

IN THE NATIONAL COMPANY LAW TRIBUNAL

KOCHI BENCH

CP (IBC)/45/KOB/2024

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

In the matter of:

The Federal Bank Limited Vs. M/s. Greenseed Agro Bio Labs Private Limited

MEMO OF PARTIES:

The Federal Bank Limited

having its Regd. Office at
Federal Towers, P.B.No.103, Bank
Junction, Aluva, Ernakulam District,
Kerala, Pin-683101.

... Applicant/ Financial Creditor

-Vs-

Greenseed Agro Bio Labs Private Limited

No.808/4, Paravanethu Building, Chittar P O.,
Pathanamthitta, Chittar, Kerala, Pin - 689 663

... Respondent/Corporate Debtor

Order delivered on: 04.04.2025



Coram:

Smt. Madhu Sinha

Shri. Vinay Goel

Hon'ble Member (Technical)

Hon'ble Member (Judicial)

Appearances:

For the Petitioner: Ms. Nigi George, Adv.

ORDER

Per Coram

1. The present application is filed by The Federal Bank Limited on 06.09.2024 under Section 7 of the Insolvency and Bankruptcy Code, 2016 (the Code), r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating the Corporate Insolvency Resolution Process (CIRP), declaring moratorium and for appointment of Interim Resolution Professional (IRP), against the Corporate Debtor (CD) viz. M/s Greenseed Agro Bio Labs Private Limited.
2. The total amount claimed to be in default as per Part-IV of the application is Rs.1,36,44,269.36/- (One crore Thirty-Six Lakh Forty-Four Thousand Two Hundred Sixty-Nine rupees and Thirty-Six paise) as on 30.01.2024.
3. The Corporate Debtor was incorporated on 01.12.2020, having CIN: U01100KL2020PTC066036, under the Companies Act, 2013. The registered address of the Corporate Debtor is at No.808/4, Parvanenthu Building, Chittar. P. O, Pathanamthitta, Chittar, Kerala,



India, 689663. Therefore, this Bench has jurisdiction to deal with this application.

4. By virtue of the order of this court on 24.09.2024, that on 26.09.2024, the Registry issued notice to the Corporate Debtor and there was no reply to the email. The Applicant issued a notice to the Corporate Debtor by email on 01.10.2024, but there was no reply to the email. The Applicant also issued a notice to the Corporate Debtor by post and the delivery was confirmed on 03.10.2024. The Applicant filed their Affidavit of Service on 08.10.2024.
5. Despite giving many opportunities to the Corporate Debtor to appear, none appeared on behalf of the Corporate Debtor in any of the hearings. Thus, we were constrained to set the Corporate Debtor Ex-Parte, vide order dated 10.01.2025.
6. **Facts of the Case and Submissions made by Ld. Counsel for the Applicant**

I. The Financial Creditor is a banking company within the meaning of the Companies Act, 2013, and licensed to carry on the business of banking under the Banking Regulation Act, 1949.

II. It is stated that the Corporate Debtor through its Managing Director Mr. Darvin P Mathew approached the Financial Creditor for availing a bank loan for purchasing the assets of the tissue culture lab by Board Resolution dated 01.01.2021.

III. The Financial Creditor by the agreement dated 20.01.2022 sanctioned a cash credit of Rs.10,00,000/- (Rupees Ten Lakhs only) to meet working capital needs and a term loan of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs only) for purchasing the assets of tissue culture lab.



- IV. The Corporate Debtor agreed to repay the entire outstanding amount of cash credit at once to the bank on demand or on expiry of the period of 12 months. It is further agreed to repay the term loan in equal monthly installments of Rs.50000/- for the first 12 months commencing from 20.05.2022 and thereafter in equal monthly installments of Rs.208696/- for the next 69 months commencing from 20.05.2023 till the entire loan is discharged by the elapse of 84 months from the execution of the agreement.
- V. The Financial creditor stated that an instalment was due on 30.10.2023 and since then no remittance was made from the said date, the account was classified as NPA on 29.01.2024.
- VI. The Financial Creditor stated that a demand notice dated 03.02.2024 was issued under section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act,2002 for an amount of Rs. 1,36,44,269.36/- (One Crore Thirty-Six Lakh Forty-Four Thousand Two Hundred Sixty-Nine Rupees and Thirty-Six paise)as on 30.01.2024.
- VII. The Financial Creditor further stated that a demand notice dated 19.07.2024 was issued under IBC for an amount of Rs.1,43,81,945.36(One Crore Forty-Three Lakhs Eighty-One Thousand Nine Hundred Forty-Five and Thirty-Six Paise only).
- VIII. The Financial Creditor stated that even after the issuance of the demand notice, the Corporate Debtor continued the default.
- IX. National E-Governance Services Ltd. (NeSL), issued a Record of Default (RoD) to the Applicant whereby, it authenticated the 'default' filed by the Applicant with respect to debt owed against



Corporate Debtor. The status of the Application is stated as 'Authenticated'.

