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IN THE NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH
(Through Hybrid Mode)

Item No.1
CP(IB)/34/9/AMR/2021

IN THE MATTER OF:

Sidhvi Infrastructure Projects Ltd Petitioner/ Operational Creditor
Versus

Devi Engineering and Constructions Private Limited
.... Respondent/Corporate Debtor

Under Section: 9 of IBC Code, 2016

Order delivered on 07.07.2025

CORAM:

SHRI UMESH KUMAR SHUKLA
HON'BLE MEMBER (TECHNICAL)

SHRI KISHORE VEMULAPALLI
HON'BLE MEMBER (JUDICIAL)

PRESENT:

For the Petitioner/Operational Creditor :

Mr. M. M. Viswaraj, Adv.

For the Respondent/Corporate Debtor :

Mr. N. Vinesh Raj, Adv.

ORDER

The present application has been filed on 06.07.2021 (Diary No. 0635) by Sidhvi Infrastructure Projects Limited (hereinafter referred to as the "Operational Creditor" or "OC" or "Applicant"), under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "IBC" or the "Code") read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as the "IB Rules"), seeking initiation of the Corporate Insolvency Resolution Process (hereinafter referred to as the "CIRP") against Devi Engineering and Constructions Private Limited (hereinafter referred to as the "Corporate Debtor" or "CD" or "Respondent"). The application has been filed on account of default in repayment of operational debt. As per Part IV of Form 5, the total amount claimed to be in default is Rs.2,13,08,394/-, comprising the principal amount of Rs.1,61,32,008/- and interest of Rs.51,76,386/-. The date of default has been stated as 20.01.2020.

BRIEF SYNOPSIS OF THE CASE:

2. The brief facts of the case, as stated in the Application, are as below:



(i) The Corporate Debtor is a company incorporated on 16.12.2014 under the provisions of the Companies Act, 2013, bearing CIN:U45209AP2014PTC095847. As per the Master Data annexed with the application, the Authorised Share Capital of the Corporate Debtor is Rs.14,00,00,000/-, and the Paid-up Share Capital is Rs.14,00,00,000/-. The registered office of the Corporate Debtor is situated at Plot No. 20, S. No. 139/1, IVY Grand, Flat No. G-1, Ground Floor, Narsanna Nagar, Suryaraopet, Kakinada, Andhra Pradesh-533003. Accordingly, this Bench has the territorial jurisdiction to entertain and adjudicate the present Application.



- (ii) The Corporate Debtor had approached the Operational Creditor, M/s. Sidhvi Infrastructure Projects Limited, requesting the supply of crushed stone aggregates of various sizes. After discussions, the Operational Creditor agreed to supply the same, based on a Purchase Order No. DECPL/CCIL/MMLP/06/18-19 dated 29.12.2018. Pursuant thereto, the Operational Creditor made continuous supplies and raised corresponding tax invoices.
- (iii) The Corporate Debtor accepted the goods without raising any objections concerning quality, quantity, or technical specifications and also made part-payments from time to time. Specifically, payments of Rs.24,64,664/- on 29.06.2019 and Rs.25,00,000/- on 16.08.2019 were made, acknowledging the supply.
- (iv) Despite repeated demands, the Corporate Debtor failed to clear the outstanding dues amounting to Rs.1,61,32,008/- towards principal, apart from accrued interest of Rs.51,76,386/-, totalling Rs.2,13,08,394/-. A demand notice dated 13.01.2021 was issued by the Operational Creditor, which elicited no response or payment.
- (v) Subsequently, a statutory Demand Notice under Section 8 of the IBC was issued on 27.05.2021, warning of initiation of CIRP in case of non-payment. The Corporate Debtor replied on 10.06.2021, for the first time denying the supply and claiming there was no business relationship an assertion contrary to documentary

evidence. The said denial was baseless and afterthought, especially in the light of the Purchase Order issued by the Corporate Debtor, the Board Resolution and Power of Attorney authorizing Shri Odidala Dastagiri Hassan to act as its representative in the Concor Project, and numerous communications confirming ongoing transactions.

