IN THE NATIONAL COMPANY LAW TRIBUNAL

AMARAVATI BENCH
(*Through Hybrid Mode)*

Item No.1

IA(IBC)/209/2026 & IA (IBC)/330/2026 in CP(IB)/8/7/AMR/2022

IN THE MATTER OF:

Indian Renewable Energy Development Agency Limited.
… Financial Creditor

Versus

SLS Power Corporation Limited
… Corporate Debtor

Under Section: 7 & 60(5) of IBC, 2016
Rule: 11 & 12 of NCLT Rules, 2016

Order delivered on 14.08.2026

CORAM:

SHRI KISHORE VEMULAPALLI, HON'BLE MEMBER (JUDICIAL)
SHRI UMESH KUMAR SHUKLA, HON'BLE MEMBER (TECHNICAL)

PRESENT:

IAs
For the Respondent in IA(IBC)/209/2026
and Applicant in IA (IBC)/330/2026 : Ms. Sarvani Desiraju, Adv.

ORDER

IA(IBC)/209/2026:

Orders pronounced, recorded vide separate sheets.

IA(IBC)/209/2026 is dismissed and disposed of.

IA (IBC)/330/2026:

The present Application is filed by the RP seeking to condone the delay of 30 days in filing of the present application and allow the present application and extend the time of CIRP of the Corporate Debtor for a period of 90 days from 02.07.2026 to 30.09.2026, in order to successfully complete the Corporate Insolvency Resolution Process of the Corporate Debtor.

Today, the Counsel for the Resolution Professional submitted that the CoC in its 12th meeting held on 13.07.2026, vide Agenda Item No.A7 resolved with 100% voting to extend the CIRP period of the Corporate Debtor by 90 days i.e., from 02.07.2026 and seek condonation of delay in filing the application.

However, it is observed that the above resolution passed by the CoC is not a proper resolution.

List the matter on 19.08.2026 for further consideration.

Sd/-	**Sd/-**
(UMESH KUMAR SHUKLA)	**(KISHORE VEMULAPALLI)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Jahnavi (Steno) RSN (PS)

IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH AT MANGALAGIRI
(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)

IA (IBC) 209/2026 in CP (IB)8/7/AMR/2022

Application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of National Company Law Tribunal Rules, 2016

IN THE MATTER OF CP (IB)/8/7/AMR/2022:

Indian Renewable Energy Development Agency Limited
…………... Financial Creditor

Versus

SLS Power Corporation Limited
……………... Corporate Debtor

AND IN THE MATTER OF IA (IBC)/209/2026

Mr. Kakaraparthi Kiran Kumar
Residing at: 60-9-10, Flat No. 1709, GEV Radha Madhav Apartment,
Pinnamaneni Polyclinic Road, Siddhartha Nagar,
Vijayawada, Andhra Pradesh-520 010
…………………….... Applicant

Versus

Mr. Kammula Prabhakar Rao,
Resolution Professional of S LS Power Corporation Limited
Having his registered office at
39-4-1, S5, Koduru Enclave, Picchaiah Street, Labbipeta,
Vijayawada, Krishna, Andhra Pradesh-520010.
And having his address for correspondence at:
Flat No.106, Sai Balaram Towers, Pitchaiah Street, Labbipet,
Vijayawada, Andhra Pradesh-520010.
………………….... Respondent

Order delivered on: 14.08.2026

CORAM: HON’BLE KISHORE VEMULAPALLI, MEMBER (JUDICIAL)
HON’BLE UMESH KUMAR SHUKLA, MEMBER (TECHNICAL)

PRESENT:

For the Applicant : Mr. G. Aniruth Purusothaman, Adv.
Respondent : Ms. Sarvani Desiraju, Adv.

[ORDER]
[PER: BENCH]

The present Interlocutory Application bearing no. IA (IBC) 209/2026 (hereinafter referred to as the "**IA**" or "**IA 209/2026**"), has been filed vide Dairy No. 819 dated 08.05.2026, by Mr. Kakaraparthi Kiran Kumar (hereinafter referred to as the "**Applicant**") under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "**IBC**" or the "**Code**"), read with Rule 11 of the National Company Law Tribunal Rules, 2016 (hereinafter referred to as the "**NCLT Rules**"), against Mr. Kammula Prabhakar Rao**,** Resolution Professional (hereinafter referred to as the "**Respondent**" or the "**RP**") of SLS Power Corporation Limited (hereinafter referred to as the "**Corporate Debtor**") praying for the following reliefs:

a. Allow this application;

b. To direct the RP to reinstate the claim of the Applicant as that of the Unsecured Financial Creditor, as it stood in the List of Unsecured Financial Creditors as on 13.05.2025;

c. To direct the RP to restore the status quo ante by including the Applicant in the Committee of Creditors (hereinafter referred to as the "**CoC**") with same voting rights, as it stood in the List of Unsecured Financial Creditors as on 13.05.2025;

d. To direct the RP to reconstitute the CoC of the Corporate Debtor after giving effect to the above prayer clauses;

e. The decision of the RP on the basis of the legal opinion obtained by him to exclude/ remove/ delete the Applicant from the CoC, as recorded in the minutes of the 06th Meeting of the CoC held on 03.10.2025, be set aside and declared as null and void as well as bad in law;

f. Pending this IA, the RP be directed not to take any material decisions during the Corporate Insolvency Resolution Process (hereinafter referred as the "**CIRP**") of the Corporate Debtor and be further directed not to hold or conduct any CoC meeting, in which material decisions regarding the CIRP of the Corporate Debtor are taken;

g. During the pendency of this IA, the RP be restrained conducting a meeting for approval of the Resolution Plan and be further restrained from declaring the voting results on the Resolution Plan;

h. Such other or further relief(s) as the Tribunal may be pleased to grant.

BRIEF FACTS OF THE CASE:

2. The facts averred by the Applicant in the present IA are summarized as below:

(i) This Adjudicating Authority vide its Order dated 07.04.2025, admitted the Corporate Debtor into the CIRP under Section 7 of the IBC and appointed the Respondent herein as the Interim Resolution

Professional (hereinafter referred as the "**IRP**"), who was . confirmed as the RP on 16.05.2025.

(ii) The IRP made a public announcement on 13.04.2025 inviting the claims from the creditors by 25.04.2025.

(i) The Applicant filed his claim before the IRP in Form-C[1] dated 25.04.2025 for an amount of Rs.74,70,80,806/-, which is reproduced below:

FORM C

SUBMISSION OF CLAIM BY FINANCIAL CREDITORS

(Under Regulation 8 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016)

25th April 2025

From
Kakaraparthi Kiran Kumar
S/o.Nageswara Rao
60-9-10, Flat No.1709
GEV Radha Madhav Apartment
Pinnamaneni Polyclinic Road
Siddartha Nagar
Vijayawada-520 010 Andhra Pradesh

To
Mr. Kammula Prabhakar Rao
Interim Resolution Professional
Flat No. 106, Sai Balaram Towers, Pitchaiah Street
Labbipeta, Vijayawada, Andhra Pradesh 520 010
Ph: 98481 24608

Subject: Submission of claim and proof of claim.

Madam/Sir,

I, **Kakaraparthi Kiran Kumar**, hereby submits this claim in respect of the corporate insolvency resolution process of **S L S Power Corporation Limited**. The details for the same are set out below:

Relevant Particulars		
(1)	(2)	(3)
1.	Name of the financial creditor	**Kakaraparthi Kiran Kumar**
2.	Identification number of the financial creditor (If an incorporated body, provide identification number and proof of incorporation. If a partnership or individual provide identification records* of all the partners or the individual)	**PAN: AMCPK0150B** **Aadhar No.: 7529 7546 0401**
3.	Address and email address of the financial creditor for correspondence	**kiran50289@gmail.com**
4.	Details of claim, if it is made against corporate debtor as principal borrower: (i) Amount of claim	**Rs. 74,70,80,806-00 (Rupees Seventy-Four Crores Seventy Lakhs Eighty Thousand Eight Hundred and Six Only)**

[1] Copy of Form 'C' dated 25.04.2025 (without annexures) is annexed as <u>Exhibit 'C'</u> of the IA.

	(ii) Amount of claim covered by security interest, if any (Please provide details of security interest, the value of the security, and the date it was given) (iii) Amount of claim covered by guarantee, if any (Please provide details of guarantee held, the value of the guarantee, and the date it was given) (iv) Name and address of the guarantor(s)	• **Pledge of 1.80 Cr. equity shares of Rs. 10 each;** • **Guarantee of Promoters and corporate guarantee of Promoter Companies.** **Promoters viz.** • **Shri. Vemuru Chenchaiah, Chairman and MD** • **Shri. J. C Reddy, Joint Managing Director** • **Smt. M. S. Gowri, Director** • **Shri. M. Ramachandra, Director** • **Smt. Suseela, Director** **And group companies (Promoter Companies) viz. M/s Aryaman Vincom Pvt Ltd., M/s Ganapathi Vanijya Pvt. Ltd., M/s Fastner Marketing Pvt. Ltd., M/s Jaltarang Vyapaar Pvt Ltd., M/s Dynamic Tie Up Pvt. Ltd., M/s Dynamic Ferotech Pvt. Ltd., and M/s JCR Drillsol Pvt. Ltd.**
5.	Details of claim, if it is made against corporate debtor as guarantor: (i) Amount of claim (ii) Amount of claim covered by security interest, if any (Please provide details of security interest, the value of the security, and the date it was given) (iii) Amount of claim covered by guarantee, if any (Please provide details of guarantee held, the value of the guarantee, and the date it was given) (iv) Name and address of the principal borrower	NA
6.	Details of claim, if it is made in respect of financial debt covered under clauses (h) and (i) of sub-section (8) of section 5 of the Code, extended by the creditor:	NA
	(i) Amount of claim (ii) Name and address of the beneficiary	
7.	Details of how and when debt incurred	**By way of assignment agreement dt 21st August 2019 entered into with IFCI Venture Capital Funds Limited**
8.	Details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim	NA
9.	Details of the bank account to which the amount of the claim or any part thereof can be transferred pursuant to a resolution plan	Name: **Kakaraparthi Kiran Kumar** Bank: **State Bank of India** A/c No.: **30055014880** IFSC: **SBIN0003526**

(Signature of financial creditor ~~or person authorised to act on its behalf~~)
~~[Please enclose the authority if this is being submitted on behalf of the financial creditor]~~

Name in BLOCK LETTERS: **KAKARAPARTHI KIRAN KUMAR**

Position with or in relation to creditor: **Debenture Holder**

Address of person signing:
KAKARAPARTHI KIRAN KUMAR
60-9-10, Flat No. 1709
GEV Radha Madhav Apartment
Pinnamaneni Polyclinic Road
Siddartha Nagar
Vijayawada-520 010, Andhra Pradesh

•PAN, passport, AADHAAR Card or the identity card issued by the Election Commission of India.

DECLARATION

I, **KAKARAPARTHI KIRAN KUMAR**, currently residing at 60-9-10, Flat No.1709, GEV Radha Madhav Apartment, Pinnamaneni Polyclinic Road, Siddartha Nagar, Vijayawada-520 010, Andhra Pradesh, do hereby declare and state as follows: -

1. **S L S Power Corporation Limited**, the corporate debtor was, at the insolvency commencement date, being the 7th (Seventh) day of April 2025, actually indebted to me for a sum of Rs. **74,70,80,806-00 (Rupees Seventy-Four Crores Seventy Lakhs Eighty Thousand Eight Hundred and Six Only)**.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below:

i. Assignment Agreement dated 21st August 2019

3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.

4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

NA
~~[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].~~

5. I undertake to update my claim as and when the claim is satisfied, partly or fully, from any source in any manner, after the insolvency commencement date.

6. I am / I am not a related party of the corporate debtor, as defined under section 5 (24) of the Code.

7. I am eligible to join committee of creditors by virtue of proviso to section 21 (2) of the Code even though I am a related party of the corporate debtor.

Date: 25-04-2025
Place: Vijayawada

KAKARAPARTHI KIRAN KUMAR
(Signature of the claimant)

VERIFICATION

I, **KAKARAPARTHI KIRAN KUMAR** the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at Vijayawada on this 25th day of April 2025

Solemnly Affirmed & Signed Before Me

KAKARAPARTHI KIRAN KUMAR
(Signature of claimant)

(ii) The Applicant's claim was fully admitted by the IRP and the Applicant was included in the CoC as an Unsecured Financial Creditor[2] with a voting share of 8.86%. The relevant extract of admission of the Applicant's claim and list of members of the CoC are reproduced below:

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[2] The List of Unsecured Creditors of the Corporate Debtor as on 13.05.2025 is annexed as Exhibit 'A' of the IA.

Name of the Corporate Debtor: S L S POWER CORPORATION LIMITED; Date of Commencement of CIRP: 07-04-2025; List of Creditors as on: 13-05-2025; Name of IP: Mr. KAMMULA PRABHAKAR RAO; Process Number: 1; Last 5 digitof registration number: 12339

(Please click here for previous Lists of Creditors)

(Filing under clause (ca) of sub-regulation (2) of regulation 13 the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

Sl. No.	Category of Creditor	Summary of Claims Received		Summary of Claims Admitted			Amount of Contingent Claims	Amount of Claim Not Admitted	Amount of Claims under Verification	Details in Annexure (Only PDF)
		No. of Claims	Amount	No. of Claims	Amount	% Share in Total Amount of Claims Admitted				
1	Secured financial creditors belonging to any class of creditors	0	0	0	0	0.00	0	0	0	Annexure 1
2	Unsecured financial creditors belonging to any class of creditors	0	0	0	0	0.00	0	0	0	Annexure 2
3	Secured financial creditors (other than financial creditors belonging to any class of creditors)	1	7692944249	1	7686980541	91.14	0	5963708	0	Annexure 3
4	Unsecured financial creditors (other than financial creditors belonging to any class of creditors)	1	747080805	1	747080805	8.86	0	0	0	Annexure 4
5	Operational creditors (Workmen)	0	0	0	0	0.00	0	0	0	Annexure 5
6	Operational creditors (Employees)	0	0	0	0	0.00	0	0	0	Annexure 6
7	Operational creditors (Government Dues)	1	2265	1	2265	0.00	0	0	0	Annexure 7
8	Operational creditors (other than Workmen and Employees and Government Dues)	0	0	0	0	0.00	0	0	0	Annexure 8
9	Other creditors, if any, (other than financial creditors and operational creditors)	0	0	0	0	0.00	0	0	0	Annexure 9
Total		3	8440027319	3	8434063611	100.00	0	5963708	0	

Annexure-4

Name of the corporate debtor: M/s S L S Power Corporation Limited: Date of commencement of CIRP: 07/04/2025: List of creditors as on: 13/05/2025

List of unsecured financial creditors (other than financial creditors belonging to any class of creditors)

(Amount in ₹)

Sl. No.	Name of creditor	Details of claim received		Details of claim admitted					Amount of contingent claim	Amount of any mutual dues, that may be set-off	Amount of claim not admitted	Amount of claim under Verification	Remarks, if any
		Date of receipt	Amount claimed	Amount of claim admitted	Nature of claim	Amount covered by guarantee	Whether related party?	% of Voting Share in CoC					
1	Kakaraparthi Kiran Kumar	26/04/2025	74,70,80,805/-	74,70,80,805/-	Financial Creditor	NA	No	8.86%	NA	NA	NA	Nil	Claim amount Provisionally admitted in the absence of Books of Accounts of the Corporate Debtor.
Total			74,70,80,805/-	74,70,80,805/-		0			0	0	-	Nil	

(iii) Thereafter, the RP filed IA (IBC) No.147 of 2025 (hereinafter referred as the "**IA 147/2025**") on 05.05.2025 to take on record the report of the IRP certifying the constitution of the CoC, which was allowed vide this Adjudicating Authority Order dated 21.07.2025[3] , the relevant extract of which is reproduced below:

This application has been filed by the IRP seeks to take on record the Constitution of Committee of Creditors by the IRP. Hence, this application is take on record subject to just exceptions. **Accordingly, IA(IBC)/147/2025 is allowed and disposed of.**

(iii) The Applicant attended first meeting[4] of the CoC held on 13.05.2025, wherein the IRP was confirmed and appointed as RP.