7. The Financial Creditor has inter alia relied upon the following documents:

- i. Board Resolution of Corporate Debtor to avail Bank Loan dated 01.01.2021 as Annexure A1.
- ii. Agreement for Agricultural Loan dated 20.01.2022 as Annexure A2.
- iii. Demand Notice issued under IBC dated 19.07.2024 as Annexure A6.
- iv. Agreement of Guarantee dated 20.01.2022 as Annexure A7.
- v. Demand Promissory Note dated 20.01.2022 as Annexure A8.
- vi. Notice issued under Section 13(2) of the SARFAESI Act dated 03.02.2024 as Annexure A12.
- vii. Statements of Accounts dated 02.09.2024 as Annexure A17.
- viii. Record of Default as registered with the National E-Governance Services Ltd dated 12.09.2024 as Annexure A20.

8. Analysis and Findings

- i. We have heard the Ld. Counsel for the Applicant and perused the documents submitted.
- ii. The issues which need to be determined are:
 1. Whether the application is barred by limitation.
 2. Whether the Applicant has been able to prove the existence of "Financial Debt".
 3. Whether there is a default on the part of the Corporate Debtor.



- iii. **Issue 1:** The debt amounting to Rs. 1,36,44,269.36/- as on 30.01.2024 is beyond the threshold limit stipulated under the IBC, 2016. The loan documents were executed on 20.01.2022 and the term loan was payable in 84 monthly instalments, starting from 81 months from the date of disbursement was repayable in spread over monthly instalments after the moratorium period of the initial three months. The date of default of debt by the Corporate Debtor is stated as 29.01.2024 which is from the date of classification of NPA. This petition filed on 06.09.2024 comes well within the period of limitation under the law.
- iv. **Issue 2:** Regarding the existence of the Financial Debt, it is evident that there exists a transaction between the Corporate Debtor and the Financial Creditor involving a credit facility of Rs.1,50,00,000/- (Rupees One Crore Fifty Lakhs only), as detailed in Annexure A5, Loan Agreement. The Agreement of Guarantee, signed by the Personal Guarantors, Mr. Darwin. P. Mathew, Mr. Johnson. P. Daniel, Ms. Sreelatha. C.V., Mr. K.A. Shajan and Mr. Philip. P.C. have been submitted as Annexure A7.
- v. Now, as per the Insolvency and Bankruptcy Code, 2016 the definition of Financial Creditor under Section 5 (7) means any person to whom a Financial Debt is owed and includes a person to whom such debt has been legally assigned or transferred to; thereby, the applicant herein, is a Financial Creditor. From records produced before us it is evident that there exists a 'Debt' between the parties and the said debt qualifies to be a 'Financial Debt' as defined under 5(8) of IBC, 2016. Also, the Corporate



Debtor has defaulted in repayment of the said 'Financial Debt' which is due and payable to the Financial Creditor. Under the aforementioned conditions, this Tribunal has no choice but to move forward with the current case and start the Corporate Insolvency Resolution Process with regard to the Corporate Debtor in light of any objections raised by the Corporate Debtor.

- vi. It is relevant to note that the Hon'ble Supreme Court of India in the case of ***Innoventive Industries Ltd. v. ICICI Bank, (2018) 1 SCC 407***, has laid down the guiding principles to admit or reject an application filed under Section 7 of the IBC.

In the above case, Hon'ble the Supreme Court has held that;

"28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the Explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor — it need not be a debt owed to the applicant financial creditor. Under Section 7(2), an application is to be made under subsection (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the Application is made by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in CP (IB) 22/ KOB/ 2022 Page 8 of 15 Part III, particulars of the financial debt in Part



IV and documents, records and evidence of default in Part V. Under Rule 4(3), the applicant is to dispatch a copy of the Application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial Creditor, is important. This it must do within 14 days of the receipt of the Application. It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is satisfied that a default has occurred, the Application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under sub-section (7), the adjudicating authority shall then communicate the order passed to the financial Creditor and corporate debtor within 7 days of admission or rejection of such Application, as the case may be.

