



**NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH, COURT – II
CHENNAI**

**ATTENDANCE CUM ORDER SHEET OF THE HEARING OF NATIONAL
COMPANY LAW TRIBUNAL, CHENNAI BENCH, HELD ON 02.04.2026 AT
10.30 A.M. THROUGH VIDEO CONFERENCING:**

**PRESENT: SHRI. JYOTI KUMAR TRIPATHI, HON'BLE MEMBER (JUDICIAL)
SHRI. RAVICHANDRAN RAMASAMY, HON'BLE MEMBER (TECHNICAL)**

APPLICATION NUMBER : --
PETITION NUMBER : CP(IB)/140(CHE)2023
NAME OF THE PETITIONER : M/s. Vanathi Exports Pvt Ltd
NAME OF THE RESPONDENT(S) : --
UNDER SECTION : Sec 10 Rule 7 of IBC, 2016

ORDER

Present: Ld. Counsel Mr.Rohan Rajasekaran for the Petitioner.

Vide separate order pronounced in open court, CP(IB)/140/CHE/2023 is
Allowed.

**Sd/-
RAVICHANDRAN RAMASAMY
Member (Technical)**

**Sd/-
JYOTI KUMAR TRIPATHI
Member (Judicial)**



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH – II, CHENNAI
CP(IBC)/140(CHE)/2023**

(Filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the matter of Vanathi Exports Private Limited

VANATHI EXPORTS PRIVATE LIMITED,

Represented by its Director P. Nitish Kumar,

Having its Registered Office at

No.3/1, 2nd Floor, Flat No.2/5,

Ramachandra Road, T. Nagar, Chennai – 600 017.

... Applicant/ Corporate Debtor

Order Pronounced on 02.04.2026

CORAM

SHRI. JYOTI KUMAR TRIPATHI, MEMBER (JUDICIAL)

SHRI. RAVICHANDRAN RAMASAMY, MEMBER (TECHNICAL)

Present:

For Applicant: R. Chandramohan, Rohan Rajasekaran & Ashlin Christo, Advocates

For Indian Bank: C. Ramaiah, Advocate

ORDER

(Heard through hybrid mode)

The present application has been filed by Vanathi Exports Private Limited (“the Corporate Debtor”) under Section 10 of the Insolvency and Bankruptcy Code, 2016 (“the Code”), read with Rule 7 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against it. The application has been filed through one of its Directors and authorised signatory, Mr. P. Minish Kumar, by a Resolution of the Board



of Directors of the Corporate dated 22.04.2023 and shareholders/members resolution dated 22.04.2023 have been duly annexed **Annex VII (c)** and **VII (d)** respectively.

2. SUBMISSIONS OF THE APPLICANT:

2.1. The Corporate Debtor is a private company incorporated under the provisions of the Companies Act, 1956. **Part-I** of the application sets out the particulars of the Corporate Debtor i.e. Vanathi Exports Private Limited. It was incorporated on 15.12.2017 having its Office at No.3/1, 2nd Floor, Flat No.2/5, Ramachandra Road, T. Nagar, Chennai – 600017, with Authorized Capital as Rs.25,00,000/-. **Part-II** of the application sets out the particulars of the Proposed Interim Resolution Professional viz., Mr. N. Kumar having Reg. No. IBBI/IPA-001/IP-P00724/2017-2018/11254. **Part-III** of the application lists the particulars of the Financial / Operational Creditors (**Annexure VI**), amount of debt in default as Rs.8,44,57,904/- (**Annexure VI**) and date of default as 25.08.2021 and 27.09.2022 set out in **Annexure I(b)**.

2.2. It is submitted that the Corporate Debtor had availed various financial facilities from several financial creditors, including Indian Bank, Fullerton India Credit Company Limited, Capital Float, and Aditya Birla Finance Limited, for the purpose of carrying on its business operations.



2.3. It is submitted that the loan facilities were sanctioned and disbursed by the aforesaid financial creditors under various loan agreements and loan specification letters. In particular, loan disbursement letters and loan specification documents issued by Capital Float and Fullerton India evidence the financial facilities extended to the Corporate Debtor.

2.4. It is further submitted that due to adverse financial conditions and severe cash flow constraints, the Corporate Debtor defaulted in repayment of its financial obligations to the lenders. Consequently, certain lenders issued recall notices and initiated recovery proceedings against the Corporate Debtor.

