IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT– I) CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **11.08.2026** THROUGH VIDEO CONFERENCE

CORAM: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Application No	:	
Petition No	:	CP(IB)/297/CHE/2025
Name of Petitioner & Name of Respondent	: :	Micro Capitals Pvt Ltd Vs Maars Software International Ltd
Section	:	7 Rule 4 of IBC, 2016

ORDER

CP(IB)/297/CHE/2025

Present: Mr. Sanjay, Ld. Counsel for the Petitioner.

Vide separate order pronounced in the open Court, petition is admitted.

CIRP is initiated against the Corporate Debtor i.e. Maars Software International Ltd.

Mr. Dharmendra Phelariya is appointed as the IRP.

-sd-
[VENKATARAMAN SUBRAMANIAM]
MEMBER (TECHNICAL)

-sd-
[SANJIV JAIN]
MEMBER (JUDICIAL)

MS

Date: 11.08.2026

IN THE NATIONAL COMPANY LAW TRIBUNAL, DIVISION BENCH – I, CHENNAI

CP(IB)/297(CHE)/2025

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

In the matter of ***Maars Software International Limited***

Micro Capitals Private Limited,
Having its registered office at
A11, Western Expres0073 (WE) Highway,
Mira Bhaindar, Near Kashi Mira Police Station,
Kashi, Thane,
Maharashtra, India, 401107

… Petitioner / Financial Creditor

Vs

Maars Software International Limited
Having its registered office at
106/2, Habibullah Road,
T. Nagar, Chennai-600 017

… Respondent / Corporate Guarantor

Present:

For Petitioner : *Shri. Sarang Pathak, Advocate*
Shri. Manswari Agarwal, Advocate

For Respondent : *Shri. Siddharth, Advocate*

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Order Pronounced on 11th August, 2026

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

(Heard Through Hybrid Mode)

This petition CP(IB)/297(CHE)/2025 under Section 7 of the Insolvency and Bankruptcy Code, 2016 {"**IBC**") r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 has been filed by **Micro Capitals Private Limited** ((hereinafter referred to as **"Petitioner/Financial Creditor"**) against **Maars Software International Private Limited** (hereinafter referred to as ("**Respondent/Corporate Guarantor"**) for initiating Corporate Insolvency Resolution Process ("**CIRP"**).

2. **Part-I** of the petition sets out the particulars of the Petitioner/Financial Creditor, Micro Capitals Private Limited (MCPL). It has its Registered Office at A11, Western Express (WE) Highway, Mira Bhaindar, Near Kashi Mira Police Station, Kashi, Thane, Maharashtra-401 107, India. **Part-II** of the petition sets out the details of the Corporate Guarantor, Maars Software International Limited (Maars). It was incorporated on 23.08.1995 with Authorized Share Capital of Rs.1,75,00,00,000/- and Paid-up Share Capital of Rs.1,52,52,02,000/-. Its Registered Office is situated at 106/2, Habibullah Road, T. Nagar, Chennai-600 017 within the jurisdiction of this Tribunal. In

Part-III of the petition, the Petitioner has proposed the name of Shri. Dharmendra Dhelariya as Interim Resolution Professional. **Part-IV** of the petition contains the particulars of financial debt i.e. Rs.25,86,81,259/- and date of default i.e. 17.06.2025**.** This petition has been filed on 12.09.2025. In **Part-V** of the petition, the Petitioner has enclosed the documents, records and evidence of default.

3. As per the averments made in the petition, the Borrower/Corporate Debtor named K. Sera Sera Limited (**KSS)** for its business requirements, had taken a loan of Rs. 13,00,00,000/- from the Petitioner/Financial Creditor, Micro Capitals Private Limited (**MCPL**). It entered into a loan agreement dated 03.06.2014. Due to its inability to discharge the liability within the stipulated time, the Corporate Guarantor proposed to KSS that in lieu of immediate repayment, it shall act as guarantor for KSS to an extent of Rs.8,00,00,000/- along with accrued interest in relation to the loan availed by KSS under the loan agreement dated 03.06.2014. Both MCPL and KSS accepted the proposal. The parties thereafter entered into a tripartite guarantee agreement whereby Maars / Respondent executed a Deed of Guarantee dated 30.11.2018 (Exhibit-G) guaranteeing upto a maximum of Rs.8,00,00,000/- along with accrued interest towards repayment by KSS to MCPL. One of the conditions

of the Deed of Guarantee was that the payment / repayment or reimbursement of the guaranteed obligations shall be secured by an unconditional and irrevocable guarantee of the Guarantor.

