IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-II

RCP (IB) No. 17/MB/2025 (Old Case C.P.(IB)/908/MB/2024)

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

Ordered on: 26.10.2026

IN THE MATTER OF

M/s. CAPRI GLOBAL HOLDINGS PRIVATE LIMITED
(formerly known as CAPRI GLOBAL VENTURES PRIVATE LIMITED)
[CIN: U74110MH1995PTC095112]
1-B, Court Chambers,
35 Sir Vithaldas Thackersey Marg
New Marine Lines,
Mumbai City- 400020, Maharashtra.

...Applicant/ Financial Creditor

VS

M/S. KULT APP PRIVATE LIMITED
[CIN: U24290MH2021PTC359001]
Innov8 SCP-2 8th Floor Building no. 11
Solitaire Corporate Park
Guruhar Govindji Road Chakala
Mumbai- 400093, Maharashtra.

... Respondent/ Corporate Debtor

CORAM:
HON'BLE SHRI ASHISH KALIA, MEMBER (JUDICIAL)
HON'BLE SHRI BANWARI LAL MEENA, MEMBER (TECHNICAL)

Appearances: Hybrid

For the Applicant: Adv. Mr. Nausher Kohli a/w Adv. Aditya Mishra & Adv. Anushka

For the Respondent: Adv. Tushad Kakalia a/w Adv. Uttam S.Rane

ORDER

[PER: ASHISH KALIA (MEMBER JUDICIAL)]

1. BACKGROUND

1.1 This Restored Company Petition bearing RCP(IB) No.17/MB/2025 (hereinafter referred to as "the Application") was filed on 22.07.2024 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the AAA Rules") by **Capri Global Holdings Private Limited (now known as Capri Global Ventures Private Limited)**, the Financial Creditor (hereinafter referred to as "the Financial Creditor/FC"), through **Mr. Amol Walawalkar**, authorized *vide* Board Resolution date 17.07.2023, for initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of **Kult App Private Limited** (hereinafter referred to as "the Corporate Debtor").

1.2 The total amount claimed to be in default is Rs. 5,76,86,029/- (Five Crore Seventy-Six Lakh Eighty-Six Thousand and Twenty-Nine Rupees) including principal amount of Rs. 5,00,00,000/- (Five Crore Rupees) and Rs. 76,86,029/- (Seventy-Six Lakh Eighty-six Thousand and Twenty-Nine Rupees) towards interest amount as on 12.03.2024.

1.3 The date of default is stated as 01.02.2024 and a Demand Notice was served to the Corporate Debtor on 16.03.2024.

1.4 Since the Corporate Debtor defaulted in payment of its outstanding

dues, the Financial Creditor prays that CIRP may be initiated in respect of the Corporate Debtor under Section 7 of the Code.

1.5 The FC has proposed the name of Mr. Arun Kapoor to act as an IRP. The FC has attached Form 2 of the IRP thereby stating that no disciplinary proceedings are pending against the proposed IRP. The FC has also attached AFA in Form B of the proposed IRP having validity till 31.12.2026.

2. AVERMENTS OF FINANCIAL CREDITOR

2.1 At the outset, the Applicant/Financial Creditor states that the Corporate Debtor obtained a credit facility from the FC. The credit facility was an Intercorporate Deposit (ICD) Agreement executed in 2023 for Rs. 15 crores with a 1-year term, 18% annual interest and additional 3% monthly interest on overdue amounts if the borrower defaults.

2.2 It is submitted that the Corporate Debtor was allowed to draw the facility in two tranches with the funds to be used only for purposes specified in the agreement.

2.3 The FC disbursed one tranche of Rs. 5 crores and the Corporate Debtor undertook to repay the loan with interest as per the ICD Loan documents.

2.4 The Corporate Debtor defaulted on the monthly interest payments and ignored reminders and demand letters. The ICD tenure expired and the principal, interest and penal interest became due.

2.5 However, the purpose of the present Petition is that the FC seeks

to restrict its contention regarding default having been committed by the Corporate Debtor despite multiple reminders.

2.6 The FC filed an Additional Affidavit dated 07.10.2026 bringing on record the Certificate of Incorporation pursuant to change of name of the FC dated 18.02.2026 issued by the Registrar of Companies, Central Processing Centre, Certified True Copy of the Special Resolution passed at the Annual General Meeting held on 11.10.2021 along with Explanatory Statement, together with Form MGT-14 and the updated Authorisation for Assignment (AFA) of the proposed IRP, Mr. Arun Kapoor, valid from 22.12.2025 to 31.12.2026.

3. CONTENTIONS OF CORPORATE DEBTOR

3.1 This Tribunal *vide* interim order dated 08.09.2026, directed the Corporate Debtor to file its Reply within 10 days subject to payment of costs of Rs. 1,00,000/- to be deposited with the Prime Minister's National Relief Fund.

3.2 It is seen that the Corporate Debtor has not complied with the above direction of this Tribunal and has not filed the Reply within the stipulated time period.

3.3 However, the Corporate Debtor filed written submissions stating that the ICD was not authorized as required under Section 186 of the Companies Act, 2013.

4. ANALYSIS AND FINDINGS

4.1 We have heard the Learned Counsels for the FC and Corporate

Debtor and perused the materials available on record.

4.2 Upon careful consideration of the pleadings, documents placed on record and submissions advanced by the Learned Counsel for the Financial Creditor, the following issues arise for determination in the present case: (i) whether the Financial Creditor has established the existence of a financial debt and default and (ii) whether the transaction is hit by Section 186 of the Companies Act, 2013.