2.5. It is also submitted that Indian Bank classified the loan account as a non-performing asset and issued a slippage letter dated 01.07.2021, followed by a notice of transfer of account dated 17.08.2022 and sale notices dated 04.03.2023 and 04.05.2023 in respect of the secured asset.

2.6. It is submitted that Fullerton India Credit Company Limited also issued a loan recall notice dated 27.09.2022 calling upon the Corporate Debtor to repay the outstanding dues under the financial facility granted.

2.7. It is submitted that as on the date of filing of the petition, the total amount in default towards financial creditors, including amounts



relating to corporate guarantees, aggregates to Rs.8,44,57,904/- (Rupees eight crores forty four lakhs fifty seven thousand nine hundred and four only).

2.8. It is further submitted that the Corporate Debtor also owes operational debts to various operational creditors, and the amount in default towards operational creditors is Rs. 24,71,700/- (Rupees twenty four lakhs seventy one thousand seven hundred only).

2.9. It is submitted that the financial position of the company has deteriorated to such an extent that it is no longer in a position to service its debts and continue its business operations in the ordinary course.

2.10. It is submitted that they have annexed various documents including loan disbursement letters, loan recall notice, loan statements, slippage letter issued by Indian Bank, notices issued by the lenders, copies of books of accounts evidencing default, audited financial statements of the company for the previous financial years, and the updated statement of affairs of the Corporate Debtor.

2.11. It is also submitted that a Special Resolution was passed by the shareholders on 22.04.2023 approving the initiation of the CIRP under section 10 of IBC, 2016, and a Board Resolution dated 22.04.2023



authorized Mr. P. Minish Kumar, Director of the Corporate Debtor, to file the present application.

2.12. The Applicant has enclosed the details of total financial debts which is extracted hereinbelow:

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Names and addresses of the financial creditors and operational creditors with amounts owed to each one of them -- **Annexure VI**

SL NO	BANK NAME & ADDRESS	LOAN TYPE	LOAN ACCOUNT NUMBER	SANCTION AMOUNT	OUTSTANDING AMOUNT
1	INDIAN BANK, SAIDAPET BRANCH, NO 1, ABDULRAZAK STREET, SAIDAPET, CHENNAI-15	OCC	6609129001	1,70,00,000.00	2,23,71,136.00
2	INDIAN BANK, SAIDAPET BRANCH, NO 1, ABDULRAZAK STREET, SAIDAPET, CHENNAI-15	OCC-STANDBY	6858196390	42,50,000.00	59,63,556.00
3	INDIAN BANK, SAIDAPET BRANCH, NO 1, ABDULRAZAK STREET, SAIDAPET, CHENNAI-15	WCTL-OCC	6966594945	35,29,800.00	39,96,000.00
4	INDIAN BANK, SAIDAPET BRANCH, NO 1, ABDULRAZAK STREET, SAIDAPET, CHENNAI-15	FITL-OCC STANDBY	6966437461	7,03,012.00	9,66,610.00
5	INDIAN BANK, SAIDAPET BRANCH, NO 1, ABDULRAZAK STREET, SAIDAPET, CHENNAI-15	CAR LOAN	685823194	14,95,000.00	11,45,000.00
6	THE MALLESWAR COOP, BANGLORE	SHORT TERM BOROWINGS	03	7,60,000	7,60,000.00
7	FULLERTON INDIA CREDIT COMPANY LIMITED, FLOOR 5&6, B WING, SUPREME IT PARK, SUPREME CITY, MUMBAI 400 076	UNSECURED BUSINESS LOAN	035602410614 114	17,67.066.00	7,37,032.00



8	FULLERTON INDIA CREDIT COMPANY LIMITED, FLOOR 5&6, B WING, SUPREME IT PARK, SUPREME CITY, MUMBAI 400 076	UNSECURED BUSINESS LOAN	03560241071 8347	2,25,000.00	1,20,000.00
9	CAPITAL FLOAT, Gokaldas Platinum, New no. 3 (Old no. 211), Upper Palace Orchards, Bellary Road, Sadashiva Nagar, Bengaluru – 560080 (Head Office)	UNSECURED BUSINESS LOAN	CHE19R00026 1604	20,10,620.00	7,25,000.00
10	ADITYA BIRLA FINANCE LTD, No TS 125, Ground Floor, SaiSadhan North Phase, SIDCO Industrial Estate, Ekkatuthangal, Chennai, Tamil Nadu 600032	UNSECURED BUSINESS LOAN	ABFLCHNBIL0 000077276	15,00,000.00	9,03,570.00
11	ELANGO Sungavachathiram Sriperumbur Tamil Nadu	SHORT TERM BORROWINGS	01	4,17,70,000	4,17,70,000
12	KARTHIK Sungavachathiram Sriperumbur Tamil Nadu	SHORT TERM BORROWINGS	02	50,00,000	50,00,000.00
		TOTAL			8,44,57,904.00