- (vi) The Corporate Debtor never raised any dispute prior to issuance of the Section 8 Demand Notice. The defence raised in the reply is false, frivolous, and unsupported by any credible material, solely intended to evade liability by fabricating a pre-existing dispute.
- (vii) The Operational Creditor has placed on record invoices, delivery challans, emails, and GST records which conclusively demonstrate supply and acceptance of goods by the Corporate Debtor, as well as the availing of Input Tax Credit, further substantiating the debt. The denial of supply and relationship by the Corporate Debtor is a moonshine defense, raised only after receipt of the statutory notice, and is a mere bluster, vexatious, and devoid of merit. It does not constitute a “dispute” under Section 5(6) of the IBC.
- (viii) The present Application is well within the prescribed limitation period and has not been the subject matter of any other legal proceedings before any forum or tribunal. The Application has been instituted bona fide and in strict compliance with the provisions of the Insolvency and Bankruptcy Code, 2016.

REPLY OF THE CORPORATE DEBTOR:

3. The Respondent/Corporate Debtor filed its reply vide Diary No.0816 dated 30.08.2021, denying all material allegations and averments made in the Section 9 application filed by the Operational Creditor. The Corporate Debtor has sought dismissal of the application with exemplary costs. The key contentions raised in the reply are as follows:

- (i) The Corporate Debtor categorically denies having issued the alleged purchase order dated 12.12.2018 and asserts that no goods were



ever supplied by the Operational Creditor. It is claimed that any invoices are self-generated and not backed by delivery proofs.

- (ii) The Corporate Debtor had awarded a work order to M/s Geetanjali Constructions, who was executing the project. At the request of Geetanjali, two payments totalling Rs.50 lakhs were made directly to the Operational Creditor on Geetanjali's behalf. These payments were not for any direct supply or obligation between the Corporate Debtor and the Operational Creditor.
- (iii) The Operational Creditor later initiated false and malicious claims against it, despite being aware that the actual dealings were with Geetanjali. Emails sent by the Operational Creditor were alleged to be misleading and sent with intent to malign and extort.

The alleged purchase order dated 29.12.2018, Board Resolution dated 28.08.2018, and Power of Attorney dated 01.10.2018 are fabricated. Mr. O. Dastagiri, who purportedly issued the purchase order, was never a director of the company, and the seal used is not that of the Corporate Debtor.


- (v) The invoices filed are claimed to be forged, lacking evidence of actual delivery. No documentation such as weighment slips, e-way bills, or gate entries were produced. The alleged quantities are substantial, but unsupported by transportation or logistical records.
- (vi) The Corporate Debtor has filed a private criminal complaint (CC SR No.963/2021 dated 23.07.2021) before the Hon'ble II JFCM, Kakinada under Sections 120B, 420, 465, 468, 471, 472, 474, 475 r/w 34 IPC. A money recovery suit has also been filed against M/s Geetanjali Constructions, and the Corporate Debtor is contemplating further civil action for damages. It is also taking steps to seek forensic examination of the impugned documents.
- (vii) The Corporate Debtor owes no sum to the Operational Creditor, much less Rs.1,61,32,008/-. The application is alleged to be a



coercive attempt to recover amounts for supplies, if any, made to a third party.

REJOINDER OF THE OPERATIONAL CREDITOR:

4. The Operational Creditor filed a rejoinder vide Diary No. 0243 dated 11.02.2022, wherein it denied all material allegations raised in the reply and reaffirmed the averments in the Section 9 application under the IBC. The Operational Creditor submits as under:

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- (i) The Corporate Debtor's denial of privity of contract is a deliberate misrepresentation intended to mislead this Adjudicating Authority. The contractual relationship is clearly established through Purchase Order No. DECPL/CCIL/MMLP/06/18-19 dated 29.12.2018 for the supply of crushed stone aggregates, followed by issuance of tax invoices in the Corporate Debtor's name. Part-payments of Rs.24,64,664/- (29.06.2019) and Rs.25,00,000/- (16.08.2019) further affirm the existence of the transaction. The allegation of non-receipt of goods is false and unsupported by any documentary evidence. No legal proceedings were initiated against the Operational Creditor prior to the Section 8 Demand Notice, rendering the defence untenable.
- (ii) The Corporate Debtor not only received and utilized the goods but also claimed Input Tax Credit (ITC) based on the invoices issued. Under Section 16(2) of the CGST Act, 2017, ITC can only be claimed upon actual receipt of goods supported by valid tax invoices. The continued availing the ITC and absence of GST reversal conclusively establish receipt and use of goods. The belated claim of non-receipt, raised only in reply to the Demand Notice dated 22.05.2021, is clearly an afterthought and a vexatious defence to avoid legitimate liability.
- (iii) The allegation that goods were supplied to M/s Geetanjali Constructions is entirely false. The Operational Creditor has no commercial dealings with the said entity and has issued no invoice

in its name. Payments totalling Rs.49,64,664/- were made directly by the Corporate Debtor, confirming the transaction. Further, supplies were made under valid Mineral Permits issued by the Department of Mines and Geology, Government of Andhra Pradesh, and all documents including permits and invoices bear the name of the Corporate Debtor. These facts are undisputed and conclusively establish the supply and corresponding liability.

5. **Brief Summary of Oral Submissions during the Hearing dated 04.06.2025 and 07.07.2025:**




During the hearing held on 04.06.2025, both parties were heard at length. During the course of arguments, the Counsel for the Corporate Debtor submitted that neither the purchase orders were issued by CD nor the goods have been received by CD. In response, counsel for the OC submitted that all the GST Invoices (Page Nos.35 to 44 of the petition) are reflected in GST Return for the period 2019-20, (Page Nos 18-81 of the rejoinder) which evidences the payment of GST amount as mentioned in the Invoices. To illustrate, he referred the GST Returns at page no. 28 of the rejoinder and correlated the same with the GST Invoice at page no. 36 of the Petition. In view of the above, the CD is required to establish that no Input Tax Credit (ITC) was availed in respect of the invoices raised by the Operational Creditor. Accordingly, the CD was directed to produce its GST Returns, including the relevant ITC details, to demonstrate that no ITC was availed on the basis of the said invoices.

- (ii) During the hearing held on 07.07.2025, the Corporate Debtor (CD) failed to comply with the earlier directions of this Hon'ble Adjudicating Authority and did not file its GST Returns along with the relevant ITC particulars. However, the Counsel for the Operational Creditor (OC) submitted that a memo has been filed along with a Certificate issued by the Commercial Tax Department.

6. We have heard the counsel for the Operational Creditor and the Corporate Debtor and have perused the pleadings and documents placed on record.

7. Upon perusal of the said Certificate, it is noted that the Department has confirmed that the CD availed the entire Input Tax Credit (ITC) on the invoices raised by the OC, as mentioned in the petition. This unequivocally establishes that the goods were received by the CD. Accordingly, the objection raised by the CD regarding non-receipt of goods stands disproven and is not sustainable in law.



8. The application has been filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The Operational Creditor seeks initiation of CIRP on account of default in repayment of an operational debt amounting to Rs.2,13,08,394/-. The Corporate Debtor is a registered company under the Companies Act, 2013 with its registered office in Kakinada, Andhra Pradesh, falling within the territorial jurisdiction of this Bench. Hence, the application is maintainable.

9. The Purchase Order No. DECPL/CCIL/MMLP/06/18-19 dated 29.12.2018, issued on the letterhead of the Corporate Debtor, clearly pertains to the supply of goods to the CD for the MMPL site. This is duly supported by ten tax invoices raised by the Operational Creditor in the name of the Corporate Debtor, dated 01.05.2019, 31.05.2019, 20.06.2019, 30.06.2019, 15.07.2019, 31.07.2019, 15.08.2019, 31.08.2019, 31.10.2019, and 04.01.2020 (Page Nos. 32 to 44 of the Application). The Operational Creditor has also placed on record email correspondence between the parties indicating ongoing commercial communication. Crucially, the Corporate Debtor has made part-payments of Rs.24,64,664/- and Rs. 25,00,000/- to the Operational Creditor, and a certificate issued by the Commercial Tax Department confirms that the Corporate Debtor availed Input Tax Credit (ITC) on the said invoices. These documents conclusively establish that goods were supplied by the Operational Creditor to the Corporate Debtor, which