4.3 With regard to the existence of debt and default, it is observed that the Financial Creditor has placed on record the Inter-Corporate Deposit facility executed on 31.01.2023, copy of Deed of Personal Guarantee executed on 31.01.2023, pledge agreement executed on 31.01.2023, post-dated cheques, undertaking cum indemnity, disbursement letter, loan confirmation letter, ledger statements, interest invoice, audited balance sheet, demand promissory note and demand notice. The aforesaid documents evidence the sanction of the credit facilities, the applicable rate of interest, the repayment obligations of the Corporate Debtor, and the security created in favor of the Financial Creditor. The disbursement of the loan facilities is further substantiated by the Statement of Accounts of the Corporate Debtor maintained by the Financial Creditor.

4.4 It is observed from the ICD agreement that the maturity date of the loan was 30.01.2024 and the Corporate Debtor had to pay the interest at 18% p.a. (payable monthly). The extract of the ICD Agreement is reproduced hereunder:

	DETAILS OF THE FACILITY	
9.	Facility Amount	INR 15,00,00,000/-
10.	Purpose	General Corporate Purpose
11.	Details of Drawdown	As per request letter to be received from the Company in 02 (Two) tranches
12.	Final Maturity Date	30 January 2024
13.	Interest Rate	18% per annum, payable monthly
14.	Default Interest Rate	3% per month
15.	Security Cover	As per below
16.	Security	1. Unconditional and irrevocable Personal Guarantee of the Personal Guarantor(s); 2. First and exclusive pledge over the Pledge Securities by the Pledgors in favour of the Lender alongwith Power of Attorney; 3. Indenture of Mortgage on the Mortgaged Property; 4. Demand Promissory Note.

4.5 It is further noted that upon the occurrence of default, the Financial Creditor issued a Demand Notice dated 12.03.2024 demanding the entire outstanding dues.

4.6 With regard to the issue that the transaction is hit by Section 186 of the Companies Act, 2013, it is observed that the FC attached the copy of Special Resolution dated 11.10.2021, wherein the FC passed the resolution to increase the limits for making investments/extending loans and giving guarantees or providing securities in connection with loans to Persons/Bodies Corporate. At the outset, this special resolution has given provision to the FC to give loans to the Corporate Debtor and the requirements of Section 186 of the Companies Act stand fully complied by the FC.

4.7 In relation to the above, the Applicant relied on the judgment of Hon'ble NCLAT in *Pancham Studios Pvt. Ltd. v. Konark Aquatics and Exports Pot. Ltd., Company Appeal (AT) (Ins.) No. 406 of 2024,* wherein it was held *that Corporate Debtor cannot take the shelter of Section 186 of the Act to deny its liability to return the amount*. We find that this judgment is relevant in the present Petition, and that the

Corporate Debtor in the present case cannot take the shelter of Section 186 of the Companies Act, 2013 after having received the loan and subsequently paying interest thereof.

4.8 The date of default stated by the FC is 01.02.2024. It is seen that the FC filed the Application on 22.07.2024. Accordingly, this Tribunal is of the considered view that the present Application has been instituted within the prescribed period of limitation and is not barred by limitation.

4.9 In view of above discussions, we find that all pre-requisites of Section 7(5)(a) of the Code are fulfilled and, accordingly, we are satisfied that the instant Application is fit for admission under Section 7 of the Code.

4.10 The Financial Creditor, has proposed the name of **Mr. Arun Kapoor** a registered Insolvency Professional having Registration Number-**IBBI/IPA-003/IP-N00030/2017-2018/10230** as the Interim Resolution Professional, to carry out the functions as mentioned under the Code. It has also provided valid AFA of the proposed IRP and given its written consent, *inter alia*, stating that no disciplinary proceedings are pending against him.

ORDER

In the result, this Application bearing **RCP (IB) No.17/MB/2025(Old Case C.P.(IB)/908/MB/2024)** under Section 7 of the Code read with Rule 4 of the AAA Rules, filed by **Capri Global Holdings Private Limited (now known as Capri Global Ventures Private Limited)**, the Financial Creditor, for initiating CIRP in respect of **Kult App Private Limited**, the Corporate Debtor is **admitted.**

We further declare moratorium under Section 14 of the Code, with

consequential directions as follows:

I. We prohibit-

a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

b) transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

c) any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

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

III. Notwithstanding the above, during the period of moratorium: -

(a) The supply of essential goods or services to the corporate debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period;

(b) That the provisions of sub-section (1) of Section 14 of the Code shall not apply to-

(i) Such transactions as may be notified by the Central Government in

consultation with any financial sector regulator or any other authority;

(ii) A surety in a contract of guarantee to a corporate debtor.

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

V. That this Bench hereby appoints **Mr. Arun Kapoor,** a registered Insolvency Professional having **Registration No. IBBI/IPA-003/IP-N00030/2017-2018/10230** and **e-mail address** **arun.kapoor58@yahoo.in** and valid Authorisation for Assignment up to **31.12.2026** as the IRP to carry out the functions under the Code.

VI. The fee payable to IRP/Resolution Professional (hereinafter referred to as “RP”) shall be in accordance with the Regulations/Circulars issued by the Insolvency and Bankruptcy Board of India (hereinafter referred to as “IBBI”).

VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of Code. The officers and managers of the Corporate Debtor are directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. 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/RP within a period of one week from the date of receipt of this Order and shall not commit any offence punishable under Chapter VII of Part II of the Code. Coercive steps will follow against them under the provisions of the Code read with Rule 11

of the National Company Law Tribunal Rules, 2016 (hereinafter referred to as "NCLT Rules") for any violation of law.

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

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

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

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

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

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

Sd/-
BANWARI LAL MEENA
MEMBER (TECHNICAL)

Sd/-
ASHISH KALIA
MEMBER (JUDICIAL)

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