SL. No.8

NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

COURT HALL NO: II

Hearing Through: VC and Physical (Hybrid) Mode

CORAM: SHRI. RAJEEV BHARDWAJ – HON'BLE MEMBER (J)
CORAM: SHRI. SANJAY PURI - HON'BLE MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL, HYDERABAD BENCH, HELD ON 05.08.2025 at 10:30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	**IA (IBC)/1723/2024 in Company Petition IB/62/7/HDB/2023**
NAME OF THE COMPANY	**Karvy Stock Broking Ltd**
NAME OF THE PETITIONER(S)	**Vardhaman Bank**
NAME OF THE RESPONDENT(S)	**Karvy Stock Broking Ltd**
UNDER SECTION	**7 of IBC**

ORDER

Company Petition IB/62/7/HDB/2023

Orders pronounced, recorded vide separate sheets. In the result, the Company Petition IB/62/7/HDB/2023 is dismissed.

IA (IBC)/1723/2024

In view of the orders pronounced in Company Petition IB/62/7/HDB/2023, the IA (IBC)/1723/2024 is become infructuous.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)

Vamsi

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, COURT-II

C.P (IB) No.62/7/HDB/2023

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

<u>In the matter of Vardhaman Bank</u>

<u>Between:</u>

Vardhaman Bank,
Vardhaman (Mahila) Co-op Urban Bank Limited,
Head Office at: 3rd Floor, Nishanth House,
8-2351/n/1, Road No.2,
Banjara Hills,
Hyderabad – 500 034.
Rep.by its CEO Mr.A.D.N.V.Prasad

...Petitioner/Financial Creditor

V e r s u s

M/s.Karvy Stock Broking Limited,
Regd.Office: Karvy Millennium,
Plot No.31/P, Nanakramguda
Financial District, Gachibowli,
Hyderabad, Rangareddy District,
Telangana – 500 032.
Rep.by its CMD Mr.C.Parthasarathy

... Respondent/Corporate Debtor

Date of Order: 05.08.2025

<u>Coram:</u>

Shri Rajeev Bhardwaj, Hon'ble Member (Judicial)
Shri Sanjay Puri, Hon'ble Member (Technical)

<u>Counsels Present</u>

For the Petitioner	:	Ms.Mummaneni Vazra Laxmi, Mr.V.V.S.N.Raju, Counsels
For the Respondent	:	Mr.Avinesh Desai, Sr.Counsel, Mr. Nethan Reddy Mallu, Counsel

[P E R : Rajeev Bhardwaj]

<u>O R D E R</u>

1. This Application/Petition has been filed by Vardhaman Bank, (**Financial Creditor/FC/Applicant**) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (**IBC**) read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process **(CIRP)** against M/s.Karvy Stock Broking Limited, (**Respondent/Corporate Debtor/CD/Respondent**) in respect of default arising from commercial paper subscribed by the Applicant.

2. **<u>Application/Petition:</u>**

(i) The Respondent raised short-term market borrowings by issuing Commercial Paper **(CP)**, with IDBI Bank acting as Issuing and Paying Agent (**IPA**). The Applicant subscribed to 100 units of CP (ISIN No. INE846E14EK4) on 12.06.2019 for a consideration of ₹4,77,50,500/-, carrying a face value of ₹5,00,00,000/- (**Annexure II**).

(ii) The CP matured on 10.12.2019. On presentation for redemption through the IPA, it was intimated (**Annexure III**) that the Respondent had failed to provide funds, and the CP could not be redeemed. The Applicant immediately demanded payment of ₹5,00,00,000/-, but despite repeated reminders, the Respondent failed to make payment. Vide e-mail dated 14.04.2020, the Respondent admitted the outstanding liability and expressed inability to honour the obligation citing Covid-19 restrictions, promising clearance by May 2020.