4. It is alleged that as per the mutually agreed schedule of repayment in Schedule-1 of the loan agreement, the repayment was to be made by the Borrower on or before 31.03.2021 but the Borrower failed to adhere to the repayment schedule. As per Clause-14 of the Deed of Guarantee, non-adherence to the repayment schedule tantamounts to occurrence of event of default. Accordingly, the Petitioner/Financial Creditor issued a request letter dated 30.04.2021 for repayment of loan to the borrower but the borrower failed to make the payment alleging financial challenges vide reply (Exhibit-J). It was thereafter, the Financial Creditor/Petitioner issued a notice of occurrence of event of default dated 04.06.2021 to the Respondent/Corporate Guarantor in terms of the Deed of Guarantee dated 30.11.2018 calling upon it to rectify the event of default by making the repayment of the outstanding guaranteed repayment loan amount of Rs.8,00,00,000/- plus 14% interest till the date of repayment as Exhibit-K. It is stated that the Corporate Guarantor vide its reply (Exhibit-L) dated 21.06.2021, requested for restructuring the payment schedule of the loan and

for an extension of three years for making the repayment stating that it has been facing financial hardship. It is stated that despite extension having been granted vide letter dated 25.06.2021 (Exhibit-M) to the Respondent, it failed to clear the payments. Thereafter, the Financial Creditor vide letter dated 27.06.2024 (Exhibit-N) requested for the repayment of the loan amount but the Respondent again vide letter dated 15.07.2024 (Exhibit-O) requested for another extension upto 31.03.2025 for repayment. This made the Financial Creditor issue a final notice of occurrence of event of default dated 09.04.2025 (Exhibit-P) calling upon the Respondent/Corporate Guarantor to make the payment of the outstanding loan amount of Rs.7,87,21,577/- plus interest due and payable towards the loan amount within a period of 15 days from the receipt of the notice but despite that the Respondent/Corporate Guarantor failed to make the payment. Then the Financial Creditor issued a legal notice cum demand notice dated 10.06.2025 (Exhibit-Q) to the Respondent/Corporate Guarantor to pay the amount with interest within a period of 7 days which was responded vide letter/mail dated 27.06.2025 (Exhibit-R) reiterating that it has been facing financial hardship. It requested further extension of two years for the repayment of the loan amount. This made the Petitioner file this petition.

5. **<u>On getting notice of the petition</u>**, the Respondent/Corporate Guarantor filed the reply alleging that the Respondent was not a direct party to the loan agreement nor it received any funds. On the request of the borrower, it had agreed to extend a limited guarantee towards the repayment of the portion of the loan. Accordingly, it executed a Deed of Guarantee dated 30.11.2018. It however admitted to have received the notices of defaults and the request letters issued by it from time to time seeking extension. It is stated that the Respondent never refused repayments nor there was any deliberate default on its part. It had explained the financial difficulties and sought an additional extension of two years to make the repayment but the Petitioner filed this petition. It is stated that this petition has been filed to recover the loan amount by invoking the provisions of IBC which is not permissible and contrary to the spirit and the object of IBC.

6. **<u>The Petitioner filed the rejoinder</u>** referring to the case of ***Laxmi Pat Surana Vs. Union Bank of India (2021) 8 SCC 481*** where Hon'ble Supreme Court has held that when a principal borrower commits default, the status of a corporate guarantor metamorphoses into that of a corporate debtor within the meaning of the Code. This principle flows from the nature of guarantee obligations themselves and is not contingent upon whether the guarantor

