NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P1.

C.P. (IB)/22(MB)2026

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **31.07.2026**

NAME OF THE PARTIES: **Central Bank of India Limited**

Vs

Shri Gajanan Maharaj Sugar Limited

(Earlier Known as Utech Sugar Limited)

Under Section 7 of the IBC.

ORDER

The case is fixed for pronouncement of the order. The order is pronounced in the open court, *vide* separate order. Detailed order is being uploaded on the NCLT portal today.

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

//VM//

IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-VI

CP (IB) No.22/MB/2026

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

IN THE MATTER OF:

CENTRAL BANK OF INDIA
[CIN No. U99999MH1911PTC000337]
Chander Muki, Nariman point
Mid Corporate Finance Branch
Mumbai-400021, Maharashtra.

…Financial Creditor/Applicant

V/s

SHRI GAJANAN MAHARAJ SUGAR LIMITED
(FORMERLY KNOWN AS UTECH SUGAR LIMITED)
[CIN: U15421PN2012PL143068]
Anant Residency, 1st Floor, 2054
Sadashiv Peth, Tilak Road
Pune - 411030, Maharashtra.

...Corporate Debtor

Pronounced: 31.07.2026

CORAM:
HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)
HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

<u>Appearances: Hybrid</u>

Financial Creditor: Adv. Ms. Riddhi Vora a/w Mr. C.A. Rakesh Jindal, Mr. Bhuvnesh Kumar Verma, Senior Manager, Law.

Corporate Debtor: Adv. Ms. Geeta Lundwani a/w Adv Mr. Amey Hadwale.

ORDER

[PER: BENCH]

1. BACKGROUND

1.1 This is an Application bearing C.P. (IB) No.22/MB/2026 filed on 06.12.2025 by Central Bank of India, the Applicant (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the AAA Rules") by Mr. Amrendra Jha – Authorised Representative of the Applicant *vide* Power of Attorney dated 11.03.2024 for initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of Shri Gajanan Maharaj Sugar Limited (Earlier known as Utech Sugar Limited), the Corporate Debtor (CD).

1.2 The Applicant is a public sector bank registered under Banking Companies (Acquisition & Transfer of Undertaking) Act, 1970. The CD, is a Public Limited Company incorporated under Companies Act, 1956 on 23.04.2012. The CD is engaged in business of manufacturing sugar from sugarcane and in the business of electricity generation.

1.3 The Applicant has proposed the name of Mr. Shekhar Arvind Parkhi, having registration no. IBBI/IPA-001/IP-P-02494/2021-2022/13801, to act as an IRP. The Applicant has attached written communication in Form-2 stating that no disciplinary proceedings is pending against the IRP and he has valid AFA till 31.12.2025. However, the Applicant filed renewed AFA of the proposed IRP, which is valid till 30.06.2027.

1.4 The Applicant has relied on the following documents:

i. Copy of Master Data of the Corporate Debtor from the website of MCA.

ii. Copy of Certificate of Incorporation dated 24.02.2021 pursuant to change of name of the Corporate Debtor

iii. Copy of the renewed Sanction Letter dated 25.10.2016 and sanction letter dated 26.07.2016 to sanction financial assistance by way of a Term Loan of Rs. 23.68 Crore.

iv. Copy of the list showing details of disbursement into the A/c of the Corporate Debtor.

v. Copy of the Inter-Se Agreement dated 14.12.2016 executed in respect of financial assistance of Rs. 23.68 Crore (Rupees Twenty-Three Crore Sixty-Eight Lakh only) by way of a Term Loan.

vi. Copy of Facility Agreement dated 14.12.2016 executed in respect of financial assistance of Rs. 23.68 Crore by way of a Term Loan.

vii. Copy the Joint Deed of Hypothecation dated 14.12.2016 executed in respect of financial assistance of Rs. 23.68 by way of a Term Loan.

viii. Copy of Mortgage Deed dated 14.12.2016 executed by the Corporate Debtor in favour of the Applicant.

ix. Copy of the "Deed of Declaration cum Undertaking dated 15.12.2016 executed in respect of financial assistance of Rs. 23.68 Crore.

x. Copy of Deed of Guarantee dated 14.12.2016 executed by 'Personal Guarantors, and Corporate Guarantee dated 14.12.2016 executed by Corporate Guarantors i.e. Utech Engineering Works (India) Private Limited.

xi. Copy of Certificate of registration of charge in favor of the Applicant.

xii. Copy of the notice dated 02.01.2020 issued u/s 13(2) of the SARFAESI Act, 2002 by the Applicant upon the Corporate Debtor demanding payment of the outstanding amount.

xiii. Copy of the Demand Notice dated 23.12.2022 for seeking repayment of the outstanding dues.

xiv. Copy of Statement of Accounts with respect to Account No. 3578160374 as on 29.10.2025 maintained by the Financial Creditor in respect of debt of the Corporate Debtor along with Certificate under Section 2A of the Bankers Books' Evidence Act 1891 and NPA Certificate.

xv. Copy of the Balance Sheet of the Corporate Debtor for the Financial year 2023-2024 acknowledging the debt of the Financial Creditor.

xvi. Copies of the OTS Proposal dated 23.02.2023

xvii. Copy of the letter dated 30.03.2023 approving the OTS proposal given by the Corporate Debtor to the Applicant.

xviii. Copy of the order dated 06.09.2023 passed by the Hon'ble NCLT giving liberty to the Applicant to file fresh Petition in case the Corporate Debtor fails in payment towards OTS.