(iv) The RP vide Agenda Item no. A-5, submitted the Information Memorandum in the 5th meeting of the CoC held on 21.07.2025, wherein the of the Applicant is shown as Financial Creditors. The relevant extract of Information Memorandum are reproduced below:

4. List Of Creditors - Names of Creditors, Amounts Claimed by Them, Amount of Claims Admitted and the Security Interest

The list of the creditors is as under:

S.No.	Type of Creditor	Amount Claimed	Amount as per Books of Account	Amount Admitted by RP	Interest portion in the Claim
A	**Financial Creditors**				
1	Indian Renewable Energy Development Agency Limited (Secured Financial Creditor with voting right 91.14%)	7,69,29,44,249	4,53,06,87,264	7,68,69,80,541	5,19,64,36,535
2	Kakaraparthi Kiran Kumar (Unsecured Compulsorily Convertible Debentures with voting right 8.86%)	74,70,80,806	26,96,78,000	74,70,80,806	43,80,38,843
	Financial Creditors Total	**8,44,00,25,055**	**4,80,03,65,264**	**8,43,40,61,347**	**5,63,44,75,378**
B	**Operational Creditors**				
1	Income Tax Department (TDS)	5,36,990	Nil	5,36,990	-
2	ESIC Corporation	2,265	Nil	2,265	-
3	Employees Provident Fund Organisation	4,398	Nil	4,398	-
	Operational Creditors Total	**5,43,653**	**-**	**5,43,653**	**-**
	Grand Total	**8,44,05,68,708**	**4,80,03,65,264**	**8,43,46,05,000**	**5,63,44,75,378**

[3] Copy of the Order dated 21.07.2025 in IA 147/2025 taking on record the report certifying the constitution of the CoC of the Corporate Debtor is annexed as Exhibit 'F' of the IA.

[4] Copy of the notice dated 07.05.2025 and the Minutes of the 01st Meeting of the CoC held on 13.05.2025 are annexed as Exhibit 'E' and Exhibit 'D' respectively of the IA.

Financial Creditors:.

- ✓ A claim was received in Form C from IREDA, Secured Financial Creditor, for an amount of ₹769,29,44,249.00, against which an amount of ₹768,69,80,541.00 has been admitted by the IRP. The balance amount of ₹59,63,708.00, claimed as incidental charges, is yet to be admitted by the IRP, as the said amount is yet to be substantiated by the FC.

- ✓ A claim of ₹74,70,80,805/- was received in Form C from Mr Kakaraparthi Kiran Kumar, Unsecured Financial Creditor, being an assignee (through Assignment Deed dated 21.08.2019) of Compulsory Convertible Debentures originally issued in favour of Green India Venture Fund, managed by IFCI Limited.

(iv) During the 6th meeting of the CoC[5] held on 03.10.2025, the RP appraised the CoC that a legal opinion was obtained relating to the claim of the Applicant "Whether the holder of the Compulsorily Convertible Debentures (hereinafter referred as the " **CCDs**") in the Corporate Debtor, should be classified as a Financial Creditor (to be part of the CoC) or as an equity shareholder of the Corporate Debtor?" and the answer to the above question was recorded as under[6]:

> "Answer: Applying the ratio of the judgments referred to above, the CCDs cannot be treated as "financial debt" within the meaning of section 5(8) of the Code. Consequently, Mr. K. Kiran Kumar is to be classified as an equity holder of the Corporate Debtor and not a "financial creditor", as far as his claim qua the CCDs are concerned and hence not entitled to be part of the Committee of Creditors for such quantum of debt. Also, it is noteworthy to state that equity holders are ranked last in the waterfall mechanism under Section 53 of the Code. It is clarified that for any such remaining portion of the claim as claimed by the Claimant, which is not forming part of the CCDs, the Querist may take appropriate call based on the provisions, rules and regulations of IBC. Based on above, the CoC resolved that

[5] Copy of the Notices dated 18.07.2025 of the 05th meeting of the CoC held on 21.07.2025 and dated 01.10.2025 of the 06th meeting of the CoC held on 03.10.2025 are annexed as Exhibit 'G' and Exhibit 'I' respectively of the IA.

[6] Copy of the Minutes of the 06th meeting of the CoC held on 03.10.2025 is annexed as Exhibit 'J' of the IA

Mr. K Kiran Kumar should not treated as Financial Creditor, but should be treated as part of equity. The CoC needs to be reconstituted to this extent."

(v) An extension of the CIRP period in IA(IBC) No. 331/2025 was allowed vide the Adjudicating Authority Order dated 28.10.2025[7]. On perusal of the above Order, it seems that Indian Renewable Energy Development Agency Limited (hereinafter referred as the "**IREDA**") had an objection with respect to the inclusion of the Applicant in the CoC of the Corporate Debtor. The relevant extracts of the above Order is as below:

"RP further submitted that the CoC in its 6th meeting held on 03.10.2025, the majority shareholder, IREDA objected and had decided to reconstitute the CoC as it was held that Mr. K. Kiran Kumar, another member of CoC, cannot be classified as a Financial Creditor of the CD, as he is the holder of the Compulsorily Convertible Debentures (CCD) and subsequently, he is to be treated as an equity shareholder of the CD. On a specific query by this AA, the RP undertook to take appropriate action for approval of this AA of the re-constitution of the CoC. After considering the above submissions made by the RP, the CIRP period is hereby extended for 90 days i.e., from 04.10.2025 to 02.01.2026. The RP is further directed to file an Interlocutory Application for approval of the re-constituted CoC. Accordingly, IA (IBC)/331/2025 is allowed and disposed of"

(v) Accordingly, in the revised list of Unsecured Financial Creditors as on 31.10.2025[8], the Applicant's claim was deleted and, since the

[7] Copy of the Order dated 28.10.2025 passed in IA 331/2025 is annexed as Exhibit 'K' of the IA.

[8] Revised list of Unsecured Creditors of the Corporate Debtor as on 31.10.2025 is annexed as Exhibit 'B' of the IA.

Applicant was the only Unsecured Financial Creditor of the Corporate Debtor, the said list was reduced to "Nil". The relevant extract of list of members of the CoC are reproduced below:

Name of the Corporate Debtor: S L S POWER CORPORATION LIMITED; Date of Commencement of CIRP: 07-04-2025; List of Creditors as on: 31-10-2025; Name of IP: Mr. KAMMULA PRABHAKAR RAO; Process Number: 1; Last 5 digitof registration number: 12339

(Please click here for previous Lists of Creditors)

(Filing under clause (ca) of sub-regulation (2) of regulation 13 the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

Sl. No.	Category of Creditor	Summary of Claims Received		Summary of Claims Admitted			Amount of Contingent Claims	Amount of Claim Not Admitted	Amount of Claims under Verification	Details in Annexure (Only PDF)
		No. of Claims	Amount	No. of Claims	Amount	% Share in Total Amount of Claims Admitted				
1	Secured financial creditors belonging to any class of creditors	0	0	0	0	0.00	0	0	0	Annexure 1
2	Unsecured financial creditors belonging to any class of creditors	0	0	0	0	0.00	0	0	0	Annexure 2
3	Secured financial creditors (other than financial creditors belonging to any class of creditors)	1	7692944249	1	7686980541	99.99	0	5963708	0	Annexure 3
4	Unsecured financial creditors (other than financial creditors belonging to any class of creditors)	0	0	0	0	0.00	0	0	0	Annexure 4
5	Operational creditors (Workmen)	0	0	0	0	0.00	0	0	0	Annexure 5
6	Operational creditors (Employees)	0	0	0	0	0.00	0	0	0	Annexure 6
7	Operational creditors (Government Dues)	2	539255	2	539255	0.01	0	0	0	Annexure 7
8	Operational creditors (other than Workmen and Employees and Government Dues)	0	0	0	0	0.00	0	0	0	Annexure 8
9	Other creditors, if any, (other than financial creditors and operational creditors)	0	0	0	0	0.00	0	0	0	Annexure 9
Total		3	7693483504	3	7687519796	100.00	0	5963708	0	

Annexure-4

Name of the corporate debtor: M/s S L S Power Corporation Limited: Date of commencement of CIRP: 07/04/2025: List of creditors as on: 31/10/2025

List of unsecured financial creditors (other than financial creditors belonging to any class of creditors)

(Amount in ₹)

Sl. No.	Name of creditor	Details of claim received		Details of claim admitted					Amount of contingent claim	Amount of any mutual dues, that may be set-off	Amount of claim not admitted	Amount of claim under Verification	Remarks, if any
		Date of receipt	Amount claimed	Amount of claim admitted	Nature of claim	Amount covered by guarantee	Whether related party?	% of Voting Share in CoC					
NIL													

(vi) Thereafter, the RP filed IA (IBC) No.28 of 2026 (hereinafter referred as the "**IA 28/2026**") seeking reconstitution of the CoC of the Corporate Debtor, which was allowed by this Adjudicating Authority vide its Order dated 04.02.2026[9] with the following observations:

> "Counsel appearing for the Resolution Professional submitted that initially there were two Financial Creditors, namely: (i) Indian Renewable Energy Development Agency Limited and (ii) Mr. Kakarorthi Kiran Kumar, who were the only members of the Committee of Creditors. Subsequently, based on the legal opinion obtained, it was opined that Mr. K. Kiran Kumar, as far as his claim is concerned, being a holder of CCDs, is not entitled to be considered as a financial creditor and so not entitled to be part of the CoC. Therefore, CoC in its 6th meeting held on 03.10.2025 resolved to reconstitute the CoC holding that Mr. K. Kiran Kumar, be treated as an equity shareholder and not as a financial creditor, and consequently, to reconstitute the CoC. Further, it was also resolved that IREDA, the Financial Creditor herein, remained the sole member of the CoC with 100% voting rights.
>
> Considering the aforesaid submissions, the re-constitution of CoC is approved and taken on record, subject to just exceptions. It is made clear that this order shall not be construed as acceptance or rejection of any of the averments made in the application or the report."
>
> (Emphasis Supplied)

(vii) Being aggrieved by the arbitrary and illegal steps of the RP in excluding the Applicant from the CoC, the present application has been filed.

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[9] Copy of the Order dated 04.02.2026 passed in IA 28/2026 to take on record the reconstitution of the CoC of the Corporate Debtor from which the Applicant was excluded, is annexed as Exhibit 'L' of the IA.

(viii) The claim of the Applicant arises out of an Assignment Agreement dated 21.08.2019[10] executed between, IFCI Venture Capital Funds Limited (hereinafter referred as the "**IFCI Venture**”), which is the Assignor and Applicant, who is the Assignee. The Assignor, through its Investment Manager- IFCI Venture, had agreed to finance cost of the project of the Corporate Debtor in relation to setting up a small hydro-power plant named "Dummagudem Small Hydro Electric Project" on left flank of the branch anicut in the Godavari river to generate power with 24 MW capacity in Khammam District of Andhra Pradesh in the form of subscription to the CCDs aggregating to Rs.14 crores. The Assignor had entered into an Investment Agreement dated 14.04.2011[11] and 29.06.2011 with the Corporate Debtor. The purchase consideration for assignment was Rs.2.10 crore, which remains fully paid. As per Schedule I to the said Assignment Agreements, the Assignor had provided the financial assistance to the Corporate Debtor on 14.04.2011 and 29.06.2011 under Green India Venture Fund (hereinafter referred to as the "**GIVF**"), a SEBI registered Venture Capital Fund, by way of subscription to 14,00,000 CCDs of Rs.100/- each. The said financial assistance was secured by a pledge of 1.80 crore equity shares of the Corporate Debtor along with the personal guarantees given by the promoters and the corporate guarantees given by the promoter companies. By virtue of the Assignment Agreement dated

[10] Copy of the Assignment Agreement dated 21.08.2019 entered into between the IFCI Venture and the Applicant is annexed as Exhibit ’P’ of the IA.

[11] Copy of the Investment Agreement dated 14.04.2011 is annexed as Exhibit ’Q’ of the IA

21.08.2019, the Assignor assigned the said financial assistance along with all right, title, interest and security to the Applicant.

(ix) The RP has no authority in law to remove, exclude or delete a creditor from the CoC. Once a claim has been admitted, the RP and/ or the CoC cannot unilaterally alter or modify the status of such creditor, as any such action would amount to an exercise of review or adjudicatory powers, which are neither vested in the RP nor with the CoC under the Code. The proper course of action would be to approach the Adjudicating Authority by way of an appropriate application seeking directions for reclassification of the creditor and its consequential removal, deletion, or exclusion from the CoC. Such a course would ensure compliance with the principles of natural justice by affording the concerned creditor an opportunity of being heard prior to the passing of any adverse order. However, in the present case, no such procedure has been followed by the RP. Instead, the RP proceeded to unilaterally delete the name of the Applicant from the list of unsecured financial creditors, purportedly on the basis of a legal opinion obtained and resolutions passed in the 06th meeting of the CoC. The impugned actions of the RP is therefore, ex facie illegal, without jurisdiction, manifestly arbitrary, and vitiated by material procedural irregularity. In support of the aforesaid contention, the following judicial precedents (i) ***Union Bank of India v. M/s. Rajdeep Clothing and Advisory Pvt. Ltd. & Ors, vide Judgement dated 05.12.2022 in CA(AT)(Ins.) No.***

399/2021[12]; and (ii) ***HDFC Bank Ltd. Vs. Kailash Shah (RP), reported in (2025) ibclaw.in 2065 NCLT***[13] have been relied upon.

(x) Although the aforesaid judgments were rendered in the context of a financial creditor being a related party and the RP therein removed such creditor from the CoC after its inclusion in the CoC, the legal principles enunciated therein are of general application. In particular, the principles that the RP cannot reconstitute the CoC by excluding/ removing/ deleting a member/ creditor, cannot alter or modify the status of a creditor once its claim has been admitted, and cannot undertake a review of its own decision on merits, remain unaffected. Accordingly, the ratio laid down in the aforesaid judgment squarely applies to the facts of the present case and is fully applicable in the present factual matrix.

(xi) The legal opinion, on the basis of which the RP excluded/ removed/ deleted the Applicant from the CoC, was never furnished to the Applicant and no opportunity of being heard was afforded to the Applicant, either by the RP or by the other member of the CoC, who presently constitutes the sole member thereof, holding 100% voting share. In these circumstances, the impugned actions of the RP and the CoC are in clear violation of the principles of natural justice. This is further compounded by the fact that neither the RP nor the CoC

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[12] Copy of the Hon'ble NCLAT Judgement dated 05.12.2022 in ***Union Bank of India (Supra)*** is annexed as <u>Exhibit 'N'</u> of the IA.