were accepted by the latter without any recorded dispute, and part-payments were made towards the same. The last invoice was issued on 04.01.2020, and as per the payment terms stipulated in the Purchase Order, payments were due within 15 days from the submission of each running bill. Accordingly, the due date for the final payment is computed as 20.01.2020, which is considered the date of default.

10. In light of the above, the limitation period for filing the present application would ordinarily expire on 20.01.2023, in terms of Article 137 of the Limitation Act, 1963. The present application was filed on 06.07.2021, well within the prescribed three-year limitation period. Hence, the application is not barred by limitation.

11. The Adjudicating Authority finds that the Corporate Debtor has denied the existence of privity of contract with the Operational Creditor and has alleged that the documents relied upon by the Operational Creditor including the Purchase Order, Board Resolution, and Power of Attorney are forged and fabricated. It has further been contended that the payments made were on behalf of a third party, namely M/s Geetanjali Constructions, and that no direct contractual obligation existed between the parties. However, these allegations remain entirely unsubstantiated. Moreover, no dispute was raised prior to the issuance of the statutory demand notice dated 22.05.2021. The subsequent filing of a criminal complaint appears to be an afterthought and does not amount to a "pre-existing dispute" under Section 5(6) of the Code. Accordingly, the Adjudicating Authority finds that no genuine or pre-existing dispute has been established.

12. It is observed that, by order dated 04.06.2025, this Bench specifically directed the Corporate Debtor to file its GST returns to rebut the Operational Creditor's claim that Input Tax Credit (ITC) was availed on the disputed invoices. However, the Corporate Debtor failed to comply. In contrast, the Operational Creditor has placed on record a certificate issued by the Commercial Tax Department confirming that ITC was indeed availed by the Corporate Debtor on the invoices raised by the Operational Creditor. Under



Section 16(2) of the CGST Act, 2017, ITC can be claimed only upon actual receipt of goods and possession of a valid tax invoice. The Corporate Debtor has neither reversed the ITC nor challenged it before the tax authorities. This clearly implies that the goods were received and the invoices were accepted. Accordingly, the Corporate Debtor's contention of non-receipt of goods is a baseless and evasive assertion, lacking any evidentiary value, and does not amount to a "pre-existing dispute" under Section 5(6) of the Code. The continued availing the ITC conclusively establishes the factum of supply and receipt of goods. The certificate dated 20.06.2025 issued by Office of Assistant Commissioner (State Tax), Kakinada Circle, Commercial Tax Department, Government of Andhra Pradesh is produced below:



GOVERNMENT OF ANDHRA PRADESH
COMMERCIAL TAXES DEPARTMENT
OFFICE OF THE ASSISTANT COMMISSIONER (STATE TAX), KAKINADA CIRCLE

GSTIN: 37AAIC57074H12X

DATED: 20-06-2025

M/s. SIDHVI INFRASTRUCTURE PROJECTS LIMITED, KAKINADA having GSTIN: 37AAIC57074H12X who is the registered tax payer Kakinada Port Circle has filed a Letter dated: 09-06-2025 and requested to certify whether M/s. DEVI ENGINEERING AND CONSTRUCTIONS PRIVATE LIMITED, KAKINADA having GSTIN: 37AAFCD20233G120 who is the registered tax payer of Kakinada Circle have availed the input tax credit on the invoices passed on by them with regards to outward supplies of Stone Aggregate Material pertaining to the period of 2019-20 and details of transactions are under.