(iii) Separately, the Respondent had placed two term deposits of ₹25 Crores each on 20.02.2019 and 22.02.2019, maturing on 15.05.2020 and

17.05.2020, respectively against which M/s.Karvy Realty Limited was sanctioned overdraft **(OD**) limits of ₹47.50 Crores.

(iv) Upon failure of M/s.Karvy Realty Limited to regularise the OD account, the Applicant adjusted the OD account with proceeds of the term deposits on 18.05.2020. The surplus amount of ₹2,79,92,640/- was credited to the Respondent's current account.

(v) On 04.08.2020, the Applicant exercised its right of set-off and adjusted the available current account balance of approximately ₹2.80 Crores against the outstanding CP liability after due intimation to the Respondent.

(vi) On 06.10.2020, the Respondent again admitted the liability, informing that it was attempting to sell a stake in a subsidiary company but could not complete the sale due to Covid-19 restrictions.

(vii) Despite multiple reminders, the Respondent failed to discharge the balance liability. The total outstanding debt amounts to ₹4,02,84,104/-, comprising:

- Principal: ₹2,20,00,000/-
- Interest @16% p.a.: ₹1,82,84,104/-

The debt first became due on 10.12.2019 and was successively acknowledged on 14.04.2020, 16.05.2020 (when the set-off was exercised), and lastly on 07.02.2022 when the final demand notice was issued.

3. **Counter**

(i) The Respondent has filed the present Counter opposing the maintainability of the Section 7 Petition and contesting all allegations and averments made therein.

(ii) Respondent is a Financial Service Provider:

The Respondent is a *Financial Service Provider* within the meaning of Section 3(17) of the IBC and therefore falls outside the definition of "Corporate Person" under Section 3(7) of the IBC. It is a registered Stock Broker under Regulations 6 and 10B of the SEBI (Stock Brokers & Sub-Brokers) Regulations, 1992 **("SEBI Stock Brokers Regulations**"). Being a financial service provider, the Respondent is expressly excluded from the ambit of the IBC. Reliance is placed on the decision of the Hon'ble NCLAT in ***Union of India vs Infrastructure Leasing and Financial Services Limited, IA No. 2196 of 2020 in Company Appeal (AT) No. 346 of 2018.***

(iii) Burden of proof not discharged by the Applicant:

The Applicant has failed to substantiate its claim in accordance with law. The burden of proof lies on the party who asserts, unless the statute provides otherwise, as held by the Hon'ble Supreme Court in ***Rajendra Narottamdas Sheth vs Chandra Prakash Jain (2022) 5 SCC 600***. The Applicant has failed to make out a prima facie case for admission.

(iv) IBC cannot be invoked as a recovery mechanism**:**

The Hon'ble Supreme Court and the NCLAT have repeatedly held that the IBC is not a tool for recovery proceedings. Reliance is placed on:

- ***Agarwal Veneers vs Fundtonic Service Pvt. Ltd., Company Appeal (AT)(Ins) No. 968 of 2020***, *and*
- ***Invent Asset Securitisation and Reconstruction Pvt. Ltd. vs Girnar Fibres Ltd., 2022 SCC OnLine SC 808.***

The object of IBC is resolution and not to penalise solvent companies which are a going concern. In *Agarwal Veneers* (supra), the NCLAT has specifically distinguished between recovery and resolution. The present

Petition is a blatant attempt by the Applicant to misuse the provisions of the IBC as a debt recovery tool.

(v) Respondent is a solvent and viable entity:

The Respondent is a solvent company and merely facing temporary liquidity constraints. It is submitted that:

- SEBI had passed an *ad-interim ex parte* injunction order in November 2019, temporarily preventing the Respondent from accessing the securities market, which was later confirmed vide order dated 28.04.2023.
- On the alleged date of default and even on the date of filing of the present Petition, the Respondent held a valid licence as a financial service provider.
- The Respondent has the financial capacity to overcome temporary constraints.