xix. Copy of the Notice of revocation of the OTS dated 13.01.2025 by the Applicant to the Corporate Debtor.

xx. Copy of the judgement passed by the Hon'ble Supreme Court in Re: Cognizance for extension of limitation [Suo Moto Writ Petition (C) No. 3 of 2020]

xxi. Copy of the judgement of the Hon'ble Supreme Court Dena Bank (now Bank of Baroda V. C. Shivkumar Reddy and Anr. [Civil Appeal No. 1650 of 2020]

xxii. Copy of the Power of Attorney in favour of Mr. Amrendra Jha to act on behalf of Financial Creditor

xxiii. Copy of Consent in Form 2 given by Proposed Interim Resolution Professional Mr. Shekhar Arvind Parkhi along with IBBI Registration Certificate and a valid Authorization for Assignment.

2. AVERMENTS OF THE APPLICANT

2.1 The Applicant sought liberty to amend the Form-1 qua the date of default. This Tribunal *vide* interim order dated 27.01.2026 granted liberty to the Applicant to amend Form-1. In compliance of the said order the Applicant filed an Additional Affidavit dated 12.02.2026 thereby attaching the amended Form-1. The facts as per the amended Application are as under:

2.2 As per Part-IV of the amended Application the total amount claimed to be in default by the Applicant is Rs. 27,29,61,728.78/- (Twenty-Seven Crore Twenty-Nine Lakhs Sixty-One Thousand Seven Hundred and Twenty-Eight Rupees and Seventy-Eight Paisa).

2.3 It is submitted that the total amount of debt granted to the CD was Rs. 23.68 crores. The amount was disbursed on various dates.

2.4 To sanction financial assistance by way of a Term Loan of Rs. 23.68 crores, sanction letters dated 26.07.2016 and 25.10.2016 were issued.

2.5 The date of default is stated as 13.01.2025 (i.e. the date when OTS approval was revoked by the applicant bank i.e. the Financial Creditor upon failure of the Corporate Debtor to honour the One Time Settlement (OTS) Terms).

2.6 The CD had given OTS offer to the Applicant by letter dated 23.02.2023 which was duly approved by the Applicant by its approval letter dated 30.03.2023. However, the CD did not comply with the terms of OTS approved by the Applicant, hence the Applicant revoked the OTS Sanction by its letter dated 13.01.2025 and called upon the CD to pay the entire outstanding immediately. However, CD did not make any payment hence fresh date of default is to be reckoned as 13.01.2025.

2.7 The default also occurred on 02.01.2020 when notice u/s 13(2) of SARFAESI Act, 2003 was issued upon the CD demanding repayment of the outstanding amount from the CD.

2.8 It is submitted that in the present case limitation is available up to 12.01.2028 as detailed in the table below:

Date of NPA	30.12.2019
Date of expiry of limitation in normal circumstances	29.12.2022
Add: Period (i.e. from 15.03.2020 to 28.02.2022) excluded for the purpose of limitation as per the judgement of Hon'ble Supreme Court in *RE: Cognizance for extension of Limitation [Miscellaneous Application No. 21 of 2021]*	716 days
The Limitation, as per Judgment of the Hon'ble Supreme Court, was available up to	14.12.2024
The debt owned by the Applicant was acknowledged before the expiry of Limitation in the OTS proposal dated 23.02.2023	23.02.2023
Debt Acknowledged by the Corporate Debtor in the Audited Balance Sheet as on 31.03.2024	31.03.2024
The OTS proposal dated 23.02.2023 was revoked by the Financial Creditor	13.01.2025
Fresh Limitation is available up to	12.01.2028

2.9 The Application is within the limitation considering the acknowledgement of debt by the CD in its OTS Proposal dated 23.02.2023, in their Balance Sheet as on 31.03.2024 and the revocation of the OTS by the Applicant on 13.01.2025.

2.10 The Applicant holds various securities as under:

i. Primary Security for loan A/c no 3578160374:

a) Paripassu first charge on fixed assets, i.e., Land & Building, Plant & Machinery etc. of the company situated at Gat No. 10, 11/1, 11/2, 13/1, 13/2, 14 & 15/3 admeasuring 47.00 acre located at Kavathe Malkapur, Tal. Sangamner, Dist: Ahmednagar owned by the Corporate Debtor.

ii. **Collateral Security:**

a. Paripassu 1st charge on Non-Agricultural land located at Gate No. 257 & 260 (Part), village Penjalwadi, Tal Bhor, Dist Pune owned by Mr. Ravindra Birole, Mrs. Ashwini Birole and Mr. Shantanu Birole.

b. Paripassu 1st charge on residential flat No. 0020603 at Sector No. R2, tower no. 2, sixth floor, Amanora Park, Sadesatranali Hadapsar, Pune admeasuring 1600.00 sq.ft owned by Mr. Ravindra Birole and Mrs. Ashwini Birole.

c. Paripassu charge on Flat No. 101 adm.1128 sq.ft. & 102 adm. 1104 sq.ft. & Car Parking of both the flats adm. 100 sq.ft. each at Anant Residency, Sadashiv Peth, Pune owned by Mr. Ravindra Birole and Mrs. Ashwini Birole.

iii. **Personal Guarantees**

Personal Guarantee of all the directors in personal capacity

Mr. Ravindra Purushottam Birole

Mrs. Ashvini R. Birole

Mr. Shantanu Ravindra Birole

iv. **Corporate Guarantees**

M/s Utech Engineering Works (India) Ltd.