Operational Creditors with amounts owed to each one of them

Particulars of Operational Creditor as on date			Annexu re-VI
Sl. No.	Parties	Outstanding amount	
1	NTA COCHIN	62,500.00	
2	ARUN TRANSPORT	32,500.00	
3	CONITNENTAL CFS	68,000.00	
4	UNIVERSAL CARGO	54,500.00	
5	TIMESCAN LOGISTICS	115,000.00	
6	SYED ALI FATHIMA –DODOWN OWNER	2,00,000.00	
7	BLITZ INTERNATIONAL- UAE	19,39,200.00	
	Total	24,71,700.00	

2.13. The Applicant has also not placed the relevant books of accounts evidencing the default, but they have attached copy of the audited



financial statements from 31.03.2023 upto 30.04.2023 and its Statement of Affairs upto 30.04.2023.

2.14. It is submitted that notice of the petition was directed to be served on the Financial Creditors and the major Operational Creditors.

2.15. It is also submitted that the Corporate Debtor is no longer viable to continue its operations outside of a formal resolution framework, and has therefore sought admission of the present application for initiation of CIRP under Section 10 of the Code.

2.15. It is further submitted that all the statutory requirements for filing the present application under Section 10 of the Code have been duly complied with. The existence of debt and default is established, and the Corporate Debtor is not hit by the disqualifications under Section 11 of the Code.

3. SUBMISSIONS OF THE RESPONDENT No. 1:

3.1. The Respondent No.1, Indian Bank, has filed the present counter opposing the application filed by the Corporate Debtor.

3.2. It is stated that during the course of its banking relationship, the directors of the Corporate Debtor approached Indian Bank seeking financial assistance for their export business and accordingly passed a Board Resolution dated 19.02.2018 authorising the borrowing of credit



facilities and execution of necessary security documents, including creation of equitable mortgage over the scheduled property.

3.3. Pursuant to the said request, the Respondent Bank sanctioned an Open Cash Credit (OCC) facility of Rs. 1,70,00,000/- on 19.02.2018 to meet the working capital requirements of the Corporate Debtor, carrying interest at MCLR + 1.90% per annum. The said facility was secured by first charge over the movable assets, stocks and book debts of the Corporate Debtor and by way of equitable mortgage over the immovable property described in the schedule.

3.4. It is stated that the Corporate Debtor and its directors executed various security documents in favour of the Respondent Bank, including joint and several demand promissory notes, agreement for open cash credit (stock/ book debts), and a registered Memorandum of Deposit of Title Deeds dated 21.02.2018 (Doc. No.183/2018) registered at the Sub-Registrar Office, Thousand Lights, Chennai, thereby creating an equitable mortgage over the scheduled property.

3.5. It is further stated that the Corporate Debtor subsequently sought additional financial assistance, pursuant to which the Respondent Bank sanctioned a Working Capital Demand Loan (WC DL) facility of Rs.42,50,000/- on 04.02.2020 with interest linked to the repo rate. The said



facility was similarly secured by hypothecation of movable assets and by extension of the mortgage over the scheduled property, and the directors executed the requisite loan and guarantee documents.

3.6. It is stated that the Corporate Debtor and its directors also executed further security documents including joint and several demand promissory notes, agreements for open cash credit, agreement of guarantee, and a Supplemental Memorandum of Deposit of Title Deeds dated 21.02.2020 (Doc. No.225/2020) confirming extension of the mortgage in favour of the Respondent Bank.

3.7. It is further stated that the Corporate Debtor later approached the Respondent Bank seeking restructuring of the loan facilities by way of letter dated 23.12.2020. Considering the request, the Respondent Bank sanctioned restructuring facilities including a Funded Interest Term Loan (FITL) of Rs.7.96 lakhs and a Working Capital Term Loan (WCTL) of Rs.39.96 lakhs, both repayable within 60 months.

