NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P4.

C.P. (IB)/732(MB)2025

CORAM:

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

ORDER SHEET OF HEARING (HYBRID) DATED **06.04.2026**

NAME OF THE PARTIES: **APRN Enterprises Private Limited**

Vs

Marveledge Realtors Private 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)

//AS//

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/732/MB/2025

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

APRN ENTERPRISES PRIVATE LIMITED

(*Formerly known as Ansapack Private Limited*)

[CIN No.: U21000MH1994PTC084095]

Sun Paradise Business Plaza

7th Floor City Survey No. 1A/456

Senapati Bapat Marg, Lower Parel, Mumbai – 400013.

…Financial Creditor

V/s

MARVELEDGE REALTORS PRIVATE LIMITED

[CIN No.: U70101PN2008PTC131638]

301-302, Jewel Tower, Survey No. 25/H

Lane No. 5, Koregaon Park, Pune – 411001.

...Corporate Debtor

Pronounced: 06.04.2026

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

Appearances: Hybrid

For Applicant: Adv. Ayush Rajani a/w Adv. Khushboo Shah, Adv. Mitali Bhatt i/b AKR Legal

For Respondent: Adv. Saumya Goyal, Adv. Rahul Gupta i/b Adv. Mr. Amir Arsiwala

ORDER

[PER: CORAM]

1. BACKGROUND

1.1 This C.P. (IB) No. 732 of 2025 (Application) was filed on 07.07.2025 by APRN Enterprises Private Limited, the Financial Creditor (FC) having PAN No.: AAACU0564G, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking initiation of Corporate Insolvency Resolution Process (CIRP) against Marveledge Realtors Private Limited, the Corporate Debtor (CD), having CIN No.: U01119PN2011PLC140015.

1.2 This Application has been affirmed by one Mr. Rakesh Sharma, authorised representative of the Applicant. As per Part IV of the Application, the amount claimed to be in default as on 31.05.2025 is Rs.2,26,89,17,589/- (Rupees Two Hundred Twenty-Six Crores Eighty-Nine Lakhs Seventeen Thousand Five Hundred and Eighty-Nine only) out of which principal amount is Rs.25,00,00,000/-, interest @ 18% p.a. amounting to Rs.67,83,13,891/- along with penal charges @ 36% p.a. on interest which amounts to Rs.1,34,06,03,698/-. The date of default in Part IV is stated as 28.05.2025.

1.1 The Applicant has proposed Mr. Nilesh Rajendra Kothari, having Registration No. IBBI/IPA-002/IP-N01225/2022-2023/14132, to act as the Interim Resolution Professional (IRP) in case the Application is admitted.

2. CONTENTIONS OF APPLICANT (FC)

2.1 By an Inter Corporate Deposit Agreement dated 10.02.2017 (hereinafter referred to as 'ICD Agreement') the Financial Creditor abovenamed (then known as PRPL Enterprises Private Limited) agreed to deposit an amount of Rs.25,00,00,000/- as an intercorporate deposit with the CD on the terms and conditions more particularly contained in the ICD Agreement. The disbursement amount was to be used towards the general corporate purposes.

2.2 On 10.02.2017, the CD made a disbursement request to PRPL for disbursement of the Deposit and this request was fulfilled on the same day by PRPL.

2.3 The Deposit was secured by the following:

A. First and exclusive pledge of the Promoter's shareholding (91.06%) in the Corporate Debtor;

B. Personal Guarantee dated 10 February 2017 by Mr. Vishwajeet Jhawar.

C. Corporate Guarantee dated 10 February 2017 by Marvel Realtors and Developers Limited.

D. Demand Promissory Note dated 10 February 201 7 issued by the Company.

2.4 The CD defaulted in its obligation to repay the Deposit of Rs.25,00,00,000/- and interest. The aforesaid qualified as an Event of Default under clause 21.1 of the ICD Agreement.

2.5 Upon occurrence of an Event of Default as aforesaid, clause 22.1.2 of the ICD Agreement entitles the FC to forthwith declare the deposit, together with accrued interest and all other amounts accrued or outstanding under the

Finance Documents, be immediately due and payable and whereupon they shall become immediately due payable.