[13] Copy of the Judgment of Hon'ble NCLT, Mumbai Bench III in **HDFC Bank Ltd (Supra)** is annexed as <u>Exhibit 'O'</u> of the IA.

is vested with adjudicatory powers under the Code to undertake such actions.

(xii) Although the notice dated 01.10.2025 of the 6th meeting of the CoC held on 03.10.2025 was given to the Applicant, however, the Applicant was not allowed to participate and vote in the said meeting and the decision to remove the Applicant from the CoC was thus, unilaterally taken by the IREDA. The conduct of the RP in the said meeting was completely illegal and in gross violation of the provisions of the Code as well as the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 [hereinafter referred to as the "**CIRP Regulations**"]. The RP ought not to have conducted the said meeting, where the Applicant was not allowed to participate and vote, especially when the Applicant was put to notice of such meeting and there was no order from this Adjudicating Authority to exclude the Applicant from the CoC or to deprive him from exercising his voting rights.

(xiii) As per Article II of the Investment Agreement dated 14.04.2011**,** the conversion of the CCDs was scheduled to take place one year after the date of issue of CCDs, but before 28.02.2015. However, the CCDs were not converted into equity shares, therefore, even though such CCDs do not bear any interest rate, these continue to remain debt until and unless they are mandatorily converted into equity as per the Investment Agreement dated 14.04.2011. Therefore, the stand taken by the RP, as approved by the CoC that the Applicant is an equity holder cannot be sustained in facts as well as in law. Until and unless the CCDs are mandatorily converted into equity shares, the CCD holders cannot be treated as equity shareholders. Since the conversion has not taken place till date, there is no question of Corporate Debtor giving the promised premium of 19% p.a. either in cash or in equity. Therefore, the Corporate Debtor cannot be permitted to unjustly enrich itself at the cost of the CCD holders by treating them as equity shareholders without conversion and without payment of premium. In support of the above contention, reliance is placed on the Order dated 14.01.2020 of the ***Hon'ble NCLT, Principal Bench, New Delhi in the matter of SGM Webtech Pvt. Ltd. v. Boulevard Projects Pvt. Ltd., C.A. No.1340(PB)/2019 in CP(IB) No.967(PB)/2018***[14].

(xiv) In the present case, it is an admitted fact that the CCDs have not been converted into debt and as per the Balance Sheet for the financial year ending on 31.03.2021[15], the CCDs subscribed by the Applicant have been shown as long term debt in the books of the Corporate Debtor. Applying the ratio laid down in ***SGM Webtech Pvt. Ltd. (Supra)***, the claim of the Applicant is bound to be treated as a financial debt under Section 5(8)(c) of the Code, and accordingly, the Applicant is required to be treated as a Financial Creditor, consequently, the Applicant needs to be reinstated to the

[14] The Order dated 14.01.2020 of the Hon'ble NCLT, Principal Bench at New Delhi in in the matter of **SGM Webtech Pvt. Ltd. (Supra)** is annexed as Exhibit 'R' of the IA.

[15] Copy of the Sixth Annual Report of the Corporate Debtor for the financial year 2020-21 is annexed as Exhibit 'M' of the IA.

CoC of the Corporate Debtor with same voting rights, as it stood before excluding the Applicant from the CoC.

(xv) Merely because, the CCDs do not carry any interest, it would not cease to constitute a financial debt. In support of this contention, the reliance has been placed upon the judgment dated 26.07.2021 of the ***Hon'ble Supreme Court in Orator Marketing Pvt. Ltd. v. Samtex Desinz Pvt. Ltd., Civil Appeal No.2231 of 2021***[16]**.**

(xvi) No specific period of limitation has been prescribed for filing an application under Section 60(5) of the Code. The Order dated 04.02.2026 passed in IA 28/2026 for reconstitution of the CoC gives a continuing cause of action and, therefore, the present IA is not barred either by limitation or by delay and laches.

REPLY OF THE RESPONDENT/ RP

3. The RP, in his Counter filed vide Diary No. 1171 dated 08.06.2026, contended that the IA is wholly misconceived, frivolous and not maintainable either in law or on facts, as the Applicant has deliberately mischaracterized the nature of the CCDs held by him and projected the same as financial debt despite the settled legal position that compulsorily convertible instruments are in the nature of equity and not debt. The RP in the Counter, prayed to dismiss the IA with costs, based on the contentions, which are summarized below:

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[16] The copy of the Judgement dated 26.07.2021 passed by the Hon'ble Supreme Court of India in **Orator Marketing Pvt. Ltd. (Supra)** is annexed as Exhibit 'S' of the IA.

(i) The Applicant has failed to disclose the complete terms governing the CCDs issued by the Corporate Debtor. The Investment Agreements dated 14.04.2011 and 29.06.2011 unequivocally establish that the CCDs were compulsorily convertible into equity shares within the stipulated period, carried no interest and did not envisage repayment of the principal amount as a debt obligation. The Applicant has relied only upon isolated clauses of the agreements, while suppressing the clauses mandating compulsory conversion.

(ii) The RP acted strictly in accordance with the provisions of the IBC and the CIRP Regulations. Upon objections raised by the sole Financial Creditor, IREDA, regarding the classification of the Applicant, an independent legal opinion was obtained from a Senior Insolvency Practitioner to ensure correct application of law. The relevant extracts of the legal opinion are reproduced below:

2. <u>QUERY:</u>

2.1. Whether the holder of the CCDs in the Corporate Debtor, should be classified as a Financial Creditor (to be part of CoC) or should be classified as Equity Holder of the Corporate Debtor?

3. <u>ANALYSIS AND OPINION:</u>

In order to answer the query, it is essential to understand the nature of Debenture as defined under law:

3.1. CCD as defined under FEMA:

Under the Foreign Exchange Management (Non-Debt Instruments) Rules of 2019, the term **"equity instruments" means** "*equity shares, convertible debentures, preference shares, and* *share warrants issued by an Indian company*". **"Convertible debentures" within this framework** pertains to debentures that are fully, compulsorily and mandatorily convertible. Therefore, **under FEMA, CCDs are regarded as "equity". In its 2007 policy on foreign investment in** debentures[1], RBI provided the rationale behind this:

> *"**It has been noticed that some Indian companies are raising funds under the FDI** route through issue of hybrid instruments such as optionally convertible/ partially convertible debentures which are intrinsically debt-like instruments. Routing of debt flows through the FDI route circumvents the framework in place for regulating debt flows into the country. It is clarified that henceforth, only instruments which are fully and mandatorily convertible into equity, within a specified time would be reckoned as part **of equity under the FDI Policy.** "*

3.2. CCD as defined/interpreted under IBC:

Debentures are *prima facie* considered to be financial debt as per the definition of financial debt given in the IBC. As per section 5(8), financial debt means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes-

> *(c) "any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument";*

The question was raised before the Hon'ble Supreme Court in ***IFCI Ltd. v. Sutanu Sinha***[2], whether CCDs can be treated in essence as a form of debt instead of an equity share. The Hon'ble Apex Court, having examined the definition of debt in the Code as a 'liability or obligation in respect of a claim,' concluded that the appellant can be deemed a part-owner (i.e. an equity participant) of the company. This is because (as per the subscription agreement), if the company fails to buy back the shares within a specific period, the debentures can automatically be converted into equity shares. As a result, the Debenture Holder does not have the right to claim any dues or debt from the Corporate Debtor ("CD"). Therefore, in case such an instrument is treated as debt, it would go against the agreement terms. The Hon'ble Court further went on to hold that the investment is essentially a form of debenture which must be

[1] RBI/2006-2007/435 A.P. (DIR Series) Circular No.74.
[2] IFCI Ltd. v. Sutanu Sinha, (2023) ibclaw.in 149 SC.

compulsorily converted into equity shares, and thus, not specified to be considered as a financial debt under certain circumstances that means it will be *part of equity*.

Therefore, it has become a settled position of law that when an investment is made like debentures which are compulsory convertible into equity it will be treated as equity.

The Hon'ble National Company Law Appellate Tribunal (NCLAT) in ***Shubham Corporation Pvt. Ltd. v. Kotoju Vasudeva Rao***[3] applied the same principle and reiterated that if the instrument does not envisage repayment of the amount disbursed and only provides for compulsory conversion, the instrument is in the nature of equity. On the other hand, in cases of optionally convertible debentures (OCDs), **the Hon'ble** NCLAT has held that such instruments constitute financial debt under section 5(8)(c) of the Insolvency and Bankruptcy Code, 2016, as they embody an obligation of repayment.

3.3. Observation:

In the present case, the Investment Agreements dated 14.04.2011 and 29.06.2011 records that IFCI Venture subscribed to Compulsory Convertible Debentures (CCDs) issued by the Corporate Debtor. The CCDs did not carry any interest but were compulsorily convertible into equity shares of the Corporate Debtor within a specified period. The terms further contemplated that the promoters or the Company could buy back the CCDs with a return of 19% per annum, and the CCDs were secured by pledge of promoter shares and personal guarantees. However, the principal feature of the instrument remained that it was compulsorily convertible into equity, and repayment of the principal as a debt obligation was not envisaged.

By virtue of the Assignment Agreement dated 21.08.2019, IFCI Venture assigned its entire rights and interests under the Investment Agreement, including the CCDs and all security created thereunder, in favour of Mr. K. Kiran Kumar, the Claimant. Accordingly, the Claimant steps into the shoes of IFCI Venture and holds the same rights as IFCI Venture held under the Investment Agreement.

3 Shubham Corporation Pvt. Ltd. v. Kotoju Vasudeva Rao, (2024) ibclaw.in 334 NCLAT.

Relevant Clauses in the agreements:

Agreement	Clause/Article	Extract / Provision
Investment Agreement dated 14.04.2011	Terms of Subscription of CCDs - Article II (a)	*"IFCI Venture agrees to subscribe to 12,00,000 Compulsory Convertible Debentures (CCDs) of Rs.100 each for cash at par value aggregating Rs.1200 lakhs in the Company.* ***These CCDs will not carry any interest and shall be convertible into equity shares at par anytime in one or more occasions, one year after date of issue of CCDs but before 28 February 2015****. On any conversion of CCDs into equity, the premium @19% p.a. will be paid by the Company or at the option of IFCI Venture, premium accrued will also be converted into equity shares of the Company at par. CCDs can also be redeemed/purchased by the Company/Promoters at premium giving an annualized compounded* ***return of 19%..."***
	Article II (c)	***The promoters / the company shall have right to buy back CCDs anytime after 1 July 2013 in 6 equal quarterly instalments along with premium ensuring compounded annual return of 19% from date of investment in CCDs****. In case a part of CCDs are converted into equity at the option of IFCI Venture anytime before this buy back, the promoter shall have right to buyback these shares giving IFCI Venture annualised return @ 19% from date of investment in CCDs*
	Article II (d)	*"****Entire outstanding CCDs along*** *with the premium @19% compounded annually thereon as on 28 February 2015, if not earlier converted/bought back by Company/Promoter, shall at the sole discretion of IFCI Venture be converted into equity shares of the Company at par. Each CCD of face value Rs.100 would be converted into 10 equity shares of face value Rs.10* ***each of the Company..."***
Investment Agreement dated 29.06.2011	Terms of Subscription of CCDs - Article II (a)	*"IFCI Venture will subscribe to 2,00,000 Compulsory Convertible Debentures (CCDs) of Rs. 100 each for cash at par value aggregating Rs. 200 lakhs.* ***These CCDs will not carry any interest and shall be convertible into equity shares at par anytime in one or more occasions, one year after date of issue of CCDs but before 28th February 2015.*** *On any conversion of CCDs into equity the premium @19% p.a. compounded*

		annually will be paid by the company or at the option of IFCI Venture premium accrued will also be converted into equity shares of company at par. CCDs can also be redeemed / purchased by the company/ promoters at premium giving an annualized compounded return of 19% in accordance with the provisions contained herein. "
	Article II (c)	*"**The promoters / the company shall have right to buy back CCDs anytime on or before 31st January 2015 along with premium ensuring compounded annual return of 19% from date of investment in CCDs.** In case a part of CCDs are converted into equity at the option of IFCI Venture anytime before this buy back, the promoter/ the company shall have right to buyback these shares giving IFCI Venture annualised return @ 19% from date of investment in CCDs."*
	Article II (d)	*"**Entire outstanding CCDs along** with the premium @ 19% compounded annually there on as on 28th February 2015, if not earlier converted/ bought back by company/ Promoter shall at the sole discretion of IFCI Venture be converted into equity shares of the company at par. Each CCD of Face Value of Rs. 100 would be converted into 10 equity shares of Face Value Rs. 10 each of the company and the aggregate premium on the same outstanding CCDs would also be converted into equity shares of face Value Rs. 10 each of the company or accepted in **cash at the option of IFCI Venture.**"*
<u>Assignment Agreement dated 21.08.2019</u>	Recitals (1) and (2)	*"**The Assignor had agreed to finance** the cost of the project of SLS Power Corporation Ltd. in the form of subscription to CCDs aggregating to **Rs.14 Crores ('Financial Assistance'). The Assignor had** entered into an Investment **Agreement dated April 14, 2011** ... containing the terms and conditions **of the Investment.**"*
	Clause 1 – Assignment of Investment	*"**On and with effect from the** Completion Date: (a) The Investment Agreement shall stand assigned to substitute the Assignee in place of the Assignor. All provisions of the Investment Agreement shall be applicable and binding on the Assignee as if the Assignee was, and had originally been, a party to the Investment Agreement in place of the Assignor. (b) The Assignee shall take*

		over, assume, perform, discharge and observe, all the rights, obligations and liabilities of the Assignor under ***the Investment Agreement.*** *"*
	Clause 2.1.2	***"The Assignor hereby further assigns*** *in favour of the Assignee, on as is where is, as is what is and without recourse basis all its rights, title and interest in the Financing Documents, all agreements, deeds and documents related thereto and all collateral and underlying Security Interests including pledge and/or guarantees issued, in respect of the repayment of the Financial assistance, which Security Interest the Assignor is* ***entitled to.*** *"*

Therefore, from the above observations it is evident that the Assignment Agreement transfers all rights and security interests to Mr. K. Kiran Kumar, but it does not alter the fundamental equity character of the instrument. On the basis of the Investment Agreement (14.04.2011), the Assignment Agreement (21.08.2019), settled judicial precedents under the IBC, and authoritative commentary (under FEMA and IBC), it is concluded that the CCDs subscribed by IFCI Venture and now held by Mr. K. Kiran Kumar were compulsorily convertible into equity shares of the Corporate Debtor, and no unconditional repayment obligation was attached to the instrument. The ratio laid down *M/s IFCI Limited V. Sutanu Sinha* is evidently clear that CCDs do not emanate any repayment of Principal and cannot be taken as 'Debenture in its classic sense.'

Applying the ratio of the judgments referred to above, the CCDs cannot be treated as "financial debt" within the meaning of section 5(8) of the Code. Consequently, Mr. K. Kiran Kumar is to be classified as an equity holder of the Corporate Debtor and not a **"financial creditor"**, as far as his claim qua the CCDs are concerned and hence not entitled to be part of the Committee of Creditors for such quantum of debt. Also, it is noteworthy to state that equity holders are ranked last in the waterfall mechanism under Section 53 of the Code. It is clarified that for any such remaining portion of the claim as claimed by the Claimant which is not forming part of the CCDs, the Querist may take appropriate call based on the provisions, rules and regulations of IBC. Thereby, the query is answered accordingly.