M/s Rama Agro Foods Pvt. Ltd.

2.11 The copy of Statement of Account No. 3578160374 maintained by the Applicant for the Loan of the CD along with Certificate under Section 2A of the Banker's Books' Evidence Act 1891 and NPA Certificate is annexed as Annexure - 14 Colly.

2.12 It is submitted that no order of court Adjudicating Authority on the default has been made. However, the applicant had earlier filed Section 7 application wherein the NCLT, Mumbai vide CP(IB) No. 275/ 2023 dismissed the same as settled in view of the OTS approved by the bank. The NCLT had also granted liberty to the applicant that in the event of noncompliance in payments towards OTS, the Applicant may approach this Tribunal for initiation of CIRP of the CD.

3. CONTENTIONS OF CORPORATE DEBTOR

3.1 The CD filed Affidavit-in-Reply dated 05.05.2026, which is affirmed by Mr. Ravindra P. Birole – Authorised Representative of the CD vide Board Resolution dated 03.03.2026.

3.2 The CD in its reply states that the Applicant has failed to disclose the date(s) of disbursement of the alleged financial debt as specifically required under Para 1 of Part IV of Form-I. Mere annexure of a sanction letter dated 25.10.2016 and 26.07.2016 cannot constitute proof of actual disbursement of funds.

3.3 In the earlier petition filed by the Applicant on 18.12.2025, the alleged date of default was stated to be 30.09.2019, whereas in the amended Form 1, the Applicant seeks to rely upon the alleged revocation of OTS dated 13.01.2025 as constituting the date of default. However, the records uploaded with NESL in Form-D allegedly reflect the date of default as 30.06.2021.

3.4 The Applicant has failed to disclose the basis, contractual provision, or legal foundation on which such alleged revocation of OTS can itself constitute a "date of default" within the meaning of Section 3(12) of the Code.

3.5 The Applicant has failed to disclose any clause from the sanction letter dated 25.10.2016 and 26.07.2016 or any alleged loan agreement authorizing levy of the exorbitant interest claimed in the Petition. No applicable rate of interest, basis of capitalization, penal charges, or period-wise calculation has been disclosed. The alleged claim therefore appears to be unilateral, excessive, and unsupported by law or contract.

3.6 It is submitted that no Board Resolution has been annexed authorizing filing and institution of the present proceedings. In absence of such resolution, it cannot be ascertained whether the persons purportedly executing the Power of Attorney and/ or authorization were themselves duly authorized by the Board of Directors to delegate such authority in favour of Mr. Jha.

3.7 The Applicant itself has admitted that Original Application No. 936/2023 is pending before the Hon'ble Debts Recovery Tribunal, Pune for recovery of the alleged dues from the CD and the same is presently pending adjudication. The conduct of the Applicant in simultaneously pursuing recovery proceedings and invoking the insolvency jurisdiction under Section 7 of the Code clearly demonstrates that the present proceedings are initiated with mala fide intent and for purposes alien to the object and scheme of the Code.

4. WRITTEN SUBMISSIONS OF APPLICANT AND CD

4.1 The Applicant filed the written submissions which are similar to the facts of the case and hence, the same are not reiterated for the sake of brevity.

4.2 The CD has not filed written submissions.

5. ANALYSIS AND FINDINGS

5.1 We have heard the Ld. Counsels for the Applicant and the CD and have perused the records as placed before us. Our findings in the matter are as under: -

5.2 The present Application has been filed under Section 7 of the Code seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the CD on account of alleged default in repayment of the financial facilities extended by the Applicant.

5.3 It is well settled that while considering an application under Section 7 of the Code, the Adjudicating Authority is required to examine whether (i) a financial debt exists; (ii) default has occurred; and (iii) the application is complete in all respects as contemplated under Section 7(5) of the Code. The Adjudicating Authority is not expected to enter into an adjudication of disputed questions relating to the quantum of claim or to conduct a trial on contractual disputes.

5.4 From the material placed on record, it is evident that the Applicant sanctioned financial assistance aggregating to Rs.23.68 Crores to the CD vide Sanction Letters dated 26.07.2016 and 25.10.2016. The facilities were secured by creation of primary and collateral securities, personal guarantees of the Directors and corporate guarantees of group entities.

5.5 The Applicant has placed on record the NeSL record of default in Form D as per which the status of authentication of default is "**Authenticated**" and date of default is stated as 30.06.2021.

5.6 A bare perusal of Explanation II to the amended Section 7 sub-section 5 of the Code reveals that where a financial institution produces a record of default registered with an Information Utility, such record shall be deemed sufficient for the Adjudicating Authority to ascertain the existence of default. In the instant case, the Applicant—being a Scheduled Bank i.e. a financial institution within the meaning of Section 2(14)(a) of the Code—has produced the NeSL Form D, which reflects the status of default as **'AUTHENTICATED**.' Section 7 of the Code, as amended, is reproduced hereunder:"

"Section 7: Initiation of corporate insolvency resolution process by financial creditor.

(1) A financial creditor either by itself or jointly with [other financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government] may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.

……..

……..

(3) The financial creditor shall, along with the application furnish—

(a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;

(b) the name of the resolution professional proposed to act as an interim resolution professional; and

(c) any other information as may be specified by the Board.

(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3).

