interest.

9. The State Tax Officer submitted that the Corporate Debtor has failed to file returns regularly, resulting in penalties under Sections 125, 126, 127, and 128 of the Act for the non-filing of monthly returns from July to September 2024 and from October to December 2024. Despite this, returns were not filed, and penalties were imposed for non-filing GSTR 3B from July to September 2024. An auto-generated notice under Section 46 was issued for the period July to November 2024, but the Corporate Debtor failed to file returns even after 15 days. As a result, an assessment under Section 62 was completed based on the best judgment for July to November 2024, with the order and demands summarized. The outstanding GST arrears against the Corporate Debtor total Rs. 29,10,80,225/- (Twenty-Nine Crore Ten Lakh Eighty Thousand Two Hundred and Twenty-Five).
10. We have heard the submissions made by Learned Counsel for the Petitioners, Learned Counsel Ms. Kallyani G. Menon, representing the financial creditor M/s Poonawalla Fincorp Ltd, Learned Counsel Ms. Pooja Pandey, representing the financial creditor



M/s Tata Motors Finance Limited, Learned Counsel Mr. Isaac Thomas, representing Tata Capital Limited, Learned Counsel Ms. Anjana Devi, representing the operational creditors, during the hearing. We have also perused the documents placed on record.

11. Since the Corporate Debtor itself comes before us with the prayer to admit it in Corporate Insolvency Resolution Process holding that it is Insolvent Company, we have only to see whether the Applicant has submitted along with the application (i) the information relating to the books of accounts and such other documents, (ii) information relating to Resolution Professional to be appointed and (iii) special resolution passed by the shareholders of the Corporate Debtor at least by $\frac{3}{4}$ of the total numbers.
12. Such application can be rejected only on the ground that the application is incomplete or any disciplinary proceeding is pending against the proposed Interim Resolution Professional. In this case, no disciplinary proceeding is pending against the proposed Interim Resolution Professional.
13. It is observed that in the instant case, there was a debt due and there was a default of the same. It is also observed that the Corporate Debtor was not earning sufficient profits to repay its debts. The Corporate Debtor, vide its Board resolution dated 05.10.2024, had resolved to file an application under Section 10 of the Code. The shareholders on 10.10.2024 in the Extra Ordinary General Meeting passed the resolution to initiate the



Corporate Insolvency Resolution Process of the Corporate Debtor.

14. The Corporate Applicant has served a copy of this application to the Insolvency and Bankruptcy Board of India in Form 1A on 15.11.2024. The name of the Interim Resolution Professional has been proposed as per Section 10(3)(b) of the Code. The default amount meets the threshold limit as prescribed under Section 4 of the Code. The default claimed in the application is well within the limitation period to initiate the Corporate Insolvency Resolution Process proceeding. Hence, the application is complete and defect-free.
15. In view of the aforesaid observations, we hereby **admit** the petition and pass the following Orders.
 - A. The petition bearing CP(IBC)/55/KOB/2024, by **Malayalam Vehicles India Private Limited**, (CIN: U50500KL2017PTC048854), the Corporate Debtor under Section 10 of Code read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiation of Corporate Insolvency Process in respect of the Corporate Debtor is **ADMITTED**.
 - B. There will be a moratorium under section 14 of the Code.
 - C. The moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the



resolution plan under sub-section (1) of section 31 of Code or passes an order for liquidation of the Corporate Debtor under Section 33 of the Code, as the case may be.

- D. Public announcement of the Corporate Insolvency Resolution Process 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.
- E. The Corporate Applicant has proposed the name of one **Mr. Jayaprakash M D**, IBBI Registration Number: IBBI/IPA-001/IP-P02683/2022-2023/14101 email: jpmodyil@gmail.com, as Interim Resolution Professional (IRP) and a written communication in the format prescribed under Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 has been filed by the proposed IRP who is appointed as the IRP to take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The designated IRP must take any additional actions in this regard that are mandated by the law, more specifically Sections 15, 17, and 18 of the Code. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the Corporate Insolvency Resolution Process in relation to the Corporate Debtor in terms of the provisions of the Code. The fee is payable to IRP or as the case may be the Resolution



Professional shall comply with such Regulations, Circulars, and Directions as may be issued by the Insolvency and Bankruptcy Board of India (IBBI). The IRP shall carry out his functions as contemplated by Sections 15 to 21 of the Code.

- F. During the Corporate Insolvency Resolution Process period the management of the Corporate Debtor shall vest with the IRP 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 every information in their knowledge to the IRP within one week from the date of receipt of this order, in default of which coercive steps will follow.
- G. The IRP/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.
- H. The Corporate Debtor shall deposit a sum of **Rs. 2,00,000/-** (Two Lakhs Only) with the IRP to meet the expenses arising out of issuing publication and inviting claims. These expenses are subject to approval by the Committee of Creditors (COC).
- I. In terms of Section 7 (7)(a) of the Code, the Registry is hereby directed to communicate a copy of this Order to the Corporate Debtor, financial creditors, and IRP by Speed Post & e-mail immediately, and in any case, not later than two working days from the date of this order.



- J. Additionally, the Corporate Applicant shall serve a copy of this Order on the IRP and 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 of a copy of this order.
16. 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.
17. Certified Copy of this order may 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 4th day of April, 2025.

Adarsh M Nair/LRA

Certified to be True Copy-

Deputy Registrar
National Company Law Tribunal
Kochi Bench