We hope that the above opinion satisfies your query.

AMIR BAVANI
(ADVOCATE)

PLACE: HYDERABAD
DATE: 05.09.2025

(iii) In the 6th meeting of the CoC held on 03.10.2026, vide Agena Item No. A-6, the CoC took a note on the legal opinion on CCDs placed before it and , vide Agena Item No. A-6, decided to reconstitute the

CoC. The relevant extract of minutes of the meeting of the CoC are reproduced below:

Item No.: A6: Legal opinion on CIRP matters: The chairman shall appraise the CoC on the legal opinion that was obtained on CIRP matters of the CD:
xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx
2) Legal Opinion on CCDs:

Query: Whether the holder of CCDs in the corporate debtor, should be classified as a Financial Creditor (to be part of Committee of Creditors) or should be classified as Equity holder of the corporate debtor?

Answer: Applying the ratio of the judgments referred to above, the CCDs cannot be treated as "financial debt" within the meaning of section 5(8) of the Code. Consequently, Mr. K. Khan Kumar is to be classified as an equity holder of the Corporate Debtor and not a "financial creditor", as far as his claim qua the CCDs are concerned and hence not entitled to be part of the Committee of Creditors for such quantum of debt. Also, it is noteworthy to state that equity holders are ranked last in the waterfall mechanism under Section 53 of the Code. It is clarified that for any such remaining portion of the claim as claimed by the Claimant which is not forming part of the CCDs, the Querist may take appropriate call based on the provisions, rules and regulations of IBC. Thereby, the query is answered accordingly. The CoC to take note of the same.

Item No.: A7: Reconstitution of Committee of Creditors:

The Committee of Creditors that was constituted by the RP was as given below:

SNo	Name of Creditor	Nature of Credit	Amount Admitted in ₹	Voting Right
1.	Indian Renewable Energy Development Agency Ltd	Term Loans	768,69,80,541	91.14%
2.	Kakaraparthi Kiran Kumar	Compulsorily Convertible Debentures (CCDs)	74,70,80,805	8.86%
		Total	8,43,40,61,346	100.00%

At the request of IREDA, the FC, a legal opinion was sought as to whether the holder of CCDs should be treated as a Financial Creditor or should be treated as part of Equity. Accordingly, the legal opinion that was obtained (as detailed in Item A6 above) clarified that the holder of CCDs should be treated as part of Equity and not as Financial Creditor. Therefore, the Committee of Creditors shall be reconstituted accordingly. The CoC to review and resolve on this matter.

(iv) The RP acted bona fide, transparently and solely in discharge of his statutory obligations, without favouring or prejudicing any stakeholder.

(v) The RP had duly informed the Applicant by e-mail dated 20.12.2025[17] that after his claim as a Financial Creditor stood rejected, he would be treated as an equity holder. Consequently, he would not be entitled to continue as a member of the CoC and accordingly, the CoC had been reconstituted pursuant to the resolution passed in the 6th meeting of the CoC[18] held on

[17] A copy of the email dated 20.12.2025 is attached as Annexure-A of the Counter.

[18] A copy of the minutes of 6th meeting of the CoC is attached as Annexure-G of the Counter.

03.10.2025. Since the Applicant was duly notified of his expulsion from the CoC along with reasons therefor, the Applicant cannot now contend that his expulsion from the CoC was effected without notice or the RP acted arbitrarily or behind his back. The said email dated 20.12.2025 was reproduced below:

Gmail — Kammula Prabhakar Rao <cirp.sls2025@gmail.com>

CIRP of SLS Power Corporation Limited: Rejection of your Claim as Financial Creditor

Kammula Prabhakar Rao <cirp.sls2025@gmail.com> — Sat, Dec 20, 2025 at 10:31 PM
To: kiran50289@gmail.com

Dear Sir,
Greetings,

This is to bring to your kind information that the claim that you submitted as Financial Creditor in the CIRP of SLS Power Corporation has been rejected on the following grounds:

CCD as defined/interpreted under IBC:
Debentures are *prima facie* considered to be financial debt as per the definition of financial debt given in the IBC, As per section 5(8), financial debt means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes-

(c.) "any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument";

The question was raised before the Hon'ble Supreme Court in *IFCI Ltd.* v. *Sutanu Sinker*, whether CCDs can be treated in essence as a form of debt instead of an equity share. The Hon'ble Apex Court, having examined the definition of debt in the Code as a 'liability or obligation in respect of a claim,' concluded that the appellant can be deemed a part-owner (i.e. an equity participant) of the company. This is because (as per the subscription agreement), if the company fails to buy back the shares within a specific period, the debentures can automatically be converted into equity shares. As a result, the Debenture Holder does not have the right to claim any dues or debt from the Corporate Debtor ("CD"). Therefore, in case such an instrument is treated as debt, it would go against the agreement terms. The Hon'ble Court further went on to hold that the investment is essentially a fonn of debenture which must be compulsorily converted into equity shares, and thus, not specified to be considered as a financial debt under certain circumstances that means it will be *part of equity.*

Therefore, it has become a settled position of law that when an investment is made like debentures which are compulsory convertible into equity it will be treated as equity

The Hon'ble National Company Law Appellate Tribunal (NCLAT) in *Shubham Corporation Pvt. Ltd.* V. *Kotoju Vasudeva Rao* applied the same principle and reiterated that if the instrument does not envisage repayment of the amount disbursed and only provides for compulsory conversion, the instrument is in the nature of equity. On the other hand, in cases of optionally convertible debentures (OCDs), the Hon'ble NCLAT has held that such instruments constitute financial debt under section 5(8)(c) of the Insolvency and Bankruptcy Code, 2016, as they embody an obligation of repayment.

Therefore, from the above observations, it is evident that the Assignment Agreement transfers all rights and security interests to Mr. K. Kiran Kumar, but it does not alter the fundamental equity character of the instrument. On the basis of the Investment Agreement (14.04.2011), the Assignment Agreement (21.08.2019), settled judicial precedents under the IBC, and authoritative commentary (under FEMA and IBC), it is concluded that the CCDs subscribed by IFCI Venture and now held by Mr. K. Kiran Kumar were compulsorily convertible into equity shares of the Corporate Debtor, and no unconditional repayment obligation was attached to the instrument. The rationale laid down *M/s IFCI Limited V. Sutanu Sinha* is evidently clear that CCDs do not emanate any repayment of Principal and cannot be taken as 'Debenture in its classic sense.

Applying the rationale of the judgments referred to above, the CCDs cannot be treated as "financial debt" within the meaning of section 5(8) of the Code. Consequently, Mr. K. Khan Kumar is to be classified as an equity holder of the Corporate Debtor and not a "financial creditor", as far as his claim qua the CCDs are concerned and hence not entitled to be part of the Committee of Creditors for such quantum of debt.

You therefore cannot be treated as a financial creditor, but treated as part of equity.
In view of the above, the Committee of Creditors of SLS Power Corporation Limited has been reconstituted, as was resolved in the CoC in its 6th meeting dated 3rd Oct 2025.
This is for your kind information and record.

Thanks and Regards,
Prabhakar Rao Kammula,
FCA, Insolvency Professional & Registered Valuer (SFA)
Resolution Professional of M/s S L S Power Corporation Limited
IBBI Reg No: IBBI/IPA-001/IP-P01467/2018-2019/12339
Email:cirp.sls2025@gmail.com
Cell No. 9848124608

(vi) A holistic reading of the Investment Agreement dated 14.04.2011[19] completely demolishes the Applicant's contention that the CCDs constituted a financial debt repayable by the Corporate Debtor:

[19] Copy of the Investment Agreement is attached as Annexure-B of the Counter.

(a) Article II clause (b) of the Investment Agreement unequivocally records that the CCDs were issued without carrying any interest and were intended to be compulsorily converted into equity shares of the Corporate Debtor within the stipulated period and, in any event, not later than 28.02.2015. The Agreement further stipulates that the entire subscription amount of Rs.1,200 lakhs was to be utilised towards the fresh equity capital of the Corporate Debtor for completion of its 24 MW small hydro power project, thereby demonstrating that the investment was intended to strengthen the capital base of the Corporate Debtor and not to create a borrowing repayable as a debt.

(b) Significantly, the Agreement further provides in Article II clause (d), that where the CCDs were not earlier converted or bought back, the outstanding CCDs, together with the premium thereon, were liable to be converted into equity shares at the sole discretion of IFCI Venture. The contractual scheme, therefore, clearly establishes that compulsory conversion into equity constituted the primary and governing feature of the transaction, while any buy-back mechanism was merely one of the contractual exit options available to the investor and not an acknowledgment of an independent debt obligation on the part of the Corporate Debtor.

(vii) The exit provisions contained in Article III of the Investment Agreement reinforce the aforesaid position and negate the Applicant's attempt to characterise the CCDs as financial debt.

(a) Article III (c), merely provides a contractual exit mechanism whereby, upon failure of the Corporate Debtor to achieve listing of its equity shares within the stipulated period, IFCI Venture was entitled to exercise a 'put option' requiring the Promoters to purchase the equity shares held by it at a contractually determined value. Such a contractual exit right thus, is against the promoter and not on the Corporate Debtor to repay the subscription amount, nor does it alter the essential character of the CCDs as equity-linked instruments.

(b) Further, Article III(h) clearly stipulates that in the event of any liquidation, dissolution or winding up of the Corporate Debtor, IFCI Venture/ Investor shall be entitled to receive, prior to any distribution to any other shareholder of the Corporate Debtor, the investment along with interest - but does not still designate this amount to be financial debt. The clause is also in the nature of a liquidation preference ordinarily negotiated by the investors in equity investments and further shows that the investment was always in the nature of equity subscription.

(c) The Investment Agreement also imposed stringent obligations regarding the utilisation and monitoring of the subscription amount. Article VII, Clause 7.2(ii) specifically required that the entire subscription amount be utilised solely for the implementation of the small hydro power project, with the Corporate Debtor being obligated to furnish periodic statements to IFCI Venture detailing the manner, in which the funds had been utilised and to comply with any directions issued by the IFCI Venture regarding such utilisation. Clause 7.2(iii) further required the subscription amount to be maintained in a designated special bank account, subject to verification by IFCI Venture, and prohibited its transfer or deployment without the prior approval of IFCI Venture. These provisions clearly demonstrate that the investment was made for financing and monitoring the implementation of the project through an equity-linked instrument, and not as a loan creating an unconditional repayment obligation in favour of the investor.

(viii) Even from the Clauses in the Investment Agreement, it is clearly evident that investment was of the nature of subscription to equity and not as a debt with an obligation to be repaid in monies along with interest. Further, there has neither been a recall of the debentures nor any determination of any outstanding amount payable to the Investor. Thus, as per the settled principles of law, the CCDs as per the aforementioned investment terms, can only be termed as equity and not as financial debt.

(ix) The Investment Agreements governing the present CCDs clearly provide that the debentures shall not carry any interest, shall compulsorily convert into equity shares within the stipulated period and do not create an enforceable obligation upon the Corporate Debtor to repay the principal amount as a debt. The predominant character of the instrument is therefore, that of an equity investment and not a borrowing capable of repayment. The legal opinion obtained by the RP, specifically records that repayment of the principal was never envisaged and compulsory conversion remained the defining characteristic of the CCDs.

(x) The issue involved in the present case is no longer *res integra*. The ***Hon'ble Supreme Court in IFCI Ltd. v. Sutanu Sinha, (2024) 15 SCC 288***, held that where debentures are compulsorily convertible into equity and the contractual arrangement does not confer an enforceable right of repayment upon the holder, such holder assumes the character of an equity participant rather than a financial creditor. The Hon'ble Supreme Court further observed that treating such compulsorily convertible instruments as financial debt would be contrary to the contractual arrangement executed between the parties. The ratio of the aforesaid judgment squarely applies to the facts of the present case and completely negates the Applicant's claim. In fact, the clauses of the investment agreement under scrutiny in the said case are comparable and similar to the investment agreement in the present case.

(xi) The aforesaid principle has been reiterated by the ***Hon'ble NCLAT in Shubham Corporation Pvt. Ltd. v. Kotoju Vasudeva Rao, 2024 SCC OnLine NCLAT 635***, wherein it was held that where an instrument merely provides for compulsory conversion into equity without contemplating repayment of the amount invested, such instrument is in the nature of equity and cannot be treated as financial debt[20]. The Hon'ble NCLAT further distinguished CCDs from Optionally Convertible Debentures (hereinafter referred to as the "**OCDs**"), holding that only the latter continue to embody an obligation of repayment and therefore, may constitute financial debt. The Applicant's reliance on Section 5(8)(c) of the Code completely overlooks this settled distinction recognised by the Appellate Tribunal.

(xii) The Assignment Agreement dated 21.08.2019[21] merely transferred the rights originally held by IFCI Venture in favour of the Applicant. It is a settled principle of law that an assignee cannot acquire rights superior to those possessed by the assignor. Since the assignor itself held only the rights arising out of CCDs, which were essentially equity instruments, the Applicant cannot, merely by virtue of assignment, claim a superior status as a financial creditor under the Code.

(xiii) In respect of the Applicant's reliance upon ***HDFC Bank Ltd. (Supra)***[22], it is submitted that the verification and collation of claims is initially undertaken by the IRP under Section 18 of the Code. However, where a legitimate objection is subsequently raised regarding the classification of a claimant, the RP is duty-bound to examine the same in accordance with law to ensure that the CoC is

[20] A copy of the above judgement is attached as Annexure-I of the Counter.

[21] A copy of the Assignment agreement is attached as Annexure-C of the Counter.

[22] A copy of the judgement of ***HDFC Bank Ltd (Supra)*** is attached herewith as Annexure-E of the Counter.

constituted correctly. In the present case, upon objections being raised by IREDA. the RP obtained an independent legal opinion[23] and, based on the contractual terms governing the CCDs and the settled legal position, rightly reclassified the Applicant as an equity holder. Therefore, the Applicant cannot claim that the initial admission of his claim by the IRP creates a vested or immutable right to continue as a financial creditor or member of the CoC.

(xiv) The Applicant's reliance upon the judgement in ***IREDA vs. Waaree Energies Limited***[24] in Company Appeal (AT) (Insolvency) No. 1380 of 2024 in the present case is incorrect. In the said case, based on the terms contained therein and also in view of the arbitral award already passed in favour of the Claimant therein, whereby there was an obligation to pay the Applicant, the said decision came to be rendered. The clauses and the circumstances in the present case are vastly different and even as per the said order, the RP is entitled to examine the underlying contractual terms to ascertain the true nature of the transaction. In the present case, the Investment Agreement unequivocally establishes that the CCDs were compulsorily convertible into equity and did not create an unconditional repayment obligation.

(xv) The entire case of the Applicant is founded on the erroneous assumption that every debenture automatically constitutes a

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[23] A copy of the legal opinion is attached as Annexure-D of the Counter.

[24] A copy of the above judgement is attached herewith as Annexure-F of the Counter.