2.6 Accordingly, PRPL issued a notice dated 31.10.2023, to the CD, invoking Clause 22.1.2 of the ICD and called upon the CD to pay an aggregate sum of Rs.174,94,18,485/- along with applicable default interest on the sum of Rs.81,66,52,486/- until payment or realization.

2.7 Meanwhile, the present FC acquired the said loan through demerger. An Order dated 18.12.2023 of Ld. Court V of the NCLT, Mumbai Bench approved the Demerger Scheme. Thereafter, the CD approached the present FC with a proposal for settlement, and pursuant to mutual discussions, both parties entered into a Settlement Agreement dated 20.01.2025, setting out the agreed terms for repayment of the outstanding dues.

2.8 As per the said agreement, the CD was to make payment to the Financial Creditor on or before 28.02.2025. However, the CD has failed to make payment before the said date.

2.9 Due to the CD's failure to comply with the terms of the Settlement Agreement dated 20.01.2025, particularly its failure to repay the agreed amount by 28.02.2025, the FC issued a cancellation letter dated 14.05.2025, thereby cancelling the said Settlement Agreement entered into between the parties.

2.10 The Applicant has attached the following supporting documents along with the Application and Additional Affidavits dated 14.08.2025:

a) Master data of the CD.

b) Copy of the Board Resolution dated 14 June 2024, in favour of the Authorized Person.

c) Disbursements Request dated 10.02.2017.

d) Copy of computation of outstanding debt amount.

e) Copy of the ICD Agreement dated 10.02.2017.

f) Copy of the Personal Guarantee dated 10.02.2017.

g) Copy of Corporate Guarantee dated 10.02.2017 by Marvel Realtors and Developers Limited.

h) Copy of the Demand Promissory Note dated 10.02.2017.

i) Copy of Demerger Order dated 18.12.2023.

j) Copy of NeSL report of the CD.

k) Copy of Statement of Account with respect to the said loan along with the Bank Statement.

l) Copy of Letter dated 31.10.2023, sent to the CD demanding the repayment of outstanding amount.

m) Copy of Settlement Agreement dated 20.01.2025.

n) Copy of Cancellation Letter dated 14.05.2025, along with proof of service.

3. ADDITIONAL AFFIDAVIT (FC)

3.1 The Applicant filed an Additional Affidavit dated 14.08.2025, affirmed by Mr. Rakesh Sharma, who is stated to be the authorised representative of the Applicant.

3.2 While this Adjudicating Authority was inquiring limitation of the Application on 01.08.2025, the FC drew attention to the Settlement Agreement dated

20.01.2025 and on the judgment of the Hon'ble Supreme Court in the matter of *Kotak Mahindra Bank Ltd. v. Kew Precision Parts Pvt. Ltd.,* dated 05.08.2022, [2022] 9 SCC 364, wherein it was held that a written promise to pay a time-barred debt constitutes a valid contract, amounting to novation, and can form the basis of an independent suit irrespective of the original debt and accordingly, fresh period of limitation starts.

3.3 Relying on the aforesaid judgment of the Hon'ble Apex Court, the present Application is filed on the basis of the Settlement Agreement dated 20.01.2025, which constitutes a promise by the CD to make payment to the FC. Subsequent to entering into the said Settlement Agreement, the CD has admittedly failed to adhere to its obligations thereunder.

3.4 The following table sets out the chronology of events, establishing how the present petition is maintainable and is not hit by limitation:

Sr No.	Dates	Events	Limitation period expires	Annexures & Page Nos. of the application
1.	10.02.2017	Disbursement Request from Corporate Debtor to Financial Creditor		Annexure 4 Pg 30
2.	10.02.2017	ICD Agreement and various other documents		Annexure 6 to 9 Pg 33
3.		Duration/Repayment to be done three months from the date of ICD Agreement dated 10.02.2017	3 months	Table @ Pg 80
4.		Three months expired on 10.05.2017	10.05.2017	
5.		Three (3) years' limitation expired from the date 10.05.2017	09.05.2020	
6.		Supreme Court Suo Moto Writ Petition (C) No. 3 OF 2020, Judgment dated 10 January 2022, extending the limitation period from 15.03.2020 till 28.02.2022 and 90 days thereafter	31.05.2022	
7.		Acknowledgement in the balance sheet for the FY 2016-17, which was uploaded on 08.09.2020		"Exhibit A colly"
8.		Accordingly, the three-year period is extended from 08.09.2020 till 07.09.2023	07.09.2023	
Fresh Cause of action/Novation as per the Supreme Court Judgement in the matter Kotak Mahindra Bank Ltd. Vs. Kew Precision Parts Pvt. Ltd. dated 5 *August 2022*				
9.	20.01.2025	Settlement Agreement dated 20.01.2025 between parties	**19.01.2028**	Annexure 14 Pg 207
10.	14.05.2025 & 15.05.2025	Copy of Cancellation Letter dated 14 May 2025 (sent on 15 May 2025) along with proof of service		Annexure 15 Pg 213
11.	28.05.2025	Date of Default (as per Nesl)		Part IV Pg 13

4. CONTENTIONS OF CD

4.1 Affidavit-in-Reply dated 29.09.2025 was filed and affirmed by one Mr. Vishwajeet Jhavar, authorized representative of the CD.

4.2 Not only has the Petitioner attempted to purposefully obfuscate the true date of default, but it has also purposefully suppressed a previous petition filed by it against the CD which was based on the same cause of action.

4.3 The present Petitioner had earlier filed CP(IB) No. 520 of 2024 against the CD for the same cause of action. This Hon'ble Tribunal found that petition was defective insofar as it was barred by limitation. The Petitioner neither rectified the defect nor explained how the petition was filed within the prescribed period of limitation. However, when the Hon'ble Tribunal was passing an order for dismissal of the said CP(IB) No. 520 of 2024, the Petitioner sought liberty to unconditionally withdraw the petition. It is in these circumstances that the said CP(IB) No. 520 of 2024 came to be dismissed as withdrawn on 27.09.2024.

4.4 A perusal of this order shows that the Petitioner neither sought any liberty to file a fresh petition nor was granted any such liberty. Thus, the present petition which is based on the same cause of action is barred by principles analogous to *res judicata,* such as those espoused in Order 23 Rule 1(4) of the Code of Civil Procedure, 1908. Even though the provisions of the Code of Civil Procedure, 1908, do not apply to the present proceedings, the principle of res judicata is a matter of public policy meant to prevent the justice system from unscrupulous litigants.

4.5 The present petition ought to be dismissed solely on the ground of suppression and mala fides.

4.6 The present petition is liable to be dismissed *ab initio* as is barred by limitation as contemplated under Section 238A of the IBC read with Article 137 of the Limitation Act, 1963. The cause of action in respect of the alleged financial debt, evidenced by the ICD Agreement and relevant annexures, arose on 10.05.2017 which is the stipulated date for repayment under the contractual terms. The recall notice issued by the Petitioner also states that the default occurred on 10.05.2017. Thus, the period of limitation began on that date and expired in the year 2020. The Financial Creditor's failure to exercise its statutory remedial rights within the prescribed limitation period has rendered the claim irrevocably time-barred.

4.7 It is well established that neither subsequent correspondence nor issuance of a recall notice can breathe life into a claim that is otherwise time-barred. The recall notice dated 31.10.2023, issued more than six years after the date of default, does not constitute a valid acknowledgment under Section 18 of the Limitation Act, nor can it create a fresh cause of action. In this regard, the Financial Creditor's attempt to rely on any conduct or communications post the expiry of the limitation period is legally unsustainable and contrary to established jurisprudence.

4.8 There is no pleading or evidence in the present petition to suggest acknowledgment of liability within 3 years of default. The claim, having become time-barred, cannot be agitated or enforced through insolvency proceedings.