In ***Vidarbha Industries Power Limited vs Axis Bank Limited, 2022 SCC OnLine SC 841***, the Hon'ble Supreme Court held that the Adjudicating Authority has discretion under Section 7 IBC to consider the overall financial health and viability of the corporate debtor before admitting a petition. This principle has been further reiterated in ***Suresh Kumar Reddy vs Canara Bank & Ors, 2023 SCC OnLine SC 608.***

(vi) ***Non-compliance with Section 7(2) and (7(3) IBC:***

The Petition is defective and non-maintainable for want of compliance with mandatory statutory requirements.

- Section 7(2) IBC requires the application to be accompanied with the documents and records specified under the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

- Section 7(3) IBC mandates that the Financial Creditor furnish a record of default with an Information Utility. The Applicant has not produced any such records, thereby violating Section 7(3) read with Rule 20(1A) of the IBBI (Information Utilities) Regulations, 2017.

4. **Rejoinder**

(i) The Applicant has reaffirmed and reiterated all contentions and averments made in the original Petition/Application.

(ii) Respondent is not a Financial Service Provider under IBC: The Respondent's registration as a stock broker with SEBI and its business of stock broking does not qualify it as a "Financial Service Provider" within the meaning of Section 3(17) of the IBC.

- The Respondent is engaged in the business of dealing in securities on behalf of its clients on the National Stock Exchange (**NSE**) and Bombay Stock Exchange (**BSE**).

- There is a material distinction between the activities contemplated under Section 3(16)(e) of the IBC (rendering financial services) and the activities carried on by the Respondent. The Respondent is not rendering advisory or financial services as contemplated but merely executing trades on behalf of clients. Therefore, the Respondent's activities do not meet the test for exclusion from the IBC as a financial service provider.

(iii) Regulatory status and solvency:

- SEBI has cancelled the Respondent's Certificate of Registration on 31.05.2023.
- The NSE and BSE have already expelled the Respondent on 03.11.2020 and 24.11.2020 respectively.

- The decision relied upon by the Respondent in ***Praveen Kumar Mundra vs CIL Securities Limited CP(IB)/33/9/HDB/2018*** is clearly distinguishable as the petition in that case was rejected because the Respondent therein was ready to settle the claim prior to admission. That is not the case here.
- The Respondent has failed to produce any cogent proof of its alleged solvency or financial strength. Therefore, the Tribunal cannot exercise its discretion in favour of the Respondent.

(iv) IBC is not being used as a recovery tool:

The Petition has been filed strictly for the purposes of insolvency resolution, not for recovery. Debt and default stand clearly established. The contention that the record of default with an Information Utility was not furnished is untenable. Filing such record is not a mandatory requirement but only directory. Reliance is placed on ***Suresh Kumar Reddy vs Canara Bank & Ors, 2023 SCC OnLine SC 608***, wherein the Hon'ble Supreme Court held that the filing of a record of default with an Information Utility is only one of the modes to prove the existence of debt and default.

5. We have heard the Learned Counsels for both the parties and have gone through the entire records including written submissions.

6. **Findings**

a) It is not in dispute that the Respondent is a stock broking company and had raised short-term loans/borrowings from the market by issuing commercial papers. The Petitioner purchased commercial papers worth ₹5 Crores, which were to be redeemed on 10.12.2019. The Respondent defaulted in making payment of the redemption amount on the said date.

b) When pursuing remedies against the Respondent for redemption, the Applicant had extended an OD facility of ₹47.50 Crores against the Respondent's deposits of ₹50 Crores. Upon failure by M/s. Karvy Realty Limited to regularise the OD facility, the Petitioner transferred the remaining amount of ₹2,79,92,640/- to the Respondent's current account and thereafter exercised its right of set-off towards the balance redemption amount.

c) The Respondent admitted its liability vide email dated 14.04.2020, stating that it was unable to honour the commitment due to the Covid-19 pandemic. This admission was made with full knowledge of the set-off exercised by the Petitioner.

d) On the face of the record, there is clear and cogent evidence of financial debt and default within the meaning of Sections 5(8) and 3(12) of the IBC.