Sl NO	INVOICE NO	DATE	TAXABLE VALUE	CGST	SGST
1	018/19-20	01-05-2019	1032300	25808	25808
2	046/19-20	31-05-2019	1124980	28175	28175
3	064/19-20	20-06-2019	1206200	30150	30150
4	069/19-20	30-06-2019	1827540	45689	45689
5	081/19-20	15-07-2019	3368880	84222	84222
6	093/19-20	31-07-2019	3096720	77418	77418
7	102/19-20	15-08-2019	1957320	48933	48933
8	116/19-20	31-08-2019	1677960	41949	41949
9	162/19-20	31-10-2019	1560160	38754	38754
10	218/19-20	04-01-2020	3248210	81205	81205
TOTAL TURNOVER AND TAX			20092070	502302	502302

The above application has been verified the above transactions with reference to the GSTR-1 details of the applicant and found tallied and the same transactions have been auto-populated in the GSTR-2A of the recipient.

The Inspection Proceedings of M/s. DEVI ENGINEERING AND CONSTRUCTIONS PRIVATE LIMITED, KAKINADA for the period from 04/2019 to 10/2019 out of the above period has been finalized by the Deputy Assistant Commissioner (ST), Kakinada and passed final orders.

Further, Inspection Proceedings for the remaining period from 11/2019 to 03/2020 is under the examination of the Assistant Commissioner (ST), Tuni, in which Show Cause Notice has been issued and final order yet to be passed.

In the above two cases, the authorities have extended the input tax credit as reflected in the GSTR-2A and has been compared with reference to the claimed input tax credit in GSTR-3B and arrived the differential excess claim of input tax credit.

Therefore, this to certify that, the acceptance of the input tax credit as reflected in the GSTR-2A by the authorities itself indicated that, the entire input tax credit has been availed by M/s. DEVI ENGINEERING AND CONSTRUCTIONS PRIVATE LIMITED, KAKINADA in the GSTR-3B returns for the period from 04/2019 to 03/2020 in which the above ten (10) invoices were available.

This certificate is hereby issued basing on the records of this office.

[Signature]
ASSISTANT COMMISSIONER (ST)
KAKINADA

To
M/s. SIDHVI INFRASTRUCTURE PROJECTS LIMITED, KAKINADA

13. In this case, the Operational Creditor has successfully established the existence of an operational debt, default, and absence of a genuine pre-existing dispute. The Corporate Debtor has failed to demonstrate any valid ground to oppose the admission of the petition under Section 9 of the IBC. The defences raised are afterthoughts, devoid of merit, and are clearly intended to evade liability.


In view of the above, we are of the considered view that a debt exists and has become due and payable, there is clear default, there is no valid dispute under Section 5(6) of the IBC, the application is within limitation. Further, the application filed under Section 9 is complete in all respects and complies with the requirements of the Code and the relevant Rules.

15. The Operational Creditor has proposed the name of Mr. Malireddy Ramana Reddy (IBBI Registration No. IBBI/IPA-003/ICAI-N-00308/2020-2021/13452), Address: 8-3191/155 (16/A) Vaishnavis Sai Saurabh Residency, Vengal Rao Nagar, Beside Sai Darshini Tiffin Centre, Hyderabad, Telangana-500038, email: ramanareddyvcsrp@gmail.com as the Interim Resolution Professional (hereinafter referred to as the "IRP") in the matter. From the IBBI website shows that proposed IRP holds the valid AFA up to 31.12.2026 as shown below:

Name of the IP	MALIREDDY RAMANA REDDY
Registration no	IBBI/IPA-003/ICAI-N-00308/2020-2021/13452
Date of Registration	26-Mar-21
Member of IPA	Insolvency Professional Agency of Institute of Cost Accountants of India
Member of IPA Since	29-Oct-20
Member of IPE	
Email id	ramanareddyvcsrp[at]gmail[dot]com
Address	8-3191/155 (16/A) VAISHNAVIS SAI SAURABH RESIDENCY,VENGAL RAO NAGAR,BESIDE SAI DARSHINI TIFFIN CENTRE, Hyderabad,Telangana,500038
Have Valid AFA	Yes
AFA Certificate No.	AA3/13452/02/311226/301341
AFA Valid Upto	31-Dec-26
Total CPE Earned	79
Total Assignments	15