"financial debt" under Section 5(8)(c) of the Code. Such proposition is legally untenable. While Section 5(8)(c) includes debentures within the ambit of financial debt, the true nature of the instrument has to be determined from its contractual terms and the substance of the transaction. Where the instrument merely represents an investment, which necessarily culminates in equity participation and does not contemplate repayment of the principal as debt, such instrument cannot be classified as a financial debt. The Clauses of the Investment Agreement clearly show that the nature of investment is in the nature of an equity instrument and the Investor is also given managerial rights including the right to appoint a nominee Director on the Board.

(xvi) The reliance placed by the Applicant upon ***SGM Webtech Pvt. Ltd. (Supra)***[25] is misconceived, as the said decision was rendered on its own contractual terms and prior to the authoritative pronouncement of the Hon'ble Supreme Court in ***IFCI Ltd. (Supra)***[26]. In the present case, the contractual provisions unequivocally provide for compulsory conversion into equity without any enforceable obligation for repayment of principal. Consequently, the judgment relied upon by the Applicant is clearly distinguishable on facts and in any event cannot prevail over the law subsequently declared by the Hon'ble Supreme Court.

[25] A copy of the judgement of **SGM Webtech Pvt Ltd (Supra)** is attached herewith as Annexure-J of the Counter.

[26] A copy of the judgement of ***IFCI Ltd (Supra)*** is attached as Annexure-H of the Counter

(xvii) The judgment in ***Union Bank of India v. Rajdeep Clothing and Advisory Pvt. Ltd. (Supra)***[27] is clearly distinguishable. The said decision primarily dealt with the powers of the RP regarding review of claims and alteration of creditor status. In the present case, the RP has not acted arbitrarily or sou motu. The issue arose on account of objections raised by another financial creditor and was thereafter examined through an independent legal opinion based upon the latest binding judicial precedents before appropriate steps were taken for reconstitution of the CoC. Therefore, the said judgment has no application to the present facts.

(xviii) The Applicant has failed to establish the existence of a "financial debt" within the meaning of Sections 3(6), 3(11), and 5(8) of the Code. In the absence of any legally enforceable repayment obligation upon the Corporate Debtor, the Applicant cannot claim the status of a financial creditor or seek restoration of membership in the CoC.

4. During the course of hearing dated 13.07.2026, the Applicant submitted that initially the investment was done by the IFCI Venture, which was subsequently assigned to Applicant as per Assignment Agreement dated 21.08.2019 executed between Applicant and IFCI Venture. it was contended by the Applicant that he falls under the category of Financial Creditor, as the CCDs, based on the terms of the Investment Agreement dated 14.04.2011, executed between Corporate

[27] A copy of the above judgement is attached as Annexure-K of the Counter.

Debtor, Promoters and IFCI Venture, would amount to 'financial debt'. In support of his submission, the Applicant referred to clauses (a), (d) and (e) of Article-II and clause (h) of Article-III of the Agreement and submitted that the CCDs are also reflected as Debentures in the Balance Sheet of the Corporate Debtor as at 31.03.2021. During his arguments, he also referred to the following Judgments:

(i) ***Hon'ble NCLAT, Principal Bench, New Delhi Judgment dated 10.01.2024 in the matter of Santosh Kumar vs. ASK Trusteeship Services Private Limited & Anr.***, *in Company Appeal (AT) (Insolvency) No. 1575 of 2023* (Paras 9, 10).

(ii) ***Hon'ble NCLAT, Principal Bench, New Delhi Judgment dated 06.12.2024 in the matter of IREDA (Supra)*** (Paras 10, 11, 12, 13, 25 and 26).

(iii) ***Hon'ble Supreme Court Judgment dated 20.12.2024 in the matter of China Development Bank vs. Doha Bank Q.P.S.C.*** *in Civil Appeal No. 7298 of 2022* (Para 65).

5. However, refuting the contention of the Applicant, the RP, referring to the legal opinion obtained by him from Mr. Amir Bavani, Advocate, contended that the Applicant was classified as an equity holder of the Corporate Debtor and not as a Financial Creditor as per the claim filed by him. He also referred to the clauses (a), (b), (c), (d) and (e) of Article-II, and Article-III of the Investment Agreement dated 14.04.2011. He submitted that the Judgment of the Hon'ble NCLAT in the matter of ***IREDA (Supra)*** relied upon by the Applicant is not applicable in the

present case, as there was an arbitral award passed in favour of the IREDA, which is not there in the present case. He further relied on the ***Hon'ble Supreme Court Judgment in the matter of IFCI Ltd. (Supra)*** (paras 6, 7, 11, 23 and 26), and ***Hon'ble NCLAT Judgment dated 22.05.2024 in the matter of Shubham Corporation Pvt. Ltd. (Supra)*** (Para 8.15).

ANALYSIS AND FINDINGS

6. We have heard the Counsel of both the parties and perused the records carefully.

7. Since the Applicant is the Assignor of the Investment Agreements as per Assignment Agreement dated 21.08.2019 executed between Applicant and IFCI Venture, the first question before us is "**What are the rights of the Applicant as an Assignor of the Investment Agreement in terms of the Assignment Agreement dated 21.08.2019**".

(i) As per the Assignment Agreement, the Assignor has assigned the Investment Agreements dated 14.04.2011 and 29.06.2011 in favour of the Assignee for a consideration of Rs.2.10 crores. The relevant extracts of the terms and conditions of the Assignment Agreement are reproduced below:

THE PARTIES AGREE AS FOLLOWS:

1. ASSIGNMENT OF INVESTMENT

On and with effect from the Completion Date:

(a) The Investment Agreement shall stand assigned to substitute the Assignee in place of the Assignor. All provisions of the Investment Agreement shall be applicable and binding on the Assignee as if the Assignee was, and had originally been, a party to the Investment Agreement in place of the Assignor.

(b) The Assignee shall take over, assume, perform, discharge and observe, all the rights, obligations and liabilities of the Assignor under the Investment Agreement.

(c) The Assignor stands irrevocably and unconditionally released and discharged from any and all obligations and liabilities arising out of or relating to the Investment Agreement.

(d) The Parties hereby confirm that in order to legally effectuate the transfer of Investment held under the Investment Agreement from the Assignor to the Assignee, the Parties shall execute the appropriate securities transfer form under the provisions of the Companies Act, 2013 and the rules framed thereunder.

2.1. Assignment

2.1.1 The Parties hereto acknowledge that guidelines under the relevant prevailing laws in India will be applicable and the conditions precedent set forth in Clause 3 of this Agreement (*Conditions Precedent*) have been fulfilled or waived by the Assignee, as the case may be, and in consideration of the Assignee, paying the Purchase Consideration to the Assignor (on cash basis), and upon the terms and conditions set forth therein. THAT the Assignee shall hereafter be deemed to be the full and absolute legal owner, and the only person legally entitled to the investment or any part thereof, free from any or all encumbrances, and to recover and receive all Amounts Due, including the right to file a suit or institute such other recovery proceedings and take such other action as may be required for the purpose of recovery of the Financial assistance, in its own name and right and as an assignee, and not as a representative or agent of the Assignor and to exercise all other rights of the Assignor in relation thereto.

2.1.2 The Assignor hereby further assigns in favour of the Assignee, on as is where is, as is what is and without recourse basis all its rights, title and interest in the Financing Documents, all agreements, deeds and documents related thereto and all collateral and underlying Security Interests including pledge and/or guarantees issued, in respect of, the repayment of the Financial assistance, which Security Interest the Assignor is entitled to. The Assignee shall have the right to enforce such Security Interests including pledges and / or guarantees and appropriate the amounts realized there from towards the repayment of the financial assistance and to exercise all other rights of the Assignor in relation to such Security Interests, pledges and/or guarantees. The Assignor shall transfer/deliver or cause to be transferred / delivered or hold for and on behalf of the Assignee, all such original documents, deeds and/or writings, including but not limited to the Financing Documents, and produce the same promptly upon any request by the Assignee.

2.1.3 The Assignor hereby agrees with the Assignee, that it shall execute the documents as may be necessary or required under Applicable Law for the purpose of perfecting the Assignee's right, title and interest in the Financial assistance, the Financing Documents, and/or any underlying Security Interests including pledges and / or guarantees as the case may be, unto and to the use of the Assignee in the manner aforesaid, and do all acts, deeds and things as may be necessary in this regard, at the cost of the Assignee.

2.1.4 The Purchase Consideration of Rs.2,10,00,000/- (Rupees Two Crore Ten lakh only) has been paid by the Assignee to the Assignor by way of Rs. 21,00,000 vide Demand Draft no.004988 dated 10.05.2019 issued by Axis Bank limited, Vijayawada, Rs. 1,89,00,000/- through RTGS from UTIB0000001 vide UTR no. UTIBR52019061400354401 dated 14.06.2019.

2.2 Assets Assigned.

2.2.1 The financial assets are assigned by the Assignor to the Assignee on "as is where is", "as is what is" and "without recourse" basis.

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SCHEDULE -I

1	Name/ Details of the Borrower	Name of Company: SLS Power Corporation Ltd. Address: Sy. No. 202/A2, Ashok Nagar, Navalak Garden, Nellore – 524 002 Name of Managing Director: Shri. Vemuru Chenchaiah and Shri. N.Jayachandra Reddy
2	Nature of financial assistance	IFCI Venture had provided financial assistance in SLS Power Corporation Ltd. in April 14, 2011 and June 29, 2011 under Green India Venture Fund (GIVF) (A SEBI Registered VC Fund) by way of subscription to: • 14,00,000 Compulsory Convertible Debentures (CCDs) of Rs.100 each.
3	Nature of Security	• Pledge of 1.80 Cr no. of equity shares of SLSPCL; • Guarantee of Promoters and corporate guarantee of Promoter Companies. • Promoters viz. • Shri. Vemuru Chenchaiah, Chairman and MD • Shri. J. C Reddy, Joint Managing Director • Smt. M. S. Gowri, Director • Shri. M. Ramachandra, Director • Smt. Suseela, Director And group companies (Promoter Companies) viz. M/s Aryaman Vincom Pvt Ltd., M/s Ganapathi Vanijya Pvt. Ltd., M/s Fastner Marketing Pvt. Ltd., M/s Jaltarang Vyapaar Pvt Ltd., M/s Dynamic Tie Up Pvt. Ltd., M/s Dynamic Ferotech Pvt. Ltd., and M/s JCR Drillsol Pvt. Ltd

(ii) The Assignment Agreement has been entered into between the IFCI Venture, who is the Assignor and Applicant, who is the Assignee. The relevant extracts of the said Assignment Agreement dated 21.08.2019 are reproduced below:

ASSIGNMENT AGREEMENT [redacted]

This assignment agreement (**"Assignment Agreement"**) is made at Delhi, India on 21 August, 2019 (**"Execution Date"**) by and between

Kakaraparthi Kiran Kumar, S/o Kakaraparthi Nageswararao resident of 40-9-19/3, SF-1, Municipal Employees Colony, Purna Chandra Towers, Acharya Ranga Nagar, Vijaywada (Urban), Venkateswarapuram, Krishna, Andhra Pradesh-520010 (*hereinafter referred to as* **"Assignee"**) of **FIRST PART**;

AND

IFCI Venture Capital Funds Limited under Green India Venture Fund, a public company incorporated under the Companies Act,1956 (1 of 1956) and and a Public Financial Institution u/s 2(72) of the Companies Act, 2013 having its Registered Office at IFCI Tower, 61, Nehru Place, New Delhi - 110 019, (hereinafter referred to as the **"Assignor"**, which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors) of the **SECOND PART**

Assignor, Assignee and Confirming Party are hereinafter individually referred to as a **Party** and collectively as the **Parties** as the context may require.

WHEREAS:

1. The Assignor through its Investment Manager, IFCI Venture Capital Fund, had agreed to finance a cost of the project of the **SLS POWER CORPORATION LTD** (hereinafter referred to as "Borrower" or "SLSPCL") having its registered office at Sy. No. 202/A2, Ashok Nagar, Navalak Garden, Nellore – 524 002 in relation to setting up setting up a Small Hydro Power Plant named "Dummagudem Small Hydro Electric Project" on Left flank of the Branch anicut in the Godavari River to generate power with 24 MW of capacity in Khammam District, Andhra Pradesh (hereinafter referred to as "Project"), in the form of subscription to CCDs aggregating to Rs.14 Crores (**"Financial Assistance"**); or

2. The Assignor had entered into an Investment Agreement dated April 14, 2011 and June 29, 2011with the borrower and the promoters of the promotors of the borrowers and IFCI venture capital fund as parties (**INVESTMENT Agreement**")containing the terms and conditions of the Investment made by the Assignor in the Project of the Confirming Party. The Investment Agreement is attached herewith as Annexure A; and

3. In pursuance of the Schedule III of Clause V sub-clause (f) of said Investment Agreement, the assignor is desirous of assigning to the Assignee, Debenture/any other debt in any other form along with shares, disbursed under the aforesaid Financing Documents together with all its rights, title and interest in the Financing Documents and any underlying Security Interests, pledges and/or guarantees in respect of such finance on as is where is, as is what is and without recourse basis. Further, the Assignee on the basis of the Due Diligence Exercise is desirous of acquiring the finance together with all the rights, title and interest of the Assignor in the Financing Documents and any underlying Security Interests, pledges and/or guarantees in respect of such financial assistance, the Assignor is desirous of assigning its rights and obligations under the

(iii) The Assignment Agreement is stated to have been entered into in pursuance of the Schedule III of Clause V sub-clause (f) of Investment Agreement, however, it is noted that the aforesaid sub-clause/ clause of Schedule III of the Investment Agreement dated 14.04.2011 is regarding "Non-Compete Undertaking" and is not related to the assignment. The Clause V of the Schedule III of the Investment Agreements dated 14.04.2011 is reproduced below:

SCHEDULE - III

SPECIAL CONDITIONS

V. NON-COMPETE UNDERTAKING

Without prior written permission of IFCI Venture the promoter shall undertake not to sponsor/ promote directly or indirectly any other company or entity or engage in any activities and business that would be in direct or indirect competition or carrying out any business in the industry, in which the company operates and which is detrimental to the interest of the company except as specified by the company/ promoters as at the time of appraisal.

(iv) Be that it may be, the settled principles of law is that Assignee cannot have better rights than the assignor.

8. The next question before us is "**Whether the CCDs subscribed vide Investment Agreement dated 14.04.2011 would fall under the Financial Debt or not**".

(i) The Applicant in his pleading, relying on the Order dated 14.01.2020 of the Hon'ble NCLT, Principal Bench, New Delhi in the matter of **SGM Webtech Pvt. Ltd. (Supra)** has contended that the claim of the Applicant would be financial debt, as the CCDs have not been converted into debt and have been shown as long term debt in the Balance Sheet for the financial year ending on 31.03.2021 of the Corporate Debtor.