4.9 The IBC serves the purpose of resolution and revival of corporate entities rather than a debt recovery tool for claims extinguished by operation of law. The Hon'ble Supreme Court in Babulal Vardharji Gurjar v. Veer Gurjar

Aluminium Industries Pvt. Ltd. (2020) 15 SCC 1 has reiterated that enforcement of time-barred debts through insolvency proceedings is impermissible as per the objectives and scheme of the Code.

4.10 The CD was obligated to repay the loan amount along with applicable interest and charges by 10.05.2017, as per the terms of the ICD Agreement. This date marks the due date for repayment and, accordingly, the default if not paid by then. Failure by the CD to discharge the said liability by the stipulated date constitutes the event of default as per the contract and governing law.

4.11 Significantly, upon the CD's failure to honour its payment obligations by the due date, the cause of action for recovery and enforcement would have accrued in favour of the Petitioner on 10.05.2017, thereby crystallising the default for all legal intents and purposes.

4.12 Subsequent to the default, the Financial Creditor refrained from taking any timely enforcement action, instead issuing a recall notice to the CD only on 31.10.2023, over six years from the date of original default. The said recall notice neither operates to revive the limitation nor establishes a fresh liability in the eyes of law.

4.13 The Hon'ble Supreme Court in B.K. Educational Services Pvt. Ltd. v. Parag Gupta & Associates (2019) 11 SCC 633 has categorically held that the provisions of the Limitation Act apply to proceedings under the IBC from inception, and a time-barred debt cannot form the basis for initiation of the Corporate Insolvency Resolution Process.

4.14 Subsequent to issuance of the recall notice, both parties entered into settlement discussions, culminating in a Settlement Agreement dated

20.01.2025. This Settlement Agreement constituted a fresh agreement and amounted to a novation of all previous contractual arrangements between the parties. It could not have amounted to an acknowledgement of any liability under section 18 of the Limitation Act, 1960; nor could it have acted to revive the stale claim of the Petitioner under the ICD Agreement. The Petitioner has, however, filed the present Company Petition No. 732 of 2025 before the NCLT, Mumbai Bench, for initiation of a CIRP under Section 7 of the IBC, 2016, on the grounds of default in payment towards the loan availed as per the ICD Agreement.

4.15 A perusal of Part IV in the present petition shows that the case of the Petitioner is that the default is under the ICD Agreement. The Petitioner has stated the Date of Default to be 28.05.2025 (as per NESL report). However, there is no justification provided for this Date of Default, especially in light of the admitted fact that the purported default by the Petitioner under the ICD Agreement was 10.05.2017, as dated in the recall notice dated 31.10.2023. The Petitioner does not proceed based on the Settlement Agreement but seeks to claim the amount purported to be outstanding under the ICD Agreement.

4.16 Thus, the present petition ought to be dismissed *in limine* as it has been filed more than 3 years after the purported default, and does not disclose any circumstances which warranty extension of the period of limitation. The petition does not contain any pleadings to that effect.

4.17 It appears that this Hon'ble Tribunal pointed out the issue of limitation when the present petition first came up for hearing on 01.08.2025. The Petitioner was given liberty to file an additional affidavit to explain how the present

petition is within the prescribed period of limitation. However, the Petitioner has not filed any such additional affidavit. Instead, on the next date of hearing, 19.08.2025, the Petitioner relied upon the judgment of the Hon'ble Supreme Court of India in the case of *Kotak Mahindra Bank Ltd v. Kew Precision Parts Pvt Ltd (2022) 9 SCC 364* to contend that the Settlement Agreement was covered by section 25 (3) of the Contract Act, 1872, and thus the claim was within limitation.

4.18 It is submitted that this contention is completely misplaced. The said judgment of the Hon'ble Supreme Court has categorically stated that an agreement to pay a time-barred debt constitutes a fresh agreement and results in novation of the previous agreement; and cannot under any circumstances be said to revive an otherwise stale claim. This has been reiterated and confirmed by the Hon'ble Supreme Court of India in subsequent judgments, and also by the Adjudicating Authority in similar cases.