[(5) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), by an order—

(a) admit the application, if it is satisfied that a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceeding pending against the proposed resolution professional; or

(b) reject the application, if it is satisfied that a default has not occurred or the application under sub-section (2) is incomplete or a disciplinary proceeding is pending against the proposed resolution professional:

Provided that the Adjudicating Authority shall, before rejecting the application under clause (b), give a notice to the applicant to rectify the defect in his application within seven days from the date of receipt of such notice from the Adjudicating Authority:

Provided further that if the Adjudicating Authority has not passed an order under this sub-section within a period of fourteen days from the date of receipt of the application under sub-section (2), it shall record the reasons for such delay in writing.

Explanation I.—For the purposes of this sub-section, it is hereby clarified that where the requirements under clause (a) have been complied with, no other ground shall be considered to reject an application filed under this section.

Explanation II. <u>—For the removal of doubts, it is hereby clarified that where a record of default in respect of a financial debt owed to a financial institution recorded with the information utility has been furnished along with the application filed by such financial institution under this section, such record shall be considered sufficient for the Adjudicating Authority to ascertain the existence of default under this section.]</u>

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

(7) The Adjudicating Authority shall communicate—

(a) the order under clause (a) of sub-section (5) to the financial creditor and the corporate debtor;

(b) the order under clause (b) of sub-section (5) to the financial creditor, within seven days of admission or rejection of such application, as the case may be."

5.7 It is important to note that the above *Explanation II* is inserted to section 7(5) of Insolvency Code, pursuant to the IBC (Amendment) Act, 2026**,** which has been notified *vide* Notification No. S.O.2625(E) dated 25.05.2026, to provide that record of default in respect of financial debt owned by financial institution will be sufficient evidence to ascertain existence of default under Section 7 of the Code. As such as the NeSL record of default in Form D reflects the status of authentication of default as "Authenticated" in view of the Explanation II as above said, the same is sufficient evidence of existence of default under Section 7 of the Code. In any case, not only the record of default is relied upon to ascertain the default, but there are other records such as sanction letters, loan agreements and OTS proposals which establish the debt and default committed by the CD. Also, the Explanations added to a provision are clarificatory in nature and hence, they are applicable retrospectively. **The Hon'ble Supreme Court** in ***S. Sundaram Pillai vs. V.R. Pattabiraman, A.I.R. 1985 SC 582*** has held that an explanation added to a statutory provision is not a substantive provision, but as the plain meaning of the word itself suggests, it is merely meant to explain or clarify certain ambiguities, which may have crept into interpreting the statutory provision. It would make it abundantly clear that it was meant to clear ambiguity in the application of the earlier Law and not to withdraw any substantive rights. Therefore, there would be no bar to allow the said clarification to operate retrospectively. The relevant portion of the judgment is reproduced hereunder:

> *"………..It is now well settled that an Explanation added to a statutory provision is not a substantive provision in any sense of the term but as the plain meaning of the word itself shows it is merely meant to explain or clarify certain ambiguities which may have crept in the statutory provision. Sarathi in 'Interpretation of Statutes' while dwelling on the various aspects of an Explanation observes as follows:*

"(a) The object of an explanation is to understand the Act in the light of the explanation.

(b) It does not ordinarily enlarge the scope of the original A section which it explains, but only makes the meaning clear beyond dispute."

5.8 Though the debt and default stand established and therefore, we are not supposed to go into the further objections raised by the CD. However, we hold that said objections are without any merit. The CD has contended that the Applicant has failed to disclose the dates of disbursement of the loan amount. This contention is without merit. The sanction letters, loan documents, account statements, and the certified statement of accounts placed on record establish that financial facilities were sanctioned and availed by the CD. The CD has nowhere disputed that the loan facilities were in fact availed or that the banking relationship existed. Mere absence of tabulation of individual dates of disbursement in Part-IV of Form-1 cannot defeat a Section 7 application when the disbursement is otherwise evidenced from the documents forming part of the record. The Bank statements attached at page no. 211 of the Application show the disbursement of the loan amount.

5.9 Accordingly, this Tribunal is satisfied that the Applicant has established the existence of a "financial debt" within the meaning of Section 5(8) of the Code.

5.10 The Applicant has placed on record that the loan account became irregular on 29.12.2019 and proceedings under the SARFAESI Act were initiated by issuance of demand notice under Section 13(2) on 02.01.2020. Subsequently, at the request of CD, a One Time Settlement (OTS) proposal dated 23.02.2023 was submitted and the same was accepted by the Applicant vide approval letter dated 30.03.2023.

5.11 The record further reveals that the CD failed to comply with the terms and conditions of the approved OTS. Consequently, the Applicant revoked the OTS vide communication dated 13.01.2025 and recalled the entire outstanding dues. The terms of the OTS are reproduced as under:

Repayment Terms	➢ ₹ 0.70 crore already deposited as upfront amount. ➢ ₹ 1.30 crore shall be deposited within 10 days of conveying sanction Or on/before 31.03.2023. ➢ ₹ 1.00 crore shall be deposited on/before 31.03.2023. ➢ ₹ 8.00 crore shall be deposited in quarterly installments as under · • 30 June 2023 - ₹ 2.00 crore · • 30 September 2023 - ₹ 2.00 crore · • 31 December 2023 - ₹ 2.00 crore · • 31 March 2024 - ₹ 2.00 crore. • Remaining amount of ₹ 3 crore shall be deposited on/before 31.03.2024. • Interest @ MCLR (1 Year) Simple is payable on reducing balance if entire OTS amount is not paid within 30 days of conveying sanction. • Entire OTS amount shall be paid within 12 months from the date of conveying sanction.