16. As a sequel to the discussion above, the present section 9 Application bearing CP(IB)/34/9/AMR/2021 filed by the Operational Creditor under section 9 of the Code for initiating CIRP against the Corporate Debtor **DEVI ENGINEERING AND CONSTRUCTIONS PRIVATE LIMITED (CIN: U45209AP2014PTC095847)**, is hereby admitted and accordingly, the Moratorium is declared in terms of Section 14 of the Code:

(i) Moratorium under section 14 (1) for prohibiting all of the following, namely:

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- (a) The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;
- (b) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
- (c) Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- (d) The recovery of any property by an owner or lessor, where such property is occupied by or in the possession of the Corporate Debtor.

(ii) It is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues

arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;

- (iii) The provisions of sub-section of section 14(1) shall not apply to such transactions, agreements or other arrangement, as may be notified by the Central Government in consultation with any financial sector regulator or any other authority; and also to a surety in a contract of guarantee to a corporate debtor.

The supply of essential goods or services to the Corporate Debtor, as may be specified, shall not be terminated or suspended or interrupted during moratorium period, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances, as may be specified.

- (v) The order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Bench approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of the Corporate Debtor under Section 33 as the case may be.

17. We also appoint Mr. Malireddy Ramana Reddy (IBBI Registration No. IBBI/IPA-003/ICAI-N-00308/2020-2021/13452) as IRP, with the following directions: -

- (i) The term of appointment of Mr. Malireddy Ramana Reddy shall be in accordance with the provisions of Section 16(5) of the Code, subject to the condition that he do not have more than permissible assignments as per Para 22 of First Schedule prescribed under Regulation 7(2) (h) of IBBI (Insolvency Professional) Regulations, 2016 and also subject to his written consent to be filed within 7 days of this order;
- (ii) In terms of Section 17 of the Code, from the date of this appointment, the powers of the Board of Directors shall stand



suspended and the management of the affairs shall vest with the IRP and the officers and the managers of the Corporate Debtor shall report to the IRP, who shall be enjoined to exercise all the powers, as are vested with the IRP and strictly perform all the duties as are enjoined on the IRP under Section 18 and other relevant provisions of the Code, including taking control and custody of the assets, over which the Corporate Debtor has ownership rights recorded in the balance sheet of the Corporate Debtor, etc. as provided in Section 18(1)(f) of the Code. The IRP is directed to prepare a complete list of the inventory of assets of the Corporate Debtor;

The IRP shall strictly act in accordance with the Code, all the rules framed thereunder by the Board or the Central Government and in accordance with the Code of Conduct governing his profession and as an Insolvency Professional with high standards of ethics and moral;

- (iv) The IRP shall cause a public announcement within three days as contemplated under Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 of the initiation of the CIRP in terms of Section 13(1)(b) read with Section 15 of the Code calling for the submission of claims against Corporate Debtor;
- (v) The IRP/RP shall prepare the Audited Financial Statements as on date of the CIRP and shall submit before the CoC for consideration.
- (vi) The IRP/RP shall also ensure that all the assets appearing in the Financial Statements on the CIRP date have been considered in the valuation report. The IRP/RP shall send individual communication through post or electronic means along with a copy of public announcement to all the creditors as per last available books of accounts/ financial statements on the CIRP date of Corporate Debtor as prescribed under Regulation 6A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.