4.19 Moreover, while the Petitioner has offered this oral explanation for why the present petition is within the period of limitation, it draws no support from the pleadings placed on record. The Petitioner cannot be allowed to set up a completely new case *de hors* its own pleadings. For this reason also, the present petition ought to be dismissed and exemplary costs ought to be imposed upon the Petitioner.

4.20 It is reiterated that the Petitioner in Part IV of the present petition is not claiming any amount pursuant to the Settlement Agreement, but is urging its case on the basis of the purported default under the ICD Agreement. This

is clearly barred by limitation and also stands superseded by the Settlement Agreement.

5. REJOINDER

5.1 Rejoinder dated 11.12.2025 was filed and affirmed by one Mr. Rakesh Sharma, authorized representative of the Applicant.

5.2 The CD herein in its Affidavit in Reply is challenging the present petition preliminarily on two grounds *viz* (1) that the petition deals with time barred debt and hence is barred by limitation as contemplated in Section 238A of the Code read with Article 137 of the Limitation Act, 1963 and (2) present petition arises on the same cause of action as refereed in CP 520 of 2024 which was withdrawn by the Petitioner vide Order dated 27.09.2024 *(annexed as Annexure 1 in Affidavit in Reply)* and hence petitioner is barred by the principles of res judicata.

5.3 As the issue pertaining to limitation and the consequent maintainability of petition is concerned, the Applicant has already set out chronology of events in its additional affidavit dated 14.08.2025 demonstrating that the petition is not barred by limitation.

5.4 The captioned petition was filed under section 7 of the Code based on Settlement Agreement dated 20 January 2025 *(Annexure 14 page 207 of the petition)* and upon the judgment of the Hon'ble Supreme Court in the matter of *Kotak Mahindra Bank Ltd. v. Kew Precision Parts Pvt. Ltd. dated 5 August 2022, reported in 2022/ 9 Supreme Court Cases 364,* wherein it was held that a written promise to pay a time barred debt constitutes a valid contract, amounting to novation, and can form the basis of an independent

suit irrespective of the original debt and accordingly, fresh period of limitation starts.

5.5 *Vide* cancellation letter dated 14.05.2025 *(Annexure I 5 page 2 I 3 of the petition),* the terms of settlement stood cancelled since the Corporate Debtor has admittedly failed to adhere to its obligations thereunder.

5.6 There is a distinction between acknowledgment under Section 18 of the Limitation Act, 1963 and a promise within the meaning of Section 25 of the Contract Act. Both promise and acknowledgment in writing, signed by a party or its agent authorized in that behalf, have the effect of creating a fresh starting of limitation. The difference is that an acknowledgment under Section 18 of the Limitation Act has to be made within the period of limitation and need not be accompanied by any promise to pay. If an acknowledgment shows existence of jural relationship, it may extend limitation even though there may be a denial to pay. On the other hand, Section 25(3) is only attracted when there is an express promise to pay a debt that is time-barred or any part thereof. Promise to pay can be inferred on scrutinising the document. Only the promise should be clear and unconditional.

5.7 It is the settled law of this country that the statute of Limitation only bars the remedy but does not extinguish the debt. Under Section 25(3) of the Contract Act, a barred debt is good consideration for a fresh promise to pay the amount. When a debtor makes a payment without any direction as to how it is to be appropriated, the creditor has the right to appropriate it towards a barred debt. (*Vide* Section 60 of the Contract Act).

5.8 Indebtedness does not lose its character as such merely because it is barred; it still affords sufficient consideration to support a promise to pay,

and gives a creditor an insurable interest. When a debt becomes time-barred, it does not get extinguished, it would only affect its contractual rights. Such a right is of a permanent and indestructible character, unless either from the nature of the contract, or from its terms, it be limited in point of duration. Thus, the remedies for time barred debt are affected but the right does not get distinguished.

5.9 Section 25(3) of the Indian Contract Act, 1872, any "promise" in writing to pay a debt which is otherwise barred by time can be enforced as a fresh cause of action. This is because a "promise to pay" causes novation, thereby granting a fresh period of limitation of 3 years in terms of Article 137 of the Limitation Act, 1963.