Sacrifice	₹ 9.64 crores Of Which : Write off of ledger balance — ₹ 0.00 crores Waiver of PWO amount — ₹ 0.00 crores Waiver of Accrued interest (URI+UCI) — ₹ 9.62 crores Waiver of legal expenses — ₹ 0.02 crores
Other Terms & Conditions	• Entire OTS amount shall be paid within 12 months from the date of conveying sanction. • Continuation of existing BG exposure of ₹ 25.00 Lakh subject to 100% margin is available / held in the form of MMDC/FDR under lien in case of BG outstanding and it shall be released after the expiry and return of BG or adjusted against devolvement / invocation, as the case may be. • Since it is a suit filed account; the party has to enter into consent decree with the usual default clause. In case of any delay in obtaining consent decree, the party should deposit the settled amount as per sanction in a separate account carrying no interest, which should be adjusted towards the settled amount. In such case, on recovery of entire compromise dues as per sanction, the suit may be withdrawn and bank should claim refund of court fees and credit the entire refund to P/L account. • In case party fails to pay the compromise amount within stipulated period, entire concessions will stand withdrawn and to be treated as if there was no compromise settlement in the account and in that case suit shall be pursued vigorously. • In case of default in OTS payment as per terms of sanction, the sanction shall be automatically treated as cancelled. • OTS is being considered by the bank as a commercial decision and shall have no bearing whatsoever on the criminal case/ investigation, if any, being carried out by the CBI/Police/EWO and the same shall proceed as per law. • Borrowers/guarantors will withdraw all suits/ cases/ counter claim/ litigation filed by him against the bank, forgoing all rights/claims against the bank. • Borrowers/guarantors will withdraw all criminal case/ complaints filed against the bank/its officials immediately. • The Bank will withdraw all suits/ claims and counter claims on receipt of full OTS amount within stipulated time period. • The company has to submit PDC's for OTS amount payable in future installments.

5.12 As can be seen from the above, the Applicant had agreed to accept a sum of Rs. 14 crores in full and final settlement of its claims against the CD. The settlement amount was agreed to be paid by the CD in quarterly instalments commencing from 31.03.2023 and till 31.03.2023. As per the agreed terms of the OTS the amounts were due and payable upto March 2024, which the CD failed to pay, and hence the Applicant *vide* letter dated 13.01.2025, revoked the OTS dated 30.03.2023. Even though the original date of default dates back to 2019, it is seen that the CD defaulted in making payment as per the settlement i.e., on or before 31.03.2024. As there was a default in making payment of settlement amount, Applicant revoked the OTS vide notice dated 13.01.2025. Hence, the Applicant has taken the date of default as 13.01.2025.

5.13 The CD has argued that revocation of OTS cannot constitute a date of default. This contention cannot be accepted in the facts of the present case. The default had already occurred when the loan account became irregular and recovery proceedings under the SARFAESI Act were initiated. The subsequent OTS constituted an arrangement in the nature of novation of the terms of lending, granting an opportunity to the CD to clear the settled amount in the revised agreed timelines. Upon failure of the CD to honour the OTS terms as per the revised timelines and consequent revocation thereof, the Applicant became entitled to recall the entire outstanding amount. The same is in terms of clause 4 of the settlement terms.

5.14 It is settled that for the purposes of Section 7, the Adjudicating Authority is only required to ascertain whether default exists, from the record. As has been stated earlier the existence of debt and default stands established from NeSL Form D. In any case, the documents produced by the Applicant including account statements, recall notice, OTS documents and other financial records also confirm the existence of debt and occurrence of default exceeding the threshold of Rs.1 crore as per Section 4 of the Code.

5.15 In regard to the above, this Tribunal places reliance on the judgment of ***Hon'ble Supreme Court in Power Trust (Promoter of Hiranmaye Energy Ltd.) v. Bhuvan Madan, IRP of Hiranmaye Energy Ltd. and Ors. [Civil Appeal No(s). 2211/2024 decided on 18.02.2026]*** while examining the validity of the admission of the Corporate Debtor to CIRP has laid down as under :-

> ***"B. Validity of CIRP Admission***
>
> *28. The other aspect on which the Appellant has heavily relied is the acceptance of various sums of money paid by the Corporate Debtor purportedly under the 1st and*

2nd restructuring proposals, which according to them amounts to deemed approval of such proposal. As discussed earlier, such argument flies in the face of the fact that the 2nd Respondent had resolutely maintained and rightly so, that the restructuring proposals were underpinned on pre-implementation conditions which

the Corporate Debtor had failed to fulfil. Under such circumstances, receipt of various sums of money would not amount to acceptance of the restructuring proposals, thereby novating the earlier loan agreement. Neither would such part payments constitute full satisfaction of the existing debt so as to render the Section 7 application inadmissible.

29. It has also been vociferously contended that the Corporate Debtor is an ongoing concern and does not lack the ability to repay the debt. It has a subsisting PPA for 25 years with WBSEDCL, and has raised bills of Rs. 906 crore from 01.11.2024 to 31.03.2025. It also has a continuous fuel supply arrangement with Mahanadi Coalfields Ltd. under the SHAKTI scheme and had earned EBIDTA of Rs. 20 crore per month during the CIRP. These facts though attractive at first blush, do not yield either legal or factual justification to rebut the admission of the Section 7 application.