received loan proceeds directly. The Corporate Guarantor's liability gets triggered coextensively and conterminously with that of the principal borrower, the moment default occurs. This flows directly from Section 128 of the Indian Contract Act, 1872. The guarantor's obligation depends solely upon default by the principal debtor, not upon the identity or nature of the borrower. The Respondent as a corporate person as defined under section 3(7) of the Code, executed a Deed of Guarantee dated 30th Nove3mber, 2018 guaranteeing repayment of Rs.8,00,00,000/- plus interest. Upon execution, the Respondent became a party to a finance document. Upon default by K. Sera Sera Limited on 31st March, 2021, the Respondent metamorphosed into a corporate debtor. A limited guarantee is still a guarantee. Its limitation operates only to cap the guarantor's liability, not to relieve the guarantor of debtor status. The Hon'ble Supreme Court in ***Dena Bank v. C. Shivakumar Reddy, (2021) 6 SCC (online) 35*** has clarified that a financial creditor has an unqualified right to proceed against a corporate guarantor independently and that such proceedings can be maintained even without the principal borrower being a party. The right exists wherever defaults and financial debt are established. The financial debt is established and has been admitted by the Respondent. Section 5(8) of the Code defines "financial debt" as debt disbursed against consideration for time value of money. The Supreme Court in ***Surana Metals Limited v. Union Bank of India (2019) 4 SCC 297*** held that a guarantee given by a corporate entity in relation to a loan constitutes financial debt for which the creditor becomes a financial creditor. In this case, the Respondent never refused repayment, thus the default is persistent and documented. It had sought restructuring and extension vide above letters. Section 7 provides that a financial creditor may apply for CIRP initiation if the corporate debtor defaults in repayment of financial debt of at least One Crore. The Respondent is in default of debt far exceeding this threshold. Statutory conditions for admission are satisfied. The Respondent requires structured process to determine whether rehabilitation or liquidation is appropriate. The Deed of Guarantee explicitly provides in Clause-2 that upon occurrence of an event of default, the guaranteed amount becomes immediately due and payable. The guarantor shall on demand forthwith pay to the MCPL without demur or protest and without set off deductions and/or adjustments of any kind whatsoever, the amount of the guaranteed obligations. This is an unconditional and irrevocable guarantee. The guarantee was not made conditional upon the Respondents continued financial health or absence of business difficulties. In the present case, the Respondent's liability is clear, unambiguous and absolute.

7. The Petitioner has also filed an additional affidavit vide S.R. No. 5585 dated 26.12.2025 enclosing the record of default registered with NeSL Form-D recording the date of default as 17.06.2025 and the outstanding amount as Rs.25,86,81,258.78. It was authenticated on 06.10.2025.

8. It is pertinent to mention that the CIRP was also initiated against the Principal Borrower, K. Sera Sera Limited vide an order dated 24.01.2023. The Hon'ble NCLAT in Company Appeal (AT (Ins.) No. 714 of 2025 has approved the plan in favour of the Successful Resolution Applicant, Micro Capitals Private Limited. However, approval of the resolution plan would not absolve the liability of the Respondent/Corporate Guarantor for the outstanding amount payable to the Financial Creditor which exceeds Rs.1.0 Crore as held in the case of ***Lalit Kumar Jain v. Union of India 2021 SCC Online SC 396.***

9. We have heard the arguments advanced by the Ld. Counsels for the parties and perused the record.

10. A perusal of the pleadings and the records reveal that the principal borrower, KSS Limited had taken a loan of Rs.13,00,00,000/- from the Petitioner / Financial Creditor, MCPL for its business requirements vide loan agreement dated 03.06.2014. The loan was guaranteed by the Respondent/Corporate Guarantor vide a Deed of Guarantee dated 30.11.2018. A Tripartite agreement was also entered into. As per the Deed of Guarantee, the Respondent, Maars Software International Ltd. had guaranteed upto a maximum of Rs.8,00,00,000/- along with accrued interest towards repayment by KSS to MCPL. It was an unconditional and irrevocable guarantee of the Respondent. As per the mutually agreed schedule for repayment, the repayment was to be made by KSS on or before 31.03.2021 but KSS failed to adhere to the repayment schedule. As per Clause-14 of the Deed of Guarantee, non-adherence to the repayment schedule tantamounts to occurrence of event of default. The Petitioner/Financial Creditor made series of correspondences calling upon the borrower and the guarantor (Respondent) to make repayment. The Respondent/Guarantor also requested for restructuring of the debt and extension which it granted from time to time. The last extension was granted upto 21.06.2024. The Financial Creditor again requested for repayment of the loan amount but the

Respondent again vide letter dated 15.07.2024 requested for another extension upto 31.03.2025 which the Financial Creditor declined. The Financial Creditor then issued the final notice of occurrence of event of default dated 09.04.2025 calling upon it to make the payment. This was followed by a legal-cum-demand notice dated 10.06.2025 but the Respondent reiterated its financial hardships and requested for further extension of two years which the Petitioner did not accept. Hon'ble Supreme Court in ***Laxmi Pat Surana*** *supra* has held that when a principal borrower commits default, the status the corporate guarantor metamorphoses into that of a corporate debtor. The nature of guarantee obligations is not contingent upon whether the guarantor received the loan proceeds directly. Its liability gets triggered coextensively and conterminously with that of the principal borrower, the moment default occurs by virtue of Section 128 of the Indian Contract Act. Upon execution, the Deed of Guarantee becomes a financial document and Financial Creditor would have unqualified right to proceed against the Corporate Guarantor independently even without the principal borrower being a party. In this case, CIRP against the Principal Borrower has already been initiated. A resolution plan has been approved. Still the liability exists which is more than the threshold of Rs.1.0 Crore to maintain a petition under

Section 7 of IBC, 2016. In this case, the debt was disbursed against consideration for time value of money. The Respondent never refused repayments but always sought extension and restructuring. Therefore, the default is persistent. Clauses of the Deed of Guarantee provide that the guarantor shall on demand forthwith pay to the Petitioner without demur or protest the amount of the guaranteed obligations which are unconditional and irrevocable. The guarantee was not conditional upon the Respo0ndent's continued financial health or absence of business difficulties. Further, the record of default issued in Form-D by NeSL shows an outstanding amount as Rs.25,86,81,258.78. The date of default is recorded as 17.06.2025 which is also stated in Part-IV the petition. This petition has been filed on 12.09.2025 i.e. within the limitation period of three years.