Issue of maintainability: whether Respondent is a corporate person.

a) At the relevant time the Respondent was engaged in the business of stock broking and was registered with SEBI under the SEBI (Stock Brokers and Sub-Brokers) Regulations, 1992**.** Under Section 3(7) of the IBC, an entity is excluded from the definition of "corporate person", and consequently "corporate debtor" under Section 3(8), if it is a financial service provider. The determination, therefore, hinges on whether the Respondent was a financial service provider.

b) Section 3(16) and 3(17) IBC define "financial service" and "financial service provider" as follows:

"3(16) ***"financial service"*** *includes any of the following services, namely: –*

(a) accepting of deposits;

(b) safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;

(c) effecting contracts of insurance;

(d) offering, managing or agreeing to manage assets consisting of financial products belonging to another person;

(e) rendering or agreeing, for consideration, to render advice on or soliciting for the purposes of—

(i) buying, selling, or subscribing to, a financial product;

(ii) availing a financial service; or

(iii) exercising any right associated with financial product or financial service;

(f) establishing or operating an investment scheme;

(g) maintaining or transferring records of ownership of a financial product;

(h) underwriting the issuance or subscription of a financial product; or

(i) selling, providing, or issuing stored value or payment instruments or providing payment services;

(17) ***"financial service provider"*** *means a person engaged in the business of providing financial services in terms of authorisation issued or registration granted by a financial sector regulator;"*

c) Section 3(15) IBC defines "financial products" to include securities, deposits, loans, and other financial instruments. According to Section 2 of the Securities Contracts (Regulation) Act, 1956, "securities" include shares, stocks, bonds, debentures, etc. A stock broking company, by its very nature, is involved in dealing with such financial products.

d) It is therefore evident that the Respondent, being engaged in the purchase, sale, and administration of securities on behalf of clients, was providing "financial services" within the meaning of Section 3(16), and was doing so under registration granted by SEBI, a financial sector regulator. Consequently, it falls within the scope of "financial service provider" under Section 3(17). Here, we also rely upon the decision of the Hon'ble NCLAT in ***Nitin Pannalal Shah (Suspended Director of Simandar Broking Limited) v. Vipul H Raja & Others, Comp. Appeal (AT) (Ins.) No. 379 of 2021, decided on 11.09.2023***, wherein it was categorically held that stock broking companies are financial service providers and therefore do not fall within the definition of "corporate person" under Section 3(7) IBC. This view squarely applies to the present Respondent.

e) The Petitioner's contention that Section 3(16)(e) does not apply to entities directly involved in trading on behalf of clients is misconceived. The definition of "financial product" is broad and includes securities, deposits, and loans**,** among others. A stock broker's core function is buying, selling, and dealing with securities – activities expressly covered by the Code. Therefore, the Respondent's activities fall squarely within the parameters of a financial service provider.

f) Another contention of the Applicant on this issue is that the Respondent's Certificate of Registration was cancelled by SEBI on 31.05.2023, that it was banned from accessing the market for seven years, and that it had been expelled from NSE and BSE in November–December 2020. It was submitted that on the date of filing the Petition (09.02.2023), the Respondent was not carrying on stock broking business.

g) However, the Respondent did not place on record all the orders passed by SEBI. This Bench, in another matter ***Vardhaman Bank vs Karvy Stock Broking Limited CP(IB) No.332/9/2021, decided on 10.09.2024***, had already considered this issue and held that there was no evidence of suspension or cancellation of registration prior to 31.05.2023**.** Further, even the subsequent cancellation of licence would not alter the legal position because when the transaction giving rise to the debt took place, the Respondent was actively engaged in stock broking business.

h) From the foregoing, it is clear that the Respondent was engaged in providing services that fall within the ambit of 'financial services' as defined in Section 3(16) IBC. By virtue of Section 3(7) read with Section 3(8) and Section 227 of the IBC, a financial service provider is excluded from the definition of "Corporate Person".