5.10 The Hon'ble Supreme Court in *Kotak Mahindra Bank Ltd. v. Kew Precision Parts P. Ltd. (Supra)* in paragraphs 30 and 31 has laid down following:

> *"In this appeal, it is contended that the last offer of December 20, 2018 was followed by an agreement. Whether there was such agreement or not would have to be considered by the Adjudicating Authority. To invoke section 25(3), the following conditions must be satisfied:*
>
> *(i) It must refer to a debt, which the creditor, but for the period of limitation, might have enforced;*
>
> *(ii) There must be a distinct promise to pay such debt, fully or in part;*
>
> *(iii) The promise must be in writing, and signed by the debtor or his duly appointed agent.*

Under section 25(3), a debtor can enter into an agreement in writing, to pay the whole or part of a debt, which the creditor might have enforced, but for the limitation of a suit in law. A written promise to pay the barred debt is a valid contract. Such a promise constitutes novation and can form the basis of a suit independent of the original debt, for it is well-settled that the debt is not extinguished, the remedy gets barred by passage of time as held by this court in Bombay Dyeing and Manufacturing Co. ltd v. State of Bombay "

5.11 It is a settled law that unconditional acknowledgement to repay the debt by the CD to the Petitioner is an express promise to pay.

5.12 By signing the Settlement Agreement dated 20.01.2025, the CD agreed to its liability towards the Petitioner and has subsequently failed to ether to the same. I say that acknowledging liability through fresh agreement has given rise to fresh period of limitation and the law as laid down by Apex court in case of *Babulal Gurjar vs Veer Gurjar Aluminium Industries (P) Ltd. reported in (2019) 15 SCC 209* and in the case of *B.K. Educational Services (P) Ltd. vs Parag Gupta and Associates reported in (2019) 11 SCC 633* shall not apply in the facts of the given case. Sub-section (3) of Section 25 of the Contract Act applies to a case where there is a promise made in writing and signed by a person to be charged therewith to pay wholly or in part a debt which is barred by law of limitation. A promise covered by Subsection (3) becomes enforceable agreement notwithstanding the fact that it is a

promise to pay a debt which is already barred by limitation. Thus, Sub-section (3) of Section 25 of the Contract Act applies to a promise made in writing which is signed by a person to pay a debt which cannot be recovered by reason of expiry of period of limitation for filing a case for recovery.

5.13 Reliance is also placed on the judgment of the Hon'ble NCLAT in the matter of *Edelweiss Assets Reconstruction Company limited v. Nishi/and Park Limited, Company Appeal (AT) (Insolvency) No. 528 of 2021,* whereby the Petition was held to be within limitation on years after the date of default amounts to an express promise to pay a time barred debt under Section 25(3) of Contract Act and it was therefore held that limitation period would begin to run a fresh from the date of assignment agreement.

5.14 The reckoning of the default has to be made from the date of such compromise or a contract of which the appellant is signatory in relation to the amount which might have been otherwise barred by limitation, and the limitation for the purposes of section 7 of the IBC, 2016, will have to be construed from the date of the contract, as it has been settled in the matters of Kotak Mahindra Bank.

5.15 In cases where there is an admitted contract to pay time-barred debt under section 25(3) of Contract Act, for the purposes of period of limitation the date of acknowledgment would be determined from the date, when the settlement was entered into ensuring for remittance of the amount and thereafter when it was defaulted, it was on account of the default committed by the appellant, despite of the settlement agreement.

5.16 In the case of *Priyal Kantilal Patel v. IREP Credit Capital Pvt. Ltd., reported in 2023 SCC OnLine NCLAT 51* in which it has been held that a settlement

agreement does not bar the FC from filing a Section 7 petition. If CDs sign settlement agreements and then subsequently deny their liabilities then such kind of tricks would give a premium to unscrupulous CD to get the petition withdrawn on the basis of settlement which ultimately does not follow the same.