30. On the other hand, as we have seen, in the case of a corporate debtor who commits a default of a financial debt, the adjudicating authority has merely to see the records of



the information utility or other evidence produced by the financial Creditor to satisfy itself that a default has occurred. It is of no matter that the debt is disputed so long as the debt is "due" i.e. payable unless interdicted by some law or has not yet become due in the sense that it is payable at some future date. It is only when this is proved to the satisfaction of the adjudicating authority that the adjudicating authority may reject an application and not otherwise."

- vii. **Issue 3:** Part IV of the petition shows 29.01.2024 as the date of default which is the date when the account was classified as NPA by Financial Creditor. The case was also reported to the NeSL information utility and they have also recorded the date of default as 29.01.2024. The NeSL certificate is submitted as Annexure 20.
- viii. From a reading of the above order makes it clear that to admit an application filed under Section 7 of IBC, the Adjudicating Authority is to be satisfied that a default has occurred; that the Corporate Debtor is entitled to point out that default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the Adjudicating Authority is satisfied that a default has occurred, the Application must be admitted unless it is incomplete.
- ix. So, in light of fact of the case, circumstances, and legal situation, we believe that this application, as submitted by the



Applicant/Financial Creditor, must be admitted under Section 7(5) of the IBC, 2016.

ORDER

9. In light of the above facts and circumstances, it is, hereby ordered as follows: -

- i. The Application bearing **CP(IBC)/45/KOB/2024** filed by The Federal Bank Limited, the Applicant/Financial Creditor, under section 7 of the Code read with rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating CIRP against **GREENSEED AGRO BIO LABS PRIVATE LIMITED**, the Respondent/Corporate Debtor, is hereby **admitted**.
- ii. There will be a moratorium under section 14 of the Code.
- iii. The moratorium shall have effect from the date of this order till the completion of the CIRP or until the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of IBC or passes an order for liquidation of Corporate Debtor under section 33 of the Code, as the case may be.
- iv. Public announcement of the CIRP shall be made immediately as specified under section 13 of the code read with regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations 2016.
- v. The Financial Creditor has proposed the name of one Mr. Jasin Jose, IBBI Registration Number: IBBI/IPA-001/IP-P00695/2017-2018/11225, 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.

- vi. We are concerned that the Proposed Interim Resolution Professional might be overloaded with around 20 current assignments. It is this Tribunal's responsibility to ensure that the Insolvency Resolution Professional is not overburdened and is essential to ensuring that the CIRP is conducted effectively and in the best interests of creditors and stakeholders.
- vii. The primary responsibility of the RP is to oversee and facilitate the insolvency resolution process with the highest level of diligence and competence. However, the excessive number of concurrent assignments held by the proposed Insolvency Resolution Professional places an undue strain on their resources, compromising their ability to provide the necessary attention and focus required for each case. This situation not only affects the efficiency of the resolution process but may also lead to suboptimal decision-making, which is against the very principles outlined in the Code and IBBI regulations.
- viii. In the light of the above, we feel it necessary to appoint another IRP to ensure the effective CIRP and in the best interests of creditors and stakeholders. Hence, we appoint **Mr. George Varkey, IBBI Registration Number: IBBI/IPA-001/IP-P00433/2017-2018/10756** as IRP. The Interim Resolution Professional is hereby directed to communicate his consent and AFA in appropriate forms to this Tribunal within 3 days from the receipt of notice of this order. 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 suspended as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016. The fee payable to IRP or as the case may be, the RP 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.

- ix. During the CIRP period the management of the affairs of the Corporate Debtor shall vest with the IRP or, as the case may be, the RP in terms of section 17 of the IBC. 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.
- x. The IRP/RP shall submit to this Adjudicating Authority periodical reports concerning the progress of the CIRP in respect of the Corporate Debtor.
- xi. The Applicant/FC shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with the IRP to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to the approval of the Committee of Creditors (CoC).
- xii. In terms of section 7 (7) of the Code, the Registry is hereby directed to communicate a copy of this Order to the Financial Creditor, the corporate debtor and IRP by Speed Post & e-mail



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immediately, and in any case, not later than two days from the date of this order.

- xiii. Additionally, the Financial Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Kerala, by all available means for updating the Master Data of the Corporate Debtor. The said Registrar of Companies shall send a compliance report in this regard to the Registry of this Tribunal within seven days from the date of receipt of a copy of this order.
- xiv. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.
10. 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.
11. Let the Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.
12. File be consigned to records.

Sd/-
MADHU SINHA
(MEMBER TECHNICAL)

Sd/-
VINAY GOEL
(MEMBER JUDICIAL)

Signed on this the 4th day of April, 2025.

Athira.N.R./LRA

Certified to be True Copy-

Deputy Registrar
National Company Law Tribunal
Kochi Bench