Intimating record of default with the Information Utility:

a) The Application/Petition under Section 7 of the IBC is filed in Form 1, as prescribed under the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Item No. 3 of Part V of the said Form requires disclosure of the record of default with an Information Utility (IU), if available, along with a copy of such record.

b) Furthermore, Section 7(3)(a) of the Code mandates that the financial creditor, along with the application, shall furnish:

> *"Record of the default recorded with the information utility or such other record or evidence of default as may be specified."*

c) Such information is to be furnished with the Information Utility in accordance with Section 215 of the IBC and Regulations 20(1)(A) of the Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017. Regulation 20(1A) which was introduced vide Notification No.IBBI/ 2022-23/GN/REG085 dated 14.06.2022 provides:

> *"Before filing an application to initiate corporate insolvency resolution process under section 7 or 9, as the case may be, the creditor shall file the information of default, with the information utility and the information utility shall process the information for the purpose of issuing record of default in accordance with regulation 21."*

d) The objective of the above provision is to strengthen the evidentiary value of the claim and assist the Adjudicating Authority in its duty under Section 7(4) of the Code, which states:

> *"The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3)."*

e) A conjoint reading of these provisions makes it amply clear that the record of default with the IU is not mandatory, but directory in nature. The use of the disjunctive "or" in Section 7(3)(a) indicates that the Adjudicating Authority may ascertain default either from:

- The records of an Information Utility, or
- Other evidence furnished by the financial creditor.

f) The Hon'ble Supreme Court in ***Suresh Kumar Reddy v. Canara Bank & Ors.***, ***2023 SCC OnLine SC 608***, has clarified that filing of record of default with the IU is one of the permissible modes to establish default, and not an indispensable condition for maintainability of the application.

g) In the present case, notwithstanding the absence of an IU record, the existence of debt and default stands clearly established through various contemporaneous documents, including:

- Redemption failure of commercial papers on 10.12.2019;
- Set-off arrangements duly communicated;

- Admission of liability by the Respondent vide email dated 14.04.2020.

h) Accordingly, the contention of the Respondent that non-filing of IU record renders the Petition defective is without merit**.** Sufficient documentary evidence has been placed on record to satisfy the twin conditions of “debt” and “default” as contemplated under Section 7 of the Code.

Applicability of Section 10A

a) Section 10A of the IBC bars filing of any application for initiation of CIRP in respect of default that occurred during the period from 25.03.2020 to 24.03.2021**.** The embargo is limited to defaults arising within the 10A period and does not apply to defaults that occurred prior to or after this period. The language of Section 10A leaves no scope for any interpretation contrary to this plain and strict mandate.

b) The Hon’ble Supreme Court in ***Ramesh Kymal v. Siemens Gamesa Renewable Power Pvt. Ltd.*****,** ***(2021) SCC OnLine SC 170***, has unequivocally held that no application can ever be filed under Section 7 in respect of defaults arising during the 10A period. Para 27 to 29 of the said judgment are apposite:

> 27. Adopting the construction which has been suggested by the Appellant would defeat the object and intent underlying the insertion of Section 10A. The onset of the Covid-19 pandemic is a cataclysmic event which has serious repercussions on the financial health of corporate enterprises. The Ordinance and the Amending Act enacted by Parliament, adopt 25 March 2020 as the cut-off date. The proviso to Section 10A stipulates that "no application shall ever be filed" for the initiation of the CIRP "for the said default occurring during the said period". <u>The expression "shall ever be filed" is a clear indicator that the intent of the legislature is to bar the institution of any application for the commencement of the CIRP in respect</u>

of a default which has occurred on or after 25 March 2020 for a period of six months, extendable up to one year as notified. The explanation which has been introduced to remove doubts places the matter beyond doubt by clarifying that the statutory provision shall not apply to any default before 25 March 2020.