(ii) It is noted that the aforesaid CCDs held by the Applicant are shown under Note 2(iv a) as "Other Long-term Liabilities" in the Balance Sheet as at 31.03.2021 read with para 2(xx): Contingent Liabilities and para 2(xxii)(a): 19% CCDs of the Accounting Policy of the Corporate Debtor, which are reproduced below:

Note 2 (iv a) : Other Long-term Liability

Particulars		As at 31st March 2021	As at 31 March 2020
		Rs	Rs
Debentures (Unsecured) - K Kiran		27,70,28,136	27,70,28,136

1. CCDs from Green India Venture Fund - 14,00,000 CCDs of Rs. 100/- each has been purchased by K Kiran

SCHEDULES FORMING PART OF ACCOUNTS

ACCOUNTING POLICIES AND NOTES TO ACCOUNTS

2. NOTES ON ACCOUNTS

2 (xx) Contingent Liabilities:

Entire outstanding CCDs along with the premium @ 19% compounded annually there on as on 28th February 2015, which are due, but not paid shall at the sole discretion of Green India Venture be converted into equity shares of the company at par. Each CCD of Face Value of Rs. 100 would be converted into 10 equity shares of Face Value Rs. 10 each of SLSPCL and the aggregate premium on the same outstanding CCDs would also be converted into equity shares of face Value Rs. 10 each of SLSPCL or accepted in cash at the option of Green India Venture.

In case the CCDs subscribed by Green India Venture are converted into equity, then the promoter shall ensure that the company brings out public issue of its equity shares and get its equity shares listed on a recognized stock exchange, to the satisfaction of Green India Venture, latest by 30th June 2015 or within such extended period as Green India Venture may decide at its sole discretion.

During the year the company has not provided premium @ 19% in the books of account.

2 (xxii) Unsecured Loans

(a) 19% Compulsory Convertible Debentures (CCDs)

The company has raised an amount of Rs.14.00 Crores by issuing Compulsory Convertible Debentures (CCDs) of Rs. 100 each for cash at par value to Green India Venture Funds. These CCDs will not carry any interest and shall be convertible into equity shares at par anytime in one or more occasions, one year after date of issue of CCDs but before 28th February 2015. On any conversion of CCDs into equity the premium @19% p.a. will be paid by the company or at the option of Green India Venture Fund Ltd., premium accrued will also be converted into Equity Shares of company at par. CCDs can also be redeemed / purchased by the company/ promoters respectively at premium giving an annualized compounded return of 19% in accordance with the provisions of the term sheet.

The promoters / SLS Power Corporation Ltd., (SLSPCL) shall have right to buy back CCDs / equity anytime on or before 31st January 2015 along with premium ensuring compounded annual return of 19% from date of investment in CCDs. In case a part of CCDs are converted into equity at the option of Green India Venture anytime before this buy back, the promoter shall have right to buyback these shares giving Green India Venture annualized return @ 19% from date of investment in CCDs.

Entire outstanding CCDs along with the premium @ 19% compounded annually there on as on 28th February 2015, if not earlier converted/ bought back by company/ Promoter shall at the sole discretion of Green India Venture be converted into equity shares of the company at par. Each CCD of Face Value of Rs. 100 would be converted into 10 equity shares of Face Value Rs. 10 each of SLSPCL and the aggregate premium on the same outstanding CCDs would also be converted into equity shares of face Value Rs. 10 each of SLSPCL or accepted in cash at the option of Green India Venture.

In case the CCDs subscribed by Green India Venture are converted into equity, then the promoter shall ensure that the company brings out public issue of its equity shares and get its equity shares listed on a recognized stock exchange, to the satisfaction of Green India Venture, latest by 30th June 2015 or within such extended period as Green India Venture may decide at its sole discretion.

The company is holding meetings with Green India Ventures for converting CCDs into equity shares during the current year.

(iii) It is well settled law that accounting treatment cannot determine the legal character of an instrument, where the governing contractual documents disclose a different legal position. The classification adopted in the Balance Sheet is governed by accounting standards and disclosure requirements and cannot override the substantive contractual rights and obligations undertaken by the parties. In this regard, we rely on the Hon'ble Supreme Court Judgment dated 28.10.2025 in the matter of ***EPC Constructions India Ltd. Through Its Liquidator - Abhijit Guhathakurta v. M/s Matix Fertilizers And Chemicals Limited*** in Civil Appeal No.11077 of 2025, wherein at para 43, it was observed that the treatment in the accounts due to the prescription of accounting standards will not be determinative of the nature of relationship between the parties. The relevant extracts of the aforesaid Judgment is reproduced below:

"ENTRIES IN BOOKS OF ACCOUNTS – NOT DETERMINATIVE:

43. Mr. Niranjan Reddy, learned Senior Counsel, contended that financial debt is an admitted liability in the books of accounts of Matix. This was countered by the learned Senior Counsels for Matix by contending that entries in account books are not determinative of the true nature of the transaction. Accounting Standards (AS 32) prescribe that a preference share that provides for mandatory redemption by the issuer for a fixed or determinable amount at a fixed or determinable future date, or gives the holder the right to require the issuer to redeem the instrument at or after a particular date for a fixed or determinable amount, is a financial liability. However, the treatment in the accounts due to the prescription of accounting standards will not be determinative of the nature of relationship between the parties as reflected in the documents executed by them. Further the IBC has its own prerequisites which *a party needs to fulfil and unless those parameters are met, an application under Section 7 will not pass the initial threshold. Hence, by resort to the treatment in the accounts this case cannot be decided."*

(iv) The Applicant in its pleading has contended that merely because, the CCDs do not carry any interest, it would not cease to constitute a financial debt. In support of this contention, he relied on para 31 of the judgment dated 26.07.2021 of Hon'ble Supreme Court in M/s. **Orator Marketing Pvt. Ltd. (Supra)**, which reads as follows:

"31. At the cost of repetition, it is reiterated that the trigger for initiation of the Corporate Insolvency Resolution Process by a Financial Creditor under Section 7 of the IBC is the occurrence of a default by the Corporate Debtor. 'Default' means non-payment of debt in whole or part when the debt has become due and payable and debt means a liability or obligation in respect of a claim which is due from any person and includes financial debt and operational debt. The definition of 'debt' is also expansive and the same includes inter alia financial debt. The definition of 'Financial Debt' in Section 5(8) of IBC does not expressly exclude an interest free loan. 'Financial Debt' would have to be construed to include interest free loans advanced to finance the business operations of a corporate body."

(v) However, we note that the Hon'ble Supreme Court in the matter of ***Orator Marketing Pvt. Ltd.*** **(Supra)** at para 29 has also observed that the interest free loans may amount to financial debt, only if it has the commercial effect of borrowing. The relevant extracts of the Judgment is reproduced below:

"29. …………………………………… Having regard to the Aims, Objects and Scheme of the IBC, there is no discernible reason, why <u>a term loan to meet the financial requirements of a Corporate Debtor</u>

<u>for its operation, which obviously has the commercial effect of borrowing, should be excluded from the purview of a financial debt</u>."

(vi) We note that subsequent to the above judgement, the Hon'ble NCLAT, Principal Bench, New Delhi, in the matter of ***Adhunik Corporation Limited v. Shivam India Limited,*** Company Appeal (AT) (Insolvency) No. 1427 of 2023 order dated 19.02.2025, has examined the concept of 'commercial effect of borrowing' in the light of the judgment of ***Orator Marketing Pvt. Ltd.*** **(Supra)** and observed that to ascertain the element of commercial borrowing for time value of money, various other contractual arrangement between the parties needs to be studied. The relevant extracts of the Judgement in ***Adhunik Corporation Limited*** **(Supra)** is reproduced below:

"15. From a reading of the above judgments, broadly speaking, for a debt to be treated as financial debt there has to be an element of disbursal of money and the disbursal must be against the consideration for time value of money. The concept of time value of money has been further explained to also include a transaction which does not necessarily culminate into interest being paid in respect of money that has been borrowed.

16. The nature of underlying transaction is therefore a determinative factor in deciding whether infusion of funds can be classified as financial debt or not. <u>To find out whether any element of commercial borrowing for time value of money is noticeable in the transactions which have taken place in the present facts of the case, we have to study the various relevant clauses of the MoA since it is the MoA which constitutes the underlying edifice of the transactions</u>.

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25. The issue to be seen next is whether the disbursal made by the Appellant in the present context reflected consideration for time value of money. As per the Insolvency Law Report, 2018, time value of money means compensation or the price paid for the length of time for which money has been disbursed. <u>Time value of money is not only a regular or timely return received for the duration for which the amount is disbursed as an amount in addition to the principal but also covers any other form of benefit or value accruing to the creditor as a return for providing money for a long duration</u>. We need to see if the Appellant had envisioned enhancement of economic prospect in return for the funds disbursed and if so then the sum advanced would qualify to entail time value of money and acquire the colour and character of commercial borrowing.

26. The MoA is a matter of record. When we look at the MoA, it clearly provides for the Appellant to supply raw material and also the disposal of finished products. Merely because the MoA allowed the Appellant to monitor the production of the unit does not in any manner show that they were in control of the unit and were not entitled to receive back the funds infused by them. This in way diminished the obligation of the Corporate Debtor to discharge their debt liability. It is further clear from the terms of the MoA that the Appellant was required to infuse funds to the Corporate Debtor to render the Corporate Debtor operational from its dysfunctional state. Moreover, the credit so provided was in the form of working capital and the entire amount was fully refundable. Even the funds provided for purchase of raw material at prevailing market prices was towards operationalization of the Corporate Debtor. The right of the Appellant to enjoy sales commission was also a form of return for the amount financed. From the judgment of the Hon'ble Supreme Court in Pioneer judgment supra the ratio is clear that even if transactions are not necessarily loan transactions, they still attract Section 5(8) of the IBC as long as the transactions have the commercial effect of a borrowing. The essential condition which *needs to be fulfilled is disbursement against the consideration for time value of money. Since in the present case, the infusion of funds was a transaction which has direct bearing on the business carried out by the Corporate Debtor, raising of the amount through the above agreement has the commercial effect of borrowing. The clauses of the MoA contain clear indication that the infusion of funds was being done with the intent of earning profits and the investments was therefore for consideration for the time value of money. Therefore, this transaction has the contours of a borrowing as contemplated under Section 5(8) of IBC. The investments made by the Appellant-Financial Creditor was with an eye for consideration for time value of money and therefore the transaction had commercial effect of borrowing.*

27. Therefore, seen in totality, the disbursals clearly display commercial effect of borrowing. In our considered opinion the Adjudicating Authority committed an error in holding the transaction to be a business arrangement and nonsuiting of the Appellant on the ground of not being a financial creditor. The Appellant has been wrongfully ousted by the Adjudicating Authority on the ground that the Appellant was not a financial creditor and the infusion of fund was not in the nature of financial debt. We have no hesitation to observe that this is a case of financial debt and the Appellant is clearly a financial creditor in terms of statutory provisions of IBC."

(vii) The Applicant during the course of hearing 13.07.2026, has placed reliance on paras 9 and 10 of the judgment dated 10.01.2024 of the Hon'ble NCLAT in **Santosh Kumar (Supra)**, which reads as below:

"9. Hon'ble Supreme Court held that issue was correctly determined that nowhere it is stipulated that investment as CCDs would partake the character of financial debt. In Para 24 and 31 following was held:

"24. A reading of the impugned judgment, specifically the rationale from para 19 onwards shows that the issue has been correctly crystallized as to whether CCDs could be treated as a debt instead of an equity instrument. In that sense, it was observed that treating them as a debt would tantamount to breach of the concessional agreement and the common loan agreement. The investment was clearly in the nature of debentures, which were compulsorily convertible into equity and nowhere is it stipulated that these CCDs would partake the character of financial debt on the happening of a particular event."

"31. We are thus of the view that the appeal does not raise any such question of law and that the findings of the Courts below are in accordance with settled principles."

*10. The above judgement does not help the Appellant in the present case. In present case, DSA in question is not CCD rather DSA in question is OCD with regard to which there is no dispute between the parties. Learned counsel for the Respondent has rightly relied on judgment of this Tribunal in "**MAIF Investments India Pte. Limited" (Supra)**, where Section 7 application was filed by the Financial Creditor which was dismissed by the Adjudicating Authority. The Financial Creditor has entered into subscription agreement subscribing OCDs. Appeal was filed by the Financial Creditor challenging the order rejecting the application. This Tribunal in the aforesaid case examined the DAS and held that OCDs are financial debt within the meaning of Section 5(8)(c). In Para 23 following was held:*

"23. In the present case, there has been a disbursal of Rs. 102 Crores in favour of the 'Corporate Debtor' by way of 'OCDs'. In terms of Section 5(8)(c), any amount raised pursuant any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument, comes within the meaning of 'financial debt'. Therefore, from the aforesaid fact,

> *we find that there is a disbursal of Rs. 102 Crores in favour of the 'Corporate Debtor' and the 'OCDs' originally met is against time value of money and per se, constitute 'financial debt' in the light of Section5(8)(c) of the I&B Code."*

(viii) We observe that the aforesaid Judgement was delivered in the context of the Optional Convertible Debentures (hereinafter referred as "**OCDs**") and thus is not applicable in the present case. It is further noted that the Supreme Court referring to the Judgement in the matter of ***IFCI Ltd. (Supra)*** has observed in the above case that the investment as CCDs would not be in the nature of financial debt.

(ix) The Applicant has also placed reliance on para 65 of the Judgment dated 20.12.2024 of the Hon'ble Supreme Court *in the matter of* ***China Development Bank*** **(Supra)**, which reads as below:

> *"65. Another argument was canvassed based on the definition of 'claim' under Section 3(6) of the IBC. If the right to payment exists or if a breach of contract gives rise to a right to payment, the definition of 'claim' is attracted. Even if that right cannot be enforced by reason of the applicability of the moratorium, the claim will still exist. Therefore, whether the cause of action for invoking the guarantee has arisen or not is not relevant for considering the definition of 'claim'."*

(x) We observe that the aforesaid Judgement was delivered in the different context and the question whether CCDs would amount to financial debt has not been dealt in the said Judgement and thus, is not applicable in the present case.

(xi) The RP relied on paras 6, 7, 11, 23 and 26 of the Judgment dated 09.11.2023 of the Hon'ble Supreme Court in the matter of ***IFCI Ltd.* (Supra)**, which reads as below:

> *"6. It will be noticed from the aforesaid that the fundamental principal for rejecting the debt claim was that in view of the appellant having invested the amount as per the CCDs, the same was to be treated as equity. The CCDs had been approved as equity under the financial package for the Concession Agreement dated 25.03.2010 and were towards the part of equity of the project cost approved by the NHAI having a debt equity ratio. There was never any re-categorization of CCDs from equity to debt. The lenders' consortium had also approved the term of CCDs as equity. The endeavour of the appellant to challenge the position of the Resolution Professional vide IA No.1465/2022 did not succeed in terms of an order dated 14.03.2023, the said order relied upon the judgment of this Court in Narendra Kumar Maheshwari v. Union of India & Ors. It would be useful to extract that part of the judgment which has also been extracted in the impugned order of National Company Law Appellate Tribunal (NCLAT) as under:*
>
> > *"A Compulsory Convertible Debenture does not postulate any repayment of the principle. The question of security becomes relevant for the purpose of payment of interest on these debentures and the payment of principle only in the unlikely event of winding up. Therefore, it does not constitute a 'debenture' in its classic sense. Even a debenture, which is only convertible at option has been regarded as a 'hybrid' debenture. Any instrument which is compulsorily convertible into shares is regarded as an "equity" and not a loan or debt." (emphasis supplied)*
>
> *7. We may note that the aforesaid order of the National Company Law Tribunal was further assailed before the NCLAT which dismissed the appeal as per the impugned order dated 05.06.2023.*

In the meantime, the Committee of Creditors (CoC) granted its approval on 08.03.2023 which was followed by the Adjudicating Authority accepting the resolution plan on 01.05.2023. This has not been specifically assailed by the appellant.