30. On the legal score, one must bear in mind the scope and purpose for which IBC was promulgated. The main objective of its enactment was to create a complete code for easy, prompt and seamless resolution of insolvency process and thereby ensure that the net worth of the corporate debtor is not dissipated and the entity is salvaged from corporate death through a viable resolution plan accepted by its CoC. <u>The Code prescribes whenever a corporate debtor defaults on a debt that is due and payable, an insolvency process may be initiated. Section 3(12) defines "default" as non payment of a debt which has become due and payable, and includes default in respect of a part or instalment thereof.</u> Such insolvency process may be initiated either by the corporate debtor itself, or by its creditors who are classified as financial creditor or operational creditor. "Financial creditor" is defined as any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned.26 A "financial debt" means a debt along with interest if any, which is disbursed against the consideration for time value of money and includes money borrowed against payment of interest.27 "Operational creditor" is defined as a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned.28 "Operational debt" is a claim in respect of the provision of goods or services including employment or a debt in respect of payment of dues arising under any law for the time being in force and payable to the Central or State government, or any local authority.29 31. In Swiss Ribbons (P) Ltd. v. Union of India [(2019) ibclaw.in 03 SC],30 such classification of creditors as financial creditors and operational creditors has been held to be constitutionally valid. The Bench underscored the essential differences between a financial creditor and operational creditor and held that financial creditors were mostly secured creditors like banks and financial institutions who extended finance to enable a corporate debtor to set up and/or operate its business. Such credit is extended to a corporate debtor under well-defined loan agreements having specified repayment schedules and reserving rights to recall the loan in case of default or restructure the same *enabling a corporate debtor to tide over unforeseen financial stress. On the contrary, operational creditors are mostly unsecured creditors and their claims are relatable to supply of goods and services in the operation of the business. Ordinarily, operational debts are not based on admitted documents and the possibility of genuine disputes with regard to such debts is much higher compared to financial debts.*

32. In light of such classification, the Code makes a distinction in the manner in which an insolvency process may be initiated by a financial creditor under Section 7, IBC in contradistinction to an operational creditor under Section 8 and 9, IBC. Unlike an operational creditor, a financial creditor may trigger an insolvency process under Section 7 in respect of default of any financial debt, whether owed to itself or to any other financial creditor. While the financial creditor may directly file an application under Section 7 setting out the particulars of the financial debt and evidence of default, the operational creditor, on the occurrence of a default, is to first deliver a demand notice of the unpaid debt to a corporate debtor and the latter may within 10 days of receipt of such demand notice bring to the notice of the operational creditor the existence of a dispute or record the pendency of a pre-existing suit or arbitration proceeding in respect of such debt. Once a corporate debtor demonstrates a dispute regarding the existence of the debt, the insolvency process stands aborted vis-à-vis the operational creditor. But when the financial creditor initiates the insolvency process for the purposes of admission, the Adjudicating Authority is only to ascertain the existence of a default from the records of the information utility or the evidence furnished by the financial creditor within fourteen days from the receipt of such application. At this stage, neither is a corporate debtor entitled nor is the Adjudicating Authority required to examine any dispute regarding the existence of such debt. This significantly reduces the scope of enquiry at the stage of a time-bound admission of an insolvency process by a financial creditor which has been succinctly summed up in Innoventive (supra):

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

33. Reiterating the ratio in Innoventive (supra), this Court in ES Krishnamurthy v. Bharath Hi-Tech Builders (P) Ltd. [(2021) ibclaw.in 173 SC]32 held as follows: "34. The adjudicating authority has clearly acted outside the terms of its jurisdiction under Section 7(5) IBC. The adjudicating authority is empowered only to verify whether a default has occurred or if a default has not occurred. Based upon its decision, the adjudicating authority must then either admit or reject an application, respectively. These are the only two courses of action which are open to the adjudicating authority in accordance with Section 7(5). The adjudicating authority cannot compel a party to the proceedings before it to settle a dispute."

34. In a similar vein, the Adjudicating Authority is not required to go into the inability of a corporate debtor to pay its debt. This is a clear departure from the scheme of winding up envisaged under Section 433(e) of the erstwhile Companies Act, 1956 which required the Adjudicating Authority to come to a finding with regard to the inability of the company to pay the debt and thereby arrive at a requisite satisfaction whether it is just and equitable to wind up the company.

The Code restricts the scope of enquiry for admission of an insolvency process by a financial creditor merely to the existence of default of a debt due and payable and nothing more. The legislative intent behind such prompt and summary intervention is "to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation."

35. The Appellant has heavily relied on Vidarbha (supra) to argue that the Adjudicating Authority has ample discretion to apply its mind to relevant factors including the feasibility of initiation of insolvency process notwithstanding the existence of default on a debt due and payable by the Corporate Debtor. In Vidarbha (supra), this Court observed:-

"61. In our view, the Appellate Authority (NCLAT) erred in holding that the adjudicating authority (NCLT) was only required to see whether there had been a debt and the corporate debtor had defaulted in making repayment of the debt, and that these two aspects, if satisfied, would trigger the CIRP. The existence of a financial debt and default in payment thereof only gave the financial creditor the right to apply for initiation of CIRP. The adjudicating authority (NCLT) was required to apply its mind to relevant factors including the feasibility of initiation of CIRP, against an electricity generating company operated under statutory control, the impact of MERC's appeal, pending in this Court, order of Aptel referred to above and the overall financial health and viability of the corporate debtor under its existing management.

……………………………………………………………………

90. We are clearly of the view that the adjudicating authority (NCLT) as also the Appellate Tribunal (NCLAT) fell in error in holding that once it was found that a debt existed and a corporate debtor was in default in payment of the debt there would be no option to the adjudicating authority (NCLT) but to admit the petition under Section 7 IBC."