11. The Hon'ble Supreme Court in the case of ***Energy Watchdog and Ors. Vs. Central Electricity Regulatory Commission and Ors. MANU/SC/0408/2017***, has held that commercial impossibility or hardship amongst other grounds, cannot be a bar in performing contractual obligations, which is what the Corporate Debtor is intending to project before this Tribunal.

12. The Hon'ble Supreme Court in the case of ***M. Suresh Kumar Reddy vs Canara Bank 2023 8 SCC 387*** in para 11 has held as follows:

> *11. Thus, once NCLT is satisfied that the default has occurred, there is hardly a discretion left with NCLT to refuse admission of the application under Section 7. "Default" is defined under sub-section (12) of Section 3 IBC which reads thus: "3. Definitions. In this Code, unless the context otherwise requires- (12) "default" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [paid] by the debtor or the corporate debtor, as the case may be;" Thus, even the non-payment of a part of debt when it becomes due and payable will amount to default on the part of a corporate debtor. In such a case, an order of admission under Section 7 IBC must follow. If NCLT finds that there is a debt, but it has not due and payable, the application under Section 7 can be rejected. Otherwise, there is no ground available to reject the application.*

13. It has been ruled by the Hon'ble NCLAT in ***Vipul Himlatal Shah vs. Teco Industries in Company Appeal (AT) (Insolvency) No. 470 of 2022 [(2022) ibclaw.in 379 NCLAT]*** that the report of information utility (NeSL) is sufficient evidence to arrive at the conclusion qua the amount of debt and default. Para 16 of the order reads as under:

> *"16. In the light of the detailed discussion as above, it is clear that in case the record of Information Utility shows that there is a debt which is in default, the Adjudicating Authority or the Appellate Authority are not required to further examine the record maintained by the Information Utility, moreso when the record of the Information Utility is deemed authenticated and no dispute or refutation of said record has been done by the corporate debtor earlier.*

14. The Hon'ble Supreme Court in the case of ***Innoventive Industries Limited -Vs- ICICI Bank & Anr., (2018) 1 SCC 407*** has held that Tribunal is required to see whether there is a 'debt' which is due and payable under the law and whether the default is more than Rupees One Lakh (now Rupees One Crore). The moment the default amount exceeds rupees one crore, this Tribunal is required to initiate a Corporate Insolvency Resolution Process as against the Corporate Debtor.

15. For the aforesaid reasons and Judgements cited supra, this Tribunal orders to initiate Corporate Insolvency Resolution Process in respect of the Corporate Person/Corporate Guarantor viz., Maars Software International Limited.

16. The Financial Creditor has proposed the name of Shri. Dharmendra Dhelariya having Registration No. IBBI/IPA-001/IP-P00251/2017-2018/10480 as Interim Resolution Professional (IRP). He has also filed his written communication in Form–2 to act as the IRP. His AFA is valid upto 30.06.2027. **We therefore appoint Shri. Dharmendra Dhelariya having Registration No. IBBI/IPA-001/IP-P00251/2017-2018/10480, E-mail ID: dhelariya@gmail.com as Interim Resolution Professional (IRP).** The proposed 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.

17. The Financial Creditor is directed to pay a sum of **Rs. 3,00,000/- *(Rupees Three Lakhs 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.

18. As a consequence of the Application being admitted in terms of Section 7(5) of the Code, the moratorium as envisaged under the 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;

19. However, during the pendency of the moratorium period in terms of Section 14(2) (2A) 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;

20. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

(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.

21. Based on the above terms, the petition **CP(IB)/297(CHE)/2025** stands **admitted** in terms of Section 7(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the Order shall be communicated to the Financial Creditor as well as 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 who is figuring in the list of Resolution Professionals forwarded by IBBI be also furnished with copy of this order forthwith by the Registry, who will also communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

Sd/-	**Sd/-**
VENKATARAMAN SUBRAMANIAM	**SANJIV JAIN**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)

Suguna