28. The substantive part of Section 10A is to be construed harmoniously with the first proviso and the explanation. Reading the provisions together, it is evident that Parliament intended to impose a bar on the filing of applications for the commencement of the CIRP in respect of a corporate debtor for a default occurring on or after 25 March 2020; the embargo remaining in force for a period of six months, extendable to one year. Acceptance of the submission of the Appellant would defeat the very purpose and object underlying the insertion of Section 10A. For, it would leave a whole class of corporate debtors where the default has occurred on or after 25 March 2020 outside the pale of protection because the application was filed before 5 June 2020.

29. We have already clarified that the correct interpretation of Section 10A cannot be merely based on the language of the provision; rather it must take into account the object of the Ordinance and the extraordinary circumstances in which it was promulgated. It must be noted, however, that the retrospective bar on the filing of applications for the commencement of CIRP during the stipulated period does not extinguish the debt owed by the corporate debtor or the right of creditors to recover it.

(own emphasis)

c) When legislative intent is clear and unambiguous, courts are not empowered to add or subtract from the statutory text. In ***Md. Shahabuddin v. State of Bihar, (2010)4 SCC 653***, the Hon'ble Supreme Court reaffirmed the principle that if the language of a statute is plain, courts must not read into it something which is not there. A similar view was taken in ***Kotak***

Mahindra Bank Ltd. v. A. Balakrishnan, (2022)9 SCC 186 and Nemai Chandra Kumar v. Mani Square Ltd., (2015) 14 SCC 203.

d) In this context, the relevant question is whether the date of default falls within the prohibited 10A period. In Part IV of the Petition, the Applicant has mentioned four dates:

- 10.12.2019 – the date when the Commercial Paper was to be redeemed;
- 14.04.2020 – the date on which the Respondent allegedly confirmed the debt;
- 16.05.2020 – the date on which the Petitioner purportedly exercised a set-off;
- 07.02.2022 – a subsequent acknowledgment/event.

e) Of these, only the date 16.05.2020 falls within the 10A period. However, the Petitioner has not alleged this date to be the initial default but has merely referred to a unilateral act of set-off. The first date of default is clearly 10.12.2019, when the Commercial Paper matured and the Respondent failed to redeem it.

f) The Adjudicating Authority is required to determine the actual date of default and is not bound by all dates casually mentioned in the Petition or demand notice. The unilateral act of set-off on 16.05.2020 cannot be construed as the starting point of default. The default actually occurred on 10.12.2019 when the liability matured and remained unpaid. Accordingly, the bar under Section 10A does not apply in the present case.

g) Hence, we find no merit in the Respondent's plea that the Petition is hit by Section 10A of the IBC.

Applicability of Judgement of Hon'ble Supreme Court in Vidarbha's case

i) Prior to the decision of the Hon'ble Supreme Court in ***M/s. Vidarbha Industries Power Limited v. M/s. Axis Bank Limited*, *(2022) 8 SCC***

352, the settled legal position, as laid down in ***Innoventive Industries Limited v. ICICI Bank Limited, (2018) 1 SCC 407,*** and reiterated in ***E.S. Krishnamurthy v. Bharath Hi-Tech Builders (P) Ltd., (2022) 3 SCC 161***, was that the twin requirements of (i) existence of a debt and (ii) occurrence of default were sufficient for admitting an application under Section 7 of the Insolvency and Bankruptcy Code, 2016. Once these two conditions were satisfied, the Adjudicating Authority had no discretion to refuse admission of the petition.

j) However, in *Vidarbha Industries* (supra), the Hon'ble Supreme Court observed that the word "may" in Section 7(5)(a) of the IBC confers a certain discretion on the Adjudicating Authority to consider other relevant factors, such as the overall financial health of the Corporate Debtor, before admitting the petition. This marked a departure from the rigid interpretation of *Innoventive Industries*.