36. However, in review, this Court clarified that observations made in Paragraph 90 are restricted to the facts of Vidarbha (supra):-

"6. The elucidation in para 90 and other paragraphs [of the judgment under review] were made in the context of the case at hand. It is well settled that judgments and observations in judgments are not to be read as provisions of statute. Judicial utterances and/or pronouncements are in the setting of the facts of a particular case."

37. Finally, the apparent dichotomy between Innoventive (supra) and Vidarbha (supra) was set at rest in M. Suresh Kumar Reddy (supra), wherein this Court *observed: "14. Thus, it was clarified by the order in review that the decision in Vidarbha Industries was in the setting of facts of the case before this Court. Hence, the decision in Vidarbha Industries cannot be read and understood as taking a view which is contrary to the view taken in Innoventive Industries and E.S. Krishnamurthy. The view taken in Innoventive Industries still holds good."*

38. In light of the ratio in M. Suresh Kumar Reddy (supra) there is no cavil that the ratio in Innoventive (supra) lays down the correct proposition of law and the observations in Vidarbha (supra) were made in the facts of the case and do not operate as binding precedent.

39. Even otherwise on facts, Vidarbha (supra) does not come to the aid of the Appellant. In Vidarbha (supra), this Court had taken note of an award passed by APTEL in favour of the corporate debtor which far exceeded the claim of the financial creditor, and held in the setting of such facts, initiation of CIRP was unwarranted. In the present case, Appellant's contention regarding Corporate Debtor's viability is highly dubious. Though the Corporate Debtor strenuously demonstrates its commercial viability, the NCLAT has noted that the extent of outstanding liability as on 02.01.2024 was Rs. 3103.31 crore, which far exceeds the bills raised on WBSEDCL to the tune of Rs 906 crore and EBITDA of Rs. 20 crore per month during the CIRP.

40. For these reasons, we are of the opinion the admission of the Section 7 application was lawful and does not call for interference."

(emphasis wherever required supplied)

5.16 To summarize the above judgment, we observe as under: -

a. The Code prescribes whenever a corporate debtor defaults on a debt that is due and payable, an insolvency process must be initiated. Section 3(12) defines "default" as non-payment of a debt which has become due and payable, and includes default in respect of a part or instalment thereof.

b. When the financial creditor initiates the insolvency process for the purposes of admission, the Adjudicating Authority is only to ascertain the existence of a default from the records of the information utility or the evidence furnished by the financial creditor within fourteen days from the receipt of such application. At this stage, neither is a corporate debtor entitled nor is the Adjudicating Authority required to examine any dispute regarding the existence of such debt. This significantly reduces the scope of enquiry at the stage of a time-bound admission of an insolvency process by a financial creditor.

c. The adjudicating authority is empowered only to verify whether a default has occurred or if a default has not occurred. Based upon its decision, the adjudicating authority must then either admit or reject an application, respectively. These are the only two courses of action which are open to the adjudicating authority in accordance with Section 7(5).

d. The Adjudicating Authority is not required to go into the inability of a corporate debtor to pay its debt.

e. The Code restricts the scope of enquiry for admission of an insolvency process by a financial creditor merely to the existence of default of a debt due and payable and nothing more.

5.17 The Applicant has demonstrated that the Application is within limitation by virtue of acknowledgements of liability reflected in the balance sheets of the CD as well as the in OTS proposals, submitted by the CD.

5.18 The OTS proposal dated 23.02.2023 admittedly originated from the CD. The said proposal clearly constitutes an acknowledgment of liability in writing. It is also the Applicant's case that the CD has consistently acknowledged the outstanding dues in its balance sheets.

5.19 The Hon'ble Supreme Court in the matter of ***Dena Bank v. C. Shivkumar Reddy***, (2021) 10 SCC 330 and Hon’ble NCLAT in ***Dinesh G Jaiswal vs. Punjab National Bank, Asset Recovery Branch and Anr***. (2022) ibclaw.in 802, has consistently held that acknowledgment of debt under Section 18 of the Limitation Act extends the period of limitation and that entries in duly signed balance sheets constitute acknowledgment of liability. Likewise, a written OTS proposal acknowledging outstanding dues also extends limitation. For reference, the calculation is as under:

Event of default	**Limitation Period**
Date of NPA	30.12.2019
Date of expiry of limitation	29.12.2022
Considering the exclusion period from 15.03.2020 to 28.02.2022 as per the Hon'ble Supreme Court Suo Moto judgment	716 days 25.12.2024
OTS proposal	23.02.2023
Debt acknowledged by the CD in Audited Balance Sheet as on 31.03.2024	31.03.2024
OTS proposal dated 23.02.2023 revoked by the Applicant	13.01.2025
Fresh limitation available up to	12.01.2028

5.20 Therefore, the objection regarding limitation is devoid of merit. The present Application filed after the acknowledgments and subsequent revocation of the OTS is well within the prescribed period of limitation

5.21 The CD has sought to rely upon different dates reflected in the pleadings and in the records maintained with the Information Utility. This objection is also not sustainable. The date of default mentioned in Form-1 is intended to indicate the default relied upon by the Applicant for maintaining the present proceedings. Merely because an earlier date of default or continuing default is reflected in the Information Utility or earlier proceedings would not invalidate the present Application, particularly where the debt remains unpaid and limitation stands extended by acknowledgments.

5.22 It is trite law that default in repayment of a financial debt is a continuing event until the debt is discharged. The record sufficiently demonstrates that the CD continues to remain in default.