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11. We may note that it is not disputed by him that the put option was never exercised. In effect, his submission was that whether CCDs should be categorized as debt or equity would depend on the status of the maturity of the CCDs and the position of the investor at the inaugural time, and this would vary in the facts and circumstances of each case.

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23. The effect of the aforesaid is that a contract means as it reads. It is not advisable for a Court to supplement it or add to it. It is an unfortunate scenario where the appellant is being left high and dry as there is nothing which it can recover from the sponsor company, there being no assets and funds. While in the ICTL it is being treated as a shareholder and thus, does not benefit as none of the shareholders i.e. original investors and the appellant get any benefit under the scheme which has been approved. The debt assigned was of a lower rate, repurchased by a third party. However, these are commercial decisions of the respective parties. The obligations were of the sponsoring company and IVRCL in terms of Clause 2.4.

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26. A significant aspect taken note of in the impugned order is that the terms of the various agreements prohibited the corporate debtor from taking further debt without the consent of the assignees. No such approval was sought or taken. The amount was treated as an equity alone and not as a debt."

(xii) However, we observe that the RP has ignored the para 21,22 and 24 of the ***IFCI Ltd. Judgment***, which reads as below:

21. We must note that the complexities of commercial documents depending on the nature of business. These are not layman's agreements but agreements vetted by experts and thus each of the parties knows its obligations and the benefits which can arise from the agreement. We thus find it difficult to read into or add to what the document says about a CCD.

22. Suffice for us to say that the aspect of interpretation of commercial documents was in extenso analyzed in ***Nabha Private Limited vs. Punjab State Power Corporation Limited****. In respect of the factual scenario before us, it would suffice to extract para 72 as under:*

> *"72. We may, however, in the end, extend a word of caution. It should certainly not be an endeavour of commercial courts to look to implied terms of contract. In the current day and age, making of contract is a matter of high technical expertise with legal brains from all sides involved in the process of drafting a contract. It is even preceded by opportunities of seeking clarifications and doubts so that the parties know what they are getting into. Thus, normally a contract should be read as it reads, as per its express terms. The implied terms is a concept, which is necessitated only when the Penta test referred to aforesaid comes into play. There has to be a strict necessity for it. In the present case, we have really only read the contract in the manner it reads. We have not really read into it any "implied term" but from the collection of clauses, come to a conclusion as to what the contract says. The formula for energy charges, to our mind, was quite clear. We have only expounded it in accordance to its natural grammatical contour, keeping in mind the nature of the contract."*

24. A reading of the impugned judgment, specifically the rationale from para 19 onwards shows that the issue has been correctly crystallized as to whether CCDs could be treated as a debt instead of an equity instrument. In that sense, it was observed that treating *them as a debt would tantamount to breach of the concessional agreement and the common loan agreement. The investment was clearly in the nature of debentures, which were compulsorily convertible into equity and nowhere is it stipulated that these CCDs would partake the character of financial debt on the happening of a particular event.*

(xiii) The RP has further relied on para 8.15 of the Hon'ble NCLAT Judgment dated 22.05.2024 in the matter of ***Shubham Corporation Pvt. Ltd. (Supra)***, which reads as below:

> *"8.15 We have noted the guidance approved by the Hon'ble Supreme Court in stating in para 23 of the IFCI judgment cited supra that it is not advisable for court to supplement or add to commercial contract. The DSA between the Appellant and the Corporate Debtor clearly had no clause regarding repayment and no clause regarding any option other than conversion of the debentures into shares. A convertible debenture can be regarded as "debt" or "equity" based on the test of liability for repayment. If the terms of convertible debentures provide for repayment of borrower's principal amount at any time, it can be treated as a debt instrument but if it does not contemplate repayment of the principal amount at any time, that is, if it compulsorily leads to conversion into equity shares, it is nothing but an equity instrument. Respectfully following the judgment of the Hon'ble Supreme Court in the case of M/s IFCI Limited vs. Sutanu Sinha & Ors., cited supra, we hold that the compulsorily convertible debentures held by the Appellant are equity instrument and accordingly, we do not find any reason or justification to interfere in the impugned order of the Adjudicating Authority. In the result, the Appeal is dismissed. All related IAs pending, if any, are closed. No order as to costs."*

(xiv) However, both the Applicant and the RP have relied on the Hon'ble NCLAT, Principal Bench, New Delhi Judgment dated 06.12.2024 in the matter of ***IREDA (Supra)***. The Applicant has contended that the CCDs would be financial debt and relied on the paras 10, 11, 12, 13, 25 and 26 of the judgement, which reads as below:

> *"10. 'Debenture' is defined in Companies Act, 2013 in Section 2, sub section (30), which is as follows: "2(30) "debenture" includes debenture stock, bonds or any other instrument of a company evidencing a debt, whether constituting a charge on the assets of the company or not;"*
>
> *11. The definition of 'debenture' is 'evidencing a debt' as the definition of debenture itself suggest. Thus, by issuing debenture, the Issuer has raised money for its capital and on plain reading of definition of 'financial debt', the debentures are fully covered under Section 5, sub-section (8) (c).*
>
> *12. The question, which needs to be answered is as to whether there is time value of money in respect of the debt, which is reflected by debenture. For answering the above question, we need to notice certainother clauses of the DSA. Clause 1.1 of the DSA is a definition clause in which 'Compulsorily Convertible Debentures' is defined as follows:*
>
>> *"Compulsorily Convertible Debentures., shall refer to the debentures issued by the Company and allotted to the Investor as per the applicable laws of the Act, and which are compulsorily convertible into equity shares of the Company at the option of the Investor as per terms of this Agreement."*
>
> *13. The above definition indicates that debentures are compulsorily convertible into equity shares of the Company at the option of the Investor. Clause 3.2 deals with 'Conversion', which is as follows:*
>
>> *"**3.2 Conversion***
>>
>> *The CCDs shall be compulsorily and mandatorily convertible into Equity Shares of the Company within a period of 65*

Months from the date of allotment of the CCDs to the Investor ("Long Stop Date") as per this Agreement."

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25. This Tribunal after relying on the judgment of Chennai Bench in IFCI Ltd. and the judgment of Hon'ble Supreme Court in IFCI Ltd. (supra) has come to the conclusion that compulsory convertible debentures held by the Appellant were equity instrument and the order of the Adjudicating Authority was not interfered with.

26. <u>From the judgments relied by the parties as noticed above, it is clear that for finding nature of transaction, the documents entered between the parties are the best guide to find out nature of debt, as to whether there was time value of money or not.</u> When we look into the clauses of DSA pertaining to the present case, we are of the considered opinion that the transaction, which was entered between the parties has time value of money and the redemption of debenture was also contemplated and conversion of debenture was operational at the option of Investor. The Issuer has raised the amount by issuance of debenture, which was clearly a 'financial debt' within the meaning of Section 5, sub section (8). In view of the foregoing discussions and conclusions, we do not find any good ground to interfere with the order of the Adjudicating Authority, allowing the Application of Respondent No.1. There is no merit in the Appeal. The Appeal is dismissed. There shall be no order as to costs."

(xv) The RP submitted that the Judgment of the Hon'ble NCLAT in the matter of ***IREDA (Supra)*** relied upon by the Applicant is not applicable in the present case, as there was an arbitral award passed in favour of the IREDA, which is not there in the present case.

(xvi) We observe that there are two major differences <u>between the **_IREDA (Supra)_**, and present case (i) The holder of CCDs in terms</u>

<u>of clause 4 of the DSA called upon the Corporate Debtor to repay the Investment amount along with applicable interest vide its letter dated 08.12.2017, while in the present case, there is no crystallisation of the debt; (ii) The holder of the CCDs invoked Arbitration clause and got an Arbitral Award in his favour directing the CD to pay the investment amount along with interest</u>. These issues have been deliberated in the NCLAT order in the matter of ***IREDA (Supra)*** and after examining the Hon'ble Supreme Court Judgement in the matter of ***IFCI Ltd (Supra)*** and Hon'ble NCLAT Judgement in the matter of ***Shubham Corporation Pvt. Ltd. (Supra)***, the Hon'ble NCLAT has concluded at para 26 that for finding nature of transaction, <u>the documents entered between the parties are the best guide to find out nature of debt, as to whether there was time value of money or not</u>.

(xvii) The Applicant has considerably relied on the "*commercial effect of borrowing*" to contend his case of proving the CCDs as financial debt. However, in our view, first the debt needs to be established and thereafter, the commercial effect of borrowing needs to be established to prove that the debt falls under the category of 'financial debt'. If we start examining the 'commercial effect of borrowing' before establishing the debt, all the share capital, whether, equity or preference, would qualify the criteria of 'commercial effect of borrowing', as laid down in ***Orator Marketing Pvt. Ltd.*** **(Supra)** read with ***Adhunik Corporation Limited*** **(Supra)**..

(xviii) In view of the above analysis of the judgements, we consider it appropriate to examine the investment agreements entered between the parties to understand the nature of debt.

(xix) It is noted that both the parties have stated to have entered into two Investment Agreements dated 14.11.2011 and 29.06.2011, however, the copy of the Investment Agreements dated 29.06.2011 has not been placed on record by either of the parties. Therefore, we examine the Investment Agreement dated 14.11.2011 submitted in the pleadings of the parties.

(xx) The Investment Agreement dated 14.11.2011 was entered into between the Corporate Debtor & its Promoters and IFCI Venture, which is discussed as below:

(a) The IFCI Limited (hereinafter referred to as the "**IFCI**"), to invest in Indian companies in projects aiming to reduce negative ecological impact such as energy, power etc., floated GIVF, which was registered with Securities Exchange Board of India (hereinafter referred to as the "**SEBI**") and entrusted the Fund to IDBI Trusteeship Services Ltd.. (hereinafter referred to as the "**IDBI**") as Trustee. The IFCI Venture was appointed as Investment Manager of GIVF by the Trustee to manage, invest and provide administrative services to GIVF and to grant to the company the financial assistance and to enter into the Agreement:

WHEREAS IFCI Limited, a public company incorporated under The Companies Act, 1956 (1 of 1956) and having its Registered Office at IFCI Tower, 61, Nehru Place, New Delhi-110019 (hereinafter referred to as IFCI, which expression shall, unless it is repugnant to the subject or context thereof, include its successors and assigns) has floated a Venture Capital fund by the name of Green India Venture Fund (hereinafter referred to as "GIVF") to invest in Indian companies engaged in setting-up or proposing to set-up, amongst others, Clean Development Mechanism (CDM) and other projects aiming to reduce negative ecological impact, efficient usage of resources such as energy, power etc and other related sectors.

WHEREAS GIVF has been set up as a Trust Fund under the registered Trust Deed. IFCI as settler, has entrusted the Fund to IDBI Trusteeship Services Ltd., a company incorporated under the Companies Act, 1956 having its registered office at Asian Building, Ground Floor, 17, R. Kamani Marg, Ballard Estate, Mumbai 400 001, as Trustee. GIVF has been registered with Securities Exchange Board of India (SEBI).

WHEREAS IFCI Venture has been appointed as Investment Manager of GIVF by the Trustee to manage, invest and provide administrative services to GIVF in accordance with the provisions of Investment Management Agreement entered by it with the Trustee. IFCI Venture has the necessary powers to grant to the company the financial assistance hereunder and to enter into this Agreement.

(b) The Investment Agreement was entered into among the Corporate Debtor, its 12 Promoters (6 individual and 6 companies) and IFCI Venture. The relevant extract of the Agreement is reproduced below:

INVESTMENT AGREEMENT

THIS AGREEMENT made at New Delhi on this 14th day of April, 2011 between:

FIRST PART (COMPANY):

M/S SLS Power Corporation Limited, a Company within the meaning of the Companies Act, 1956 (1 of 1956) and having its Registered Office at Sy. No. 202/A2, Ashok Nagar, Navalak Garden, Nellore – 524 002, Andhra Pradesh hereinafter referred to as "the Company", which expression shall, unless it be repugnant to the subject or context thereof, include its successors and assigns) of the **FIRST PART**;

SECOND PART (PROMOTERS):

1. Shri. Vemuru Chenchaiah, son of Shri V. Subbaiah, Residing at No. 30, West of Chord Road, 14th Cross, Nandhini Theatre, Bangalore – 560 086;

2. Shri. N.Jayachandra Reddy, son of Shri N. Ranga Reddy, Residing at No. 1076, Shilpashree Nilaya 11-Main, 9-Cross, WOC Road, 2-Stage, Mahalakshmipuram, Bangalore – 560 086;

3. Smt. M. S. Gowri, wife of Shri M. V. Baaskar Reddy, Residing at No. 193, 15th B Cross, 2nd Stage, 2nd Phase, Mahalakshmipuram, Bangalore – 560 086;

4. Shri. M. Ramachandra, son of Shri M. Venkatramaiah Chetty, Residing at No.30, West of Chord Road, 14th cross, Near Nandhini Theatre, Bangalore- 560 086;

5. Smt. Suseela, wife of Shri V. Chenchaiah, Residing at West of Chord Road, 14th Cross, Nandhini Theatre, Bangalore – 560 086

6. M/s Aryaman Vincom Pvt Ltd., a company having its registered office at Sy. No. 202/A2, Ashok Nagar, Navalak Gardens, Nellore – 524 002, Andhra Pradesh

7. M/s Ganpati Vanijya Pvt. Ltd., a company having its registered office at P-41, Princep Street, Kolkata – 700 072, West Bengal and having Administrative Office at No. 30. 14th A Cross. Mahalakshmipuram, Bangalore – 560 086

8. M/s Fastner Marketing Pvt. Ltd., a company having its registered office at 8. Hazaninal Saha Road, Salkia, Bandhaghat, Howrah – 711 106. West Bengal and having its Administrative Office at No. 30, 14th A Cross. Mahalakshmipuram. Bangalore – 560 086

9. M/s Jaltarang Vyapaar Pvt Ltd., a company having its registered office at P-41. Princep Street. Kolkata – 700072. West Bengal and having Administrative Office at No. 30, 14th A Cross. Mahalakshmipuram. Bangalore – 560 086

10. M/s Dynamic Tie Up Pvt. Ltd., a company having its registered office at 37. Strand Road. 3rd Floor. Kolkata – 700 001. West Bengal and having Administrative Office at No. 1076. Shilpashree Nilaya 11-Main. 9-Cross. WOC Road. 2-Stage. Mahalakshmipuram. Bangalore – 560086

11. M/s Dynamic Ferrotech Pvt. Ltd., a company having its registered office at 25. Strand Road. Kolkata – 700 001, West Bengal and having Administrative Office at No. 193. 15th B Cross. 2nd Stage. 2nd Phase. Mahalakshmipuram. Bangalore – 560086

12. M/s JCR Drillsol Pvt. Ltd. a company having its registered office at 20-D. 2nd Phase. Peenya Industrial Area. Bangalore – 560058

(hereinafter collectively referred to as "the Promoters", which expression shall, unless repugnant to the subject or context thereof, include their respective legal heirs, administrators, executors, successors, assigns,) of the **SECOND PART**;

AND

THIRD PART (IFCI VENTURE):

IFCI Venture Capital Funds Limited, a public company incorporated under the Companies Act,1956 (1 of 1956) and having its Registered Office at IFCI Tower, 61, Nehru Place, New Delhi - 110 019 (hereinafter referred to as 'IFCI Venture', which expression shall, unless it be repugnant to the subject or context thereof, include, its successors and assigns) of the **THIRD PART;**