3.8. It is stated that pursuant to the restructuring, the Corporate Debtor and its directors executed several documents including demand promissory notes, agreements of hypothecation, agreements relating to bifurcation of existing facilities, Funded Interest Term Loan agreement, and Supplemental Memorandum of Deposit of Title Deeds dated



17.02.2021 (Doc. No.179/2021), confirming continuation and extension of the mortgage over the scheduled property.

3.9. It is stated that a Letter of Acknowledgment of Debt-cum-Security dated 23.12.2020 acknowledging its liability towards the Respondent Bank was also executed.

3.10. It is stated that despite repeated opportunities and indulgence shown by the Respondent Bank, the Corporate Debtor failed to regularise the loan accounts and committed persistent defaults in repayment of the outstanding dues.

3.11. It is stated that consequently, the loan accounts of the Corporate Debtor, namely OCC, IB Standby WCDL, FITL and WCTL, were classified as Non-Performing Assets on 29.12.2020 in accordance with the guidelines of the Reserve Bank of India.

3.12. It is stated that thereafter a loan recall demand notice dated 25.08.2021 calling upon the Corporate Debtor to repay the entire outstanding amount of Rs.2,70,55,830/- within sixty days was issued. However, the Corporate Debtor failed to discharge the said liability.

3.13. It is further stated that as the dues remained unpaid, the Respondent Bank instituted recovery proceedings by filing



O.A.No.187/2023 before the Debt Recovery Tribunal-II, Chennai seeking recovery of Rs.3,27,04,327/- together with contractual interest.

3.14. It is also stated that during the pendency of the said proceedings, the secured property mortgaged by the Corporate Debtor was brought to sale under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the property was sold through auction on 20.09.2023 for a sum of Rs.1,40,50,000/-, which amount was duly appropriated towards the loan account of the Corporate Debtor.

3.15. It is finally stated that even after adjustment of the sale proceeds, a sum of Rs.2,59,62,708.71 remained outstanding as on 30.07.2024 together with contractual interest.

4. SUBMISSIONS OF RESPONDENT NO. 2:

4.1. The Respondent No.2, Aditya Birla Finance Limited, has filed its reply opposing the application filed by the Corporate Debtor.

4.2. It is stated that the Corporate Debtor had approached the Respondent seeking financial assistance, pursuant to which the Respondent sanctioned and disbursed a term loan facility in favour of the Corporate Debtor for its business requirements.



4.3. It is stated that in terms of the loan agreement executed between the parties, the Corporate Debtor undertook to repay the loan amount together with applicable interest in accordance with the agreed repayment schedule. The directors of the Corporate Debtor also executed the necessary loan and security documents in favour of the Respondent.

4.4. It is stated that despite availing the financial facility and undertaking to adhere to the repayment schedule, the Corporate Debtor committed persistent defaults in repayment of the loan instalments and failed to regularise the account.

4.5. It is further stated that due to the continued defaults committed by the Corporate Debtor, the Respondent classified the loan account as a non-performing asset and initiated recovery proceedings for recovery of the outstanding dues in accordance with law.

4.6. It is contended that the Corporate Debtor has failed to disclose the complete particulars of the outstanding liabilities owed to the Respondent and other creditors in the present petition and has not approached this Tribunal with clean hands.

4.7. It is stated that the present application filed under Section 10 of the Code appears to have been filed with the intention of delaying and frustrating the recovery proceedings initiated by the financial creditors.



5. FINDINGS OF THE TRIBUNAL:

5.1. We have heard the submissions made by the learned counsel appearing for the Corporate Debtor and the learned counsel appearing for the Respondents and have perused the pleadings and documents placed on record.

5.2. The present application has been filed by the Corporate Debtor, Vanathi Exports Private Limited, under Section 10 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against itself on account of its inability to discharge its financial obligations.

5.3. Section 10 of IBC, 2016 provides as under:

“Section 10. Initiation of corporate insolvency resolution process by Corporate Debtor.

(1) Where a corporate debtor has committed a default, a Corporate Debtor thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.

(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.

(3) The Corporate Debtor shall, along with the application furnish the information relating to-

(a) its books of account and such other documents relating to such period as may be specified; and

(b) the resolution professional proposed to be appointed as an interim resolution professional.



(c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.

(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order--

(a) admit the application, if it is complete; ²[and no disciplinary proceeding is pending against the proposed resolution professional]; or

(b) reject the application, if it is incomplete: ²[or any disciplinary proceeding is pending against the proposed resolution professional:]

Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.

(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section."