5.23 The CD has questioned the calculation of interest and alleged absence of contractual basis for the amount claimed.

5.24 Such objections pertain to reconciliation and quantification of the outstanding dues. At the stage of admission under Section 7, this Tribunal is not required to undertake an accounting exercise to determine the exact quantum payable. The existence of financial debt and occurrence of default alone are relevant. Any reconciliation of claims may appropriately be undertaken during the Corporate Insolvency Resolution Process by the Interim Resolution Professional/Resolution Professional in accordance with the provisions of the Code. It is also seen that even the default of principal amount committed by the CD is more than the threshold of Rs. 1 Crore.

5.25 A perusal of the record reveals that the present Application has been instituted through a duly authorized officer of the Applicant Bank. The Applicant has placed on record the requisite authorization, including the Power of Attorney (POA)/authorization document empowering the concerned officer to initiate and prosecute proceedings under the Insolvency and Bankruptcy Code, 2016. On perusal of the Power of Attorney on page no 342 of the Application, it is seen that the same is executed by two directors of the Applicant bank named Shri. Vivek Wahi and Shri. M.V. Murali, who have signed at the foot of the said POA in the presence of a Company Secretary named Shri. Chandrakant Bhagwat, along with affixation of common seal of the Applicant bank on the POA. Considering the same we find that the signatory of the Application is duly authorised vide a properly executed POA.

5.26 The CD has also contended that Original Application No.936 of 2023 is pending before the Debts Recovery Tribunal and, therefore, the present proceedings are not maintainable.

5.27 This contention is untenable. Proceedings before the Debts Recovery Tribunal are recovery proceedings, whereas proceedings under Section 7 of the Code are proceedings in rem intended for resolution of insolvency. The remedies are distinct and independent. Pendency of recovery proceedings before the Debt Recovery Tribunal does not bar initiation of proceedings under the Code.

5.28 Upon consideration of the pleadings, documents, loan records, account statements, security documents, OTS correspondence, recall notice and acknowledgments of liability, this Tribunal is satisfied that:

(i) a financial debt exists between the parties;

(ii) the Corporate Debtor committed default in repayment of the financial debt;

(iii) the Application is within limitation in view of the acknowledgments of debt and the OTS proposal;

(iv) the Application is complete in all material particulars as required under Section 7 of the Code; and

(v) none of the objections raised by the Corporate Debtor constitute a valid ground for rejection of the present Application.

5.29 The Applicant has proposed the name of Mr. Shekhar Arvind Parkhi to act as the Interim Resolution Professional (IRP) having valid AFA till 30.06.2027.

5.30 Thus, it is clear from perusal of the record that an amount of more than the threshold limit of Rs.1 Crore under Section 4 of the Code, was due and payable by the CD to the Applicant. Hence, we find that the Applicant has been able to substantiate the existence of a financial debt due and payable by the CD which remained unpaid. The debt so owed by the CD to the Applicant falls within the definition of "financial debt" under Section 5(8) of the Code.

5.31 In view of the above, we find that requisite conditions necessary to trigger CIRP in respect of the CD are fulfilled, the Application is complete as all the relevant documents have been attached by the Applicant along with the Application. As a result, the matter deserves to be admitted under Section 7 of the Code.

5.32 At this stage we are not quantifying the exact amount under default, which the IRP will do. We are satisfied that there exists a debt which is in default in excess of Rs. 1 Crore.

ORDER

In view of the aforesaid findings, Application bearing C.P.(IB) No.22/MB/2026 filed under Section 7 of the Code by Central Bank of India, the Applicant, for initiating CIRP in respect of **Shri Gajanan Maharaj Sugar Limited**, the Corporate Debtor is hereby **admitted**.

We further declare moratorium under Section 14 of the Code with consequential directions as mentioned below: -

I. We prohibit-

a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;

b) transferring, encumbering, alienating or disposing of by the 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

Securitisation 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 possession of the Corporate Debtor.

II. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period.

III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the Code or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.

IV. That the public announcement of the CIRP shall be made in immediately as specified under Section 13 of the Code read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.

V. That this Bench hereby appoints **Mr. Shekhar Arvind Parkhi** a registered Insolvency Professional having Registration Number **IBBI/IPA-001/IP-P-02494/2021-2022/13801** and e-mail address ip.shekharparkhi@gmail.com having valid Authorisation for Assignment up to 30.06.2027 as the IRP to carry out the functions under the Code.

VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.

VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the Code. The officers and managers of the Corporate

Debtor are directed to provide effective assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. Coercive steps will follow against them under the provisions of the Code read with Rule 11 of the NCLT Rules for any violation of law.

VIII. That the IRP/IP shall submit to this Tribunal monthly reports with regard to the progress of the CIRP in respect of the Corporate Debtor.

IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Applicant is directed to deposit a sum of Rs.3,00,000/- (Rupees Three Lakh) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Applicant on priority upon the funds available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.

X. A copy of this Order be sent to the Registrar of Companies, Maharashtra, Mumbai for updating the Master Data of the Corporate Debtor.

XI. The IRP is directed to issue notice of admission upon all the statutory authorities of the Corporate Debtor without fail.

XII. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.

XIII. The Registry is directed to immediately communicate this Order to the Applicant, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.

XIV. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-	**Sd/-**
NILESH SHARMA	**SAMEER KAKAR**
MEMBER (JUDICIAL)	**MEMBER (TECHNICAL)**

//VM//