k) Subsequently, the Hon'ble Supreme Court in ***M.Suresh Kumar Reddy v. Canara Bank, (2023) 8 SCC 387***, clarified that *Vidarbha Industries* was decided in the peculiar facts of that case and cannot be interpreted as laying down a general proposition overriding the earlier binding precedents. It was reaffirmed that the law laid down in *Innoventive Industries* and *Krishnamurthy* cases remains the controlling authority: once the Adjudicating Authority is satisfied that a financial debt exists and default has occurred, it is bound to admit the application under Section 7. It was further clarified that the decision in *Vidarbha Industries* cannot be viewed as a contrary precedent.

l) In light of the above settled legal position, the reliance placed by the Respondent on the *Vidarbha Industries* decision is wholly misplaced. The facts of the present case do not fall within the narrow factual matrix of *Vidarbha*, and the Respondent has failed to produce any cogent material to demonstrate that it is financially solvent or operationally viable. Mere assertions of financial soundness without substantive evidence cannot be accepted. On the contrary, it is an admitted fact that the SEBI has cancelled the Respondent's license, which casts serious doubts on its financial and operational viability.

m) Therefore, the plea of the Respondent that the application under Section 7 should be rejected in view of the principle laid down in *Vidarbha Industries* is untenable in law and deserves outright rejection.

Use of this Forum as a Recovery Mechanism

a) It is well settled that the provisions of the IBC are not intended to be used as a recovery tool. The objective of the Code is to facilitate resolution of insolvency and not to serve as an alternative to recovery forums. This principle has been affirmed in many cases including ***Agarwal Veneers vs Fundtonic Service Pvt. Ltd., Company Appeal (AT)(Ins) No. 968 of 2020,, Mobilox Innovations Pvt. Ltd. vs Kirusa Software Pvt. Ltd.,(2018)1 SCC 353, Invent Asset Securitisation and Reconstruction Pvt. Ltd. vs Girnar Fibres Ltd., 2022 SCC OnLine SC 808 and Yash Nachrani, Director of Suspended Board of Directors, Coppertun Brewing Pvt. Ltd. v. Pardeshi Construction Pvt. Ltd. & Ors.***, **Company Appeal (AT)(Insolvency) No. 625 of 2022,** wherein it was held that the provisions of the IBC cannot be invoked merely for recovery of dues.

b) However, it is equally well established through binding precedents, including ***Innoventive Industries Ltd. v. ICICI Bank Ltd.*** **(2018) 1 SCC 407,** ***E.S. Krishnamurthy v. Bharath Hi-Tech Builders Pvt. Ltd.*** **(2022) 3 SCC 161, and** ***M.Suresh Kumar Reddy v. Canara Bank*** **(2023) 8 SCC 387**, that once the twin requirements of existence of a “financial debt” and "default" are satisfied, the Adjudicating Authority is duty-bound to admit the petition under Section 7 of the IBC. The object of such admission is not recovery of debt, but initiation of the CIRP for revival or liquidation of the Corporate Debtor as per the statutory framework.

c) In the present case, it has already been held that the Respondent is not a 'corporate person' within the meaning of Section 3(7) of the Code, and hence, Section 7 proceedings against it are not maintainable. However, it is also noted that there is no material on record to suggest that the Applicant has misused this forum merely for recovery of dues, or that the petition was filed with mala fide intent.

d) Therefore, while the petition is not maintainable for technical reasons, we find no basis to accept the contention that the Applicant has abused the process of this Tribunal for recovery purposes.

7. **Final Order**

In view of the foregoing, we hold as follows:

- The Respondent is a financial service provider under Section 3(16) of the Code and is excluded from the definition of "corporate person" under Section 3(7).
- The Petition under Section 7 is **not maintainable** against the Respondent.
- Accordingly, the Petition is **dismissed as not maintainable**, with no order as to costs.

SD/-   SD/-

(Sanjay Puri)
Member, Technical

(Rajeev Bhardwaj)
Member, Judicial

Vinod