5.4. The issues that arise for consideration before this Tribunal are:

(i) Whether the present application filed by the Corporate Debtor under Section 10 of the Code satisfies the requirements prescribed under the Code and the applicable rules;

(ii) Whether the Corporate Debtor has established the existence of financial debt and default; and

(iii) Whether there exist any legal impediments warranting rejection of the present application.

5.5. In so far as the first issue is concerned, Section 10 of the Code enables a Corporate Debtor to initiate CIRP against itself when it has committed a default. The Corporate Debtor is required to comply with the requirements stipulated under Section 10(3) of the Code read with the



Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, including furnishing its books of account, financial statements, details of financial and operational creditors, and a special resolution or board resolution authorising the filing of the application.

5.6. Upon perusal of the records placed before this Tribunal, it is observed that the Corporate Debtor has placed on record the necessary documents including financial statements, statement of affairs, details of its creditors, and the authorisation for filing the present application. The application appears to be complete in all material particulars.

5.7. With regard to the existence of financial debt and default, it is evident from the material placed on record that the Corporate Debtor had availed credit facilities from several financial creditors including Indian Bank, Aditya Birla Finance Limited, and Fullerton India Credit Company Limited. The loan documents, loan statements and recall notices placed on record demonstrate that the Corporate Debtor had availed financial assistance and had undertaken to repay the same in accordance with the terms of the respective loan agreements.

5.8. The records further indicate that the Corporate Debtor committed defaults in repayment of the said financial facilities, as a result of which the loan accounts were classified as Non-Performing Assets and recovery



proceedings were initiated by certain financial creditors. It is also seen that Indian Bank had issued recall notices and initiated recovery proceedings before the Debt Recovery Tribunal-II, Chennai, and had also taken steps under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 in respect of the secured assets of the Corporate Debtor.

5.9. The Corporate Debtor has disclosed that the total amount in default towards financial creditors aggregates to Rs.8,44,57,904/-, while the amount in default towards operational creditors aggregates to Rs.24,71,700/-. The material on record sufficiently establishes that the Corporate Debtor is unable to service its debts and has committed default within the meaning of Section 3(12) of the Code.

5.10. The Respondents have opposed the present application contending inter alia that recovery proceedings have already been initiated against the Corporate Debtor and that the secured assets have been sold for recovery of dues. However, it is a settled position of law that the pendency of recovery proceedings before other forums or the initiation of measures under the SARFAESI Act does not bar the initiation of CIRP under the Code. The Code is a comprehensive legislation



intended to provide a collective mechanism for resolution of insolvency of corporate persons.

5.11. It is further observed that the Respondents have not placed any material on record to demonstrate that the present application has been filed with any fraudulent or malicious intent so as to attract the provisions of Section 65 of the Code. Mere pendency of recovery proceedings or enforcement actions by creditors cannot by itself be construed as a ground to reject an application filed under Section 10 of the Code.

5.12. In view of the foregoing discussion, this Tribunal is satisfied that the Corporate Debtor has established the existence of financial debt and default and that the application filed under Section 10 of the Code is complete in all respects. Accordingly, this Tribunal is of the considered view that the present application deserves to be admitted.

5.13. In the instant case, the amount of debt is more than Rs. 1.0 Crore i.e. more than the minimum threshold. The Applicant has also given the date of default in repayment of loans. It has been submitted that the credits taken are genuine; the money was pumped into the Company through proper banking channels; the proceeds were used for repayment to the lenders and for the operations; there are no suspicious/ fraudulent



transactions; and the valuation of inventories was carried out independently by the auditors.

5.14. The Hon'ble National Company Law Appellate Tribunal (hereinafter, Hon'ble NCLAT), New Delhi in *M/s. Unigreen Global Private Limited vs. Punjab National Bank and others (Company Appeal (AT) (Insolvency) 81/2017)*, held that if an application under Section 10 is complete and in absence of any ineligibility of Corporate Debtor, the Adjudicating Authority is bound to admit the application. The relevant portion of the judgement is reproduced hereunder,

"22. Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under Section 10 and the informations as required to be submitted in Form 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 subject to ineligibility prescribed under Section 11. If all informations are provided by an applicant as required under Section 10 and Form 6 and if the Corporate Debtor is otherwise not ineligible under Section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground"

5.15. In the case of *"Go Airlines (India) Limited, CP/IB-264(PB)/2023"*, which was affirmed by the Hon'ble NCLAT in *Company Appeal (AT) [Insolvency] No. 593 of 2023*, it was held as under:

"34. Further, we are conscious of the fact that hearing each and every Creditor, under Section 10 of IBC 2016, can cause an inordinate delay in the conclusion of the proceeding, which may result in the erosion of the value of the assets and defeat the very purpose of value



maximization and ultimately, the revival of the Corporate Debtor, which is not the objective of the IBC. As we have seen above, in the Application to Adjudicating Authority Rules, 2016, even the right to serve a copy of a Section 10 Application is not conferred to the Creditor(s). Hence, in view of the above, we conclude that in Section 10 proceedings, though there is no mandatory requirement of issuing notice to the Creditor(s) at the pre-admission stage, rather giving notice to the Creditor(s) is a matter of discretion to be exercised on a case-to-case basis on valid grounds. Wherever there is a clear apprehension of deterioration of assets of the Corporate Debtor/Debtor and larger public interest is involved, issuance of notice at the pre-admission stage cannot be claimed as a matter of right.

(...)

*43. We observe that Section 65 only uses the word “initiates”, and does not make any distinction like the stage of pre-admission or post admission of CIRP, and from the reading of Sub-section (1), it transpires that the provision is applicable not only on the date on which a financial creditor / operational creditor or Corporate Debtor, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process but certainly, not limited to and may extend to the period of Liquidation, as the case may be. Needless to say, that fraud vitiates all acts. There could be instances where the fraudulent act is detected much after the commencement of CIRP. If a narrow interpretation of Section 65 of IBC 2016 is taken i.e., limiting its applicability to the pre-admission stage, then Section 65 will have no relevance. Therefore, Section 65 of IBC can be resorted by an aggrieved party at any stage, be it preadmission or post-admission. **Accordingly, we conclude that there is no bar in entertaining/considering/adjudicating a Section 65 Application after the initiation of the CIR Process.***

44. Further, as we have noted earlier, as of the date of the hearing, there was no Section 65 Application filed/pending/listed before this Adjudicating Authority. Keeping in mind the urgency of the instant



case, to protect and maximize the value of the Assets in line with the objectives of IBC, employment involved, and the larger public interest, the judicial propriety demands it will not be apt to wait for the filing of the Section 65 Application. Hence, we would like to proceed ahead with the examination of the Section 10 Application on merits.”

5.16. This Tribunal is satisfied that there is a default in the repayment of debt and the application filed under Section 10 is complete with all the necessary information. Further, the Corporate Debtor is not ineligible to make an application as per Section 11 of IBC, 2016. Therefore, we are of the view that this Company application is required to be admitted u/s 10 of the Code. The circumstances justify the initiation of CIRP against the Corporate Debtor so that an effective resolution plan can be explored in the larger interest of all stakeholders. We order accordingly.

5.17. The Corporate Debtor has proposed the name of **Mr. N. Kumar**, having **Regn. No. IBBI/IPA-001/IP-P00724/2017-2018/11254** as the Interim Resolution Professional (IRP) and we appoint *Mr. N. Kumar*, having **Registration No. IBBI/IPA-001/IP-P00724/2017-2018/11254** (*E-mail ID: naraykumar71@rediffmail.com*) (*AFA Valid till 31.12.2026*) forming part of the Panel of IPs recommended by IBBI in accordance with, “Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2024”, as the IRP in the present



application. The IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15, 17, 18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

5.18. Consequently, the application filed by the Corporate Debtor under Section 10 of the Insolvency and Bankruptcy Code, 2016 is admitted and the Corporate Insolvency Resolution Process shall commence in respect of **Vanathi Exports Private Limited** in accordance with law.

5.19. As a consequence of the Application being admitted in terms of Section 10 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- a. The institution of suits or continuation of pending suits or proceedings against the respondent 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 respondent 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 respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- d. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

5.20. However, during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;



- (2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.
- (2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.
- (3) The provisions of sub-section (1) shall not apply to
 - (a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
 - (b) a surety in a contract of guarantee to a corporate debtor.

5.21. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of



Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

5.22. The Corporate Debtor is directed to pay a sum of **Rs.2,00,000/- (Rupees Two Lakh only)** to the Interim Resolution Professional to meet out the expenses and to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. Based on the above terms, the Petition stands **admitted** in terms of Section 10 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

5.23. Accordingly, **CP(IBC)/140(CHE)/2023** stands **admitted**.

-Sd-

RAVICHANDRAN RAMASAMY
MEMBER (TECHNICAL)

-Sd-

JYOTI KUMAR TRIPATHI
MEMBER (JUDICIAL)