- (vii) The Corporate Debtor, its Directors, personnel and the persons associated with the management shall extend all cooperation to the IRP in managing the affairs of the Corporate Debtor as a going concern and extend all cooperation in accessing books and records as well as assets of the Corporate Debtor;
- (viii) The Suspended Board of Directors is directed to give complete access to the Books of Accounts of the Corporate Debtor maintained under Section 128 of the Companies Act. In case, the books are maintained in the electronic mode, the Suspended Board of Directors are to share with the Resolution Professional all the information regarding Maintaining the Backup and regarding Service Provider kept under Rule 3(5) and Rule 3(6) of the Companies Accounts Rules, 2014 respectively as effective from 11.08.2022, especially the name of the service provider, the internet protocol of the Service Provider and its location, and also address of the location of the Books of Accounts maintained in the cloud. In case accounting software for maintaining the books of accounts is used by the Corporate Debtor, then IRP/ RP is to check that the audit trail in the same is not disabled as required under the notification dated 24.03.2021 of the Ministry of Corporate Affairs. A reference is made to the provisions of Section 128(5) of the Companies Act 2013, whereby every company should maintain its books of accounts for not less than eight financial years immediately preceding a financial year. Minutes and statutory records are the principal documents of the company that should be maintained and preserved since inception.
- (ix) In view of the above mandatory provisions, the suspended directors of the board will ensure that the books of accounts for the eight previous financial years preceding the date of this order be made available to the IRP/ RP within 15 days of the initiation of the CIRP order. The statutory auditor is also directed to share the records maintained by him in the course of the audit of the accounts of the



Corporate Debtor for the period of three years prior to the date of initiation of this CIRP order within the same period of 15 days. (x) In case of any non-cooperation by the Suspended Board of Directors or the statutory auditors, the IRP/RP may take the help of the police authorities to enforce this order. The concerned police authorities are directed to extend help to the IRP/ RP in implementing this order for retrieval of relevant information from the systems of the Corporate Debtor, the IRP/ RP may take the assistance of Digital Forensic Experts empanelled with this Bench for this purpose. The Suspended Board of Directors is also directed to hand over all user IDs and passwords relating to the Corporate Debtor, particularly for government portals, for various compliances. The IRP is also directed to make a specific mention of non-compliance, if any, in this regard in his status report filed before this Adjudicating Authority immediately after a month of the initiation of the CIRP.



- (x) The IRP/RP is directed to approach the Government Departments, Banks, Corporate Bodies and other entities with request for information/ documents available with those authorities/ institutions/ others pertaining to the Corporate Debtor, which would be relevant in the CIRP. The Government Departments, Banks, Corporate Bodies and other entities are directed to render the necessary information and cooperation to the IRP/RP to enable him to conduct the CIRP as per law.
- (xi) The IRP shall, after collation of all the claims received against the Corporate Debtor and the determination of the operational position of the Corporate Debtor constitute a Committee of Creditors and shall file a report, certifying constitution of the Committee to this Adjudicating Authority on or before the expiry of thirty days from the date of his appointment, and shall convene first meeting of the Committee within seven days of filing the report of constitution of the Committee;

(xii) The IRP shall also serve a copy of this order to all relevant statutory departments such as Income Tax, GST (Centre and State), Provident Fund authorities, trade unions, and employee associations to inform them about the commencement of CIRP.

(xiii) The IRP is directed to send a regular progress report to this Adjudicating Authority every fortnight.

The Operational Creditor is directed to deposit Rs.4,00,000/- (Rupees Four Lakhs only) with the IRP to meet out the expense to perform the functions assigned to him in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016. The amount, however, will be subject to adjustment by the Committee of Creditors as to be duly accounted for by IRP and shall be paid back to the Operational Creditor.

19. A copy of this Order shall immediately be communicated to the Operational Creditor, the Corporate Debtor, IBBI, and the IRP named above by the Registry of this Adjudicating Authority.

20. Accordingly, CP (IB)/34/9/AMR/2021 stands admitted.

Sd/-
(UMESH KUMAR SHUKLA)
MEMBER (TECHNICAL)

Sd/-
(KISHORE VEMULAPALLI)
MEMBER (JUDICIAL)

Swamy Naidu (PS)

प्रमाणित प्रति/CERTIFIED TRUE COPY
केस संख्या
CASE NUMBER CP(IB)/34/9/AMR/2021
तारीख का तारीख
DATE OF JUDGEMENT 03.07.2025
प्रति तैयार किया गया तारीख
COPY MADE READY ON 15.07.2025


Deputy Registrar / Assistant Registrar ;
Court Officer
NATIONAL COMPANY LAW TRIBUNAL
AMARAVATI BENCH