(c) The terms for subscription have been elaborated in Article II of the Investment Agreement. As per the clause (a) of the Article II of the Investment Agreement, IFCI Venture agreed to subscribe to 12,00,000 CCDs of Rs.100 each for cash at par aggregating Rs.1200 lakhs, which do not carry any interest and were convertible into equity shares at par any time, but before 28.02.2015. On conversion of the CCDs, the premium @ 19% p.a. was to be paid by the Corporate Debtor or at the option of IFCI Venture, the CCDs were to be converted into its equity shares at par. The Corporate Debtor/ its promoters also had the option to redeem/ purchase the CCDs with annualized compounded return of 19% p.a. in accordance with the provisions of the term sheet. clause (b) of the Article II further provides that the entire amount of Rs.1200 lakhs was to be utilised for subscription to the fresh equity capital of the Corporate Debtor. The Article II of the Investment Agreement are reproduced below:

ARTICLE - II

TERMS OF SUBSCRIPTION OF COMPULSORY CONVERTIBLE DEBENTURES (CCDs)

a) IFCI Venture agrees to subscribe to 12,00,000 Compulsory Convertible Debentures (CCDs) of Rs. 100 each for cash at par value aggregating Rs. 1200 lakhs in the company. These CCDs will not carry any interest and shall be convertible into equity shares at par anytime in one or more occasions, one year after date of issue of CCDs but before 28th February 2015. On any conversion of CCDs into equity the premium @19% p.a. will be paid by the company or at the option of IFCI Venture premium accrued will also be converted into equity shares of company at par. CCDs can also be redeemed / purchased by the company/ promoters at premium giving an annualized compounded return of 19% in accordance with the provisions of the term sheet.

b) Entire amount of Rs. 1200 lakhs would be utilised for subscription to the fresh equity capital of the company to enable the company to complete the construction of 24 MW small hydro power plant.

c) The promoters / the company shall have right to buy back CCDs anytime after 1st July 2013 in 6 equal quarterly instalments along with premium ensuring compounded annual return of 19% from date of investment in CCDs. In case a part of CCDs are converted into equity at the option of IFCI Venture anytime before this buy back, the promoter shall have right to buyback these shares giving IFCI Venture annualised return @ 19% from date of investment in CCDs.

d) Entire outstanding CCDs along with the premium @ 19% compounded annually there on as on 28th February 2015, if not earlier converted/ bought back by company/ Promoter shall at the sole discretion of IFCI Venture be converted into equity shares of the company at par. Each CCD of Face Value of Rs. 100 would be converted into 10 equity shares of Face Value Rs. 10/- each of the company and the aggregate premium on the same outstanding CCDs would also be converted into equity shares of face Value Rs. 10 each of the company or accepted in cash at the option of IFCI Venture.

e) To fulfil the above obligations/undertakings the promoters shall furnish their personal/ corporate guarantees and pledge equity shares of ~~the company~~ held by them in the company of the face value of Rs. 1600 lakhs as security.

(d) The Article III of the Investment Agreement provides for the terms for exit from the investment by the IFCI Venture. The Clause (a), (b) and (c) of Article III provides for the exit option for the IFCI Venture and Clause (d) of Article III provides that if none of the options materialises by 31.07.2025, the IFCI Venture may require the promoters to sell their shares. Clause (h) of Article III prescribes the rights of the IFCI Venture, in liquidation, dissolution or winding up of the Corporate Debtor, to receive, prior to any distribution to any· other shareholder of the Corporate Debtor. The Article III of the Investment Agreement are reproduced below:

ARTICLE III

EXIT FROM INVESTMENT BY IFCI VENTURE

In case the CCDs subscribed by IFCI Venture are converted into equity as per clause hereinbefore then the following exit options would be exercised:-

a) The promoter shall ensure that the company brings out public issue of its equity shares and get its equity shares listed on a recognized stock exchange, to the satisfaction of IFCI Venture, latest by 30th June 2015 or within such extended period as IFCI Venture may decide at its sole discretion.

b) In case, price of the company's share determined for the Initial Public Offer or lower price band of Initial Public Offer through Book Building Process, as the case may be, is lower than a price that gives annualized return of at least 19% p.a. on equity shares received by IFCI Venture out of conversion of CCDs @ Rs. 10/- each, the company / Promoters shall have to make-up shortfall in amount computed to give annualized return of 19% p.a. on investment amount in the company within such stipulated time as IFCI Venture decide at its sole discretion.

c) In the event of company failing to list its shares on the recognized stock exchange within stipulated period as given in clause a) above, IFCI Venture shall have a Put Option on the promoter any time thereafter to immediately buy-back equity shares of the company held by IFCI Venture on demand and at sole option of IFCI Venture, within a period of 30 days from such demand at the highest of:

i) Book value of share of the company as per latest Balance Sheet of the company; or

ii) Fair price as determined by Merchant Banker/ Valuer/ Independent firm of Chartered Accountants chosen out of three reputed local firms; or

iii) Price that will give IFCI Venture a net return of 19% p.a. compounded annually (excluding the front end fee or any other charges levied by IFCI Venture) net of dividends received, if any.

d) If none of the exit options including buyback of equity by Promoter materializes by 31st July, 2015 or such extended period as IFCI Venture may decide at its sole discretion. Notwithstanding the right to enforce security/ Personal/ Corporate Guarantees, IFCI Venture shall have right to drag along the promoters and require them to sell such ~~number~~ of their shares as specified by IFCI Venture along with it to a third party purchaser at the same price at which IFCI Venture is selling equity shares of the company held by it.

e) In case none of the provisions of above clauses materializes then, IFCI Venture, at its sole discretion, will be free to sell equity held in the company to any persons.

f) In case promoter, with consent of IFCI Venture, wish to transfer part of their shareholding in company to any third party at a price equal to or more than the price as mentioned in clause (c) above, IFCI Venture will have right to tag along and exercise the option to sell part or whole of its shareholding to same party at the same price promoter is selling equity shares held by them.

g) The promoters shall execute the agreement for buyback of CCD's/equity shares with and to the satisfaction of IFCI Venture.

h) In case of any 'liquidation event', dissolution or winding up of the company, IFCI Venture shall be entitled to receive, prior to any distribution to any other shareholder of the company, the investment amount along with return of 19% p.a. compounded annually (inclusive of dividends paid if any). Except for an IPO, any event in which the Promoter(s) of the company do not retain a majority of the voting power in the surviving corporation, or a sale of all or substantial part of the company's assets including a strategic sale, a merger or consolidation of the company without prior approval of IFCI Venture, shall be deemed to be a 'liquidation event'.

(e) Article IV of the Investment Agreement prescribes that as a security for investment by the IFCI Venture, the promoters will pledge their 160 lakh equity shares of Rs.10 each aggregating to, Rs.1600 lakhs. The relevant extracts of the Article IV of the Investment Agreement are reproduced below:

ARTICLE IV

SECURITY FOR INVESTMENT BY IFCI VENTURE

a) The promoters will pledge 160 lakh equity shares of the company of Rs. 10/- each aggregating to Rs. 1600 lakhs as security to IFCI Venture for fulfilling various obligations undertaken by them for availing financial assistance from IFCI Venture. The promoters/ pledgers shall undertake to transfer voting rights on the pledged shares in favour of IFCI Venture and shall also register the same with the company.

(f) Article XI of the Investment Agreement provides that the Agreement shall be in force during the period IFCI Venture holds any CCDs or equity shares subscribed and Article XII of the Investment Agreement provides the jurisdiction of the court at Delhi/ New Delhi only. The Article XI and XII of the Investment Agreement are reproduced below:

ARTICLE XI
CURRENCY OF THIS AGREEMENT

This Agreement shall be in force during the period IFCI Venture holds any debentures (CCDs) or equity shares subscribed/acquired in pursuance of this Agreement.

ARTICLE XII
JURISDICTION OF COURTS

It is mutually agreed by and between the parties hereto that all disputes or legal proceedings arising out of this agreement shall be subject to the jurisdiction of the Courts at Delhi/New Delhi only.

(xxi) Now, we consider it to peruse the provisions of the IBC to examine the contention of the Applicant. Section 3 (11) defines debt as under: -

"3(11) "debt" means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt;"

(xxii) As per Section 5(8) of the Code, one of the basic requirements for qualifying as a financial debt is that there should be a debt. The Section 5(8) of the Code is as under:

> *"5(8) "financial debt" means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes—*
>
> *(a) money borrowed against the payment of interest;*
>
> *(b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;*
>
> *(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;*
>
> *(d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;*
>
> *(e) receivables sold or discounted other than any receivables sold on non-recourse basis;*
>
> *(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;*
>
> *Explanation.—For the purposes of this sub-clause,—*
>
> *(i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and*
>
> *(ii) the expressions, "allottee" and "real estate project" shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);*
>
> *(g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price*

and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;

(h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;

(i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause;"

(xxiii) As per Section 5(7) of the Code, for becoming a financial creditor, the person has to prove that there is a financial debt and he is either owner or assignor of that financial debt. Section 5(7) of the IBC defines a financial creditor as under:

> *"5(7) "financial creditor" 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;"*

(xxiv) A conjoint reading of the aforesaid provisions demonstrates that the existence of a "financial debt" is the foundational requirement for a person to qualify as a Financial Creditor under Section 5(7) of the Code and a financial debt necessarily presupposes the existence of a "debt" within the meaning of Section 3(11).

(xxv) During the course of hearing dated 13.07.2026, the Applicant, referring to clauses (a), (d) and (e) of Article-II and clause (h) of Article-III of the Investment Agreement dated 14.04.2011, contended that the CCDs would amount to 'financial debt'. The RP also referred to the clauses (a), (b), (c), (d) and (e) of Article-II, and Article-III of the Investment Agreement dated 14.04.2011 to contend that the CCDs would not fall under the category of financial debt. However, both the Applicant and the RP have failed to notice

Schedule I, II and III enclosed to the Investment Agreement dated 14.04.2011, from which it is noted that the Corporate Debtor had set up a Small Hydro Power Plant at Khammam District, Andhra Pradesh with the project cost of Rs.21,996.60, which was agreed to be financed through equity of Rs.6845.60 lakhs (including IFCI Venture's assistance) and term loan of Rs.15151.00 lakhs. The relevant extracts of Investment Agreement are reproduced below:

SCHEDULE - I.

THE PROJECT

SLS Power Corporation Limited (SLSPCL) was incorporated on 29th July 2005. The Company is in advance stage of commissioning a 24 MW (6x4 MW) Hydel Power Project at the left flank of the branch Anicut of River Godavari, which originates from Nasik in Maharashtra. The Project is located at Dummagudem Village & Mandal, Bhadrachalam Taluka, Khammam District, Andhra Pradesh. The total project cost is Rs. 219.96 Crores and has been financed by equity contribution of Rs. 56.46 Crores from the promoters and his associates and term loan of Rs. 151.51 Crores from Indian Renewable Energy Development Agency, New Delhi. For the gap funding of Rs. 12.00 Crores the promoters has approached IFCI Venture for assistance. The company has received approval from Non-Conventional Energy Development Corporation of Andhra Pradesh Ltd (NEDCAP), Andhra Pradesh for setting up the power plant and the statutory approvals necessary for the project have been obtained.

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SCHEDULE - II

FINANCIAL PLAN

PROJECT COST		
Sl. No.	Particulars	*In Rs. Lakhs*
1	Land & Site Development	175.00
2	Building & Civil Works	8911.35
3	Electro Mechanical & Hydro Mechanical Equipments	9098.00
4	Engineering & Consultancy	250.45
5	Project Management Expenses	275.00
6	Transmission Line & others	790.00
7	Provision for contingencies	-
8	Interest during construction	2496.80
9	Margin Money for BG/ FDR if any (Cash and Bank Balances)	
	TOTAL	21,996.60

MEANS OF FINANCE	
Particulars	In Rs. Lakhs
Promoters Equity (Including Share App. Money)	5645.60
Term Loan from (IREDA) and other Credits	15,151.00
IFCI Venture's Contribution in way of CCDs	1,200.00
TOTAL	21,996.60

SCHEDULE - III

SPECIAL CONDITIONS

The disbursement of the financial assistance and compliances during currency of this agreement shall also be subject to the following conditions. In case of any conflict between any of the special conditions mentioned herein below and any conditions herein before, the special condition will prevail. However, the interpretation of any of the conflicting clause shall lie with IFCI Venture.

I. FINANCING COST OVERRUN FOR PROJECT

a) The Project cost of The company's 24 MW Small Hydro Power Project is estimated at Rs. 21,996.60 lakhs and the same would be financed through equity of Rs. 6845.60 lakhs (including IFCI Ventures assistance} and term loan of Rs. 15,151.00 lakhs shall be financed from other financial institution/ banks to the satisfaction of IFCI Venture.

b) Promoters/ their associates shall arrange to raise Rs. 6845.60 lakhs in the share capital of The company including Rs. 1.200 lakhs towards Compulsory Convertible Debentures subscribed by IFCI Venture.

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(xxvi) From the above it is clear that the cost of the project of Rs.21,996.60 lakhs was agreed to be financed through equity of Rs.6845.60 lakhs (including IFCI Venture's assistance} and term loan of Rs.151.00 lakhs. Thus, <u>it is evident that the CCDs were subscribed as a part of the equity and therefore, does not qualify as debt. Therefore, subsequently treating the same as debt by the parties would not only be against the holistic interpretation of section 5(7) of the Code, but also amount to deviation from the contractual arrangement between them.</u>

(xxvii) Since there is no debt, there cannot be any financial debt and when there is no financial debt, there is no need to examine the commercial effect of borrowing and Article II and III of the Investment Agreement as contended by the Applicant and the RP.

(xxviii) The character of the transaction has to be determined from the original Investment Agreement dated 14.04.2011 and the Schedules thereto. Since the CCDs formed part of the equity component of the project financing, the foundational requirement of "financial debt" under Section 5(8) is absent. Therefore, the expression "commercial effect of borrowing" or the concept of time value of money cannot, in the absence of an underlying debt, convert the equity investment into financial debt.

9. In view of the foregoing discussion, and upon a conjoint consideration of the Investment Agreement dated 14.04.2011 and the Schedules thereto, we are of the considered view that the CCDs subscribed pursuant thereto partook the character of equity and did not constitute a debt owed by the Corporate Debtor. Consequently, the said CCDs do not satisfy the foundational requirement of "debt" under Section 3(11) and, therefore, cannot constitute "financial debt" within the meaning of Section 5(8) of the Code. The Applicant, accordingly, does not fall within the definition of "Financial Creditor" under Section 5(7) of the Code and, on that basis, has no right to claim membership of the Committee of Creditors. In view of the aforesaid finding, the other issues raised by the Applicant concerning the treatment of the CCDs as financial debt and the constitution or reconstitution of the Committee of Creditors do not require separate adjudication.

10. As a sequel to the above, **IA(IBC) 209/2026 in CP (IB)8/7/AMR/2022 is dismissed and disposed of.**

Sd/-	**Sd/-**
(UMESH KUMAR SHUKLA)	**(KISHORE VEMULAPALLI)**
MEMBER (TECHNICAL)	**MEMBER (JUDICIAL)**

Anusha.