5.17 As far as the second issue of principle of res-judicata is concerned, the same applies when a matter has been decided between the parties in a proceeding and a final judgment has been given, and that neither party will be allowed to file a suit with the same parties regarding the same question of law or fact *which had been decided in the final judgement.* Thus, one of the essential ingredients to qualify a case for resjudicata is the Judgement given in the former suit must be final and binding. Thus, withdrawal of the petition by the Petitioner that too based on prior settlement terms which the answering Respondent/Corporate Debtor has indisputably breached cannot in any manner be interpreted that the case attained finality or that the matter was heard and decided on merits by the Hon'ble Tribunal.

5.18 Hon'ble Supreme Court in case of *Amruddin Ansari (Dead) Through Lrs and Others Versus Afajal Ali and Others reported in 2025 SCC OnLine SC 912* has observed that:

> *"23. The principle of res judicata is based on the common law maxim "nemo debet bis vexari pro una et eadem causa* ", *which means that no man shall be vexed twice over the same cause of action. It is a doctrine applied to give finality to a /is. According 10 this doctrine, an issue or a point once decided and*

*attends jinalit_1: should not be allowed to be reopened and re-agitated in a subsequent suit. In other words, if an issue involved in a suit is finally adjudicated by a Court of competent jurisdiction, the same issue in a subsequent suit cannot be allowed to be re-agitated**. It is, therefore, clear that for the application of principle of res judicata, there must be an adjudication of an issue in a suit by a court of competent jurisdiction.***

24. The term 'judgment" has been defined in Section 2(9) of the CPC which means a statement given by a Judge of the grounds of a decree or order.

25. The term "decree" has been defined under Section 2(2) of the CPC which reads as under:-

'"(2) "Decree" means the formal expression of an adjudication which, so far as regards the Court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final. It shall be deemed to include the rejection of a plaint and the determination of any question within section 144, but shall not include-

(a) any adjudication from which an appeal lies as an appeal from an order, or

(b) any order of dismissal for default."

26. From a plain reading of the term "decree", it is manifestly clew that to constitute a decree, there must be a formal expression of an adjudication which conclusively determines the right of the parties with regard to all or any of the matters in controversy in the suit, but the decree shall not include any adjudication from which an appeal lies as an appeal from an order or any order of dismissal for default. ft is, therefore, evidently clear that a dismissal of a suit or application for default particularly under Rule 2 or Rule 3 of Order IX of the CPC is not the formal expression of an adjudication upon any right claimed or the defence set up in a suit. An order of dismissal of a suit or application in default is also not appealable order as provided under Order XLIJ/ of the CPC If we read Order Xllll CPC, we will find that orders passed under Order IX, Rule 9 of the CPC or Order IX Rule 13 of the CPC are made appealable, but order passed under Order IX Rule 4 of the CPC is not appealable. It is, therefore, clear that an order of dismissal of a suit or application in default under Rule 2 or Rule 3 of Order IX of the CPC is neither an adjudication or a decree nor it is an appealable order. If that is so, such order of dismissal of a suit under Rule 2 or Rule 3 of Order IX of the CPC does not fulfill the requirement of the

term "judgment" or "decree", in as much as ***there is no adjudication. In our considered opinion, therefore,*** *if a* ***fresh suit is filed, then such an order of dismissal cannot and shall not operate a res judicata."***

5.19 Hon'ble Supreme Court in case of *Ebix Singapore Pvt. Ltd. vs CoC of Educomp Solutions Limited and Another* reported in (2022) *2 Supreme Court Cases 401,* has also dealt with the principle of Res-judicata and has observed as follows:

"179. In Satyadhyan Ghosal v. Deorajin Debi, a three-Judge Bench of this Court, speaking through K. C. Das Gupta, J explained the doctrine of res judicata in the following terms: (AIR p. 943, para 7)

"7. The principle of res judicata is based on the need of ***giving a finality to judicial decisions.*** *What it says is that once a res judicata, it shall not be adjudged again. Primarily it applies as between past litigation and future litigation. When a matter - whether on a question of fact or a question of law - has been decided between two parties in one suit or proceeding and the decision is final, either because no appeal was taken to a higher court or because the appeal was dismissed, or no appeal lies. neither party will be allowed in a future suit or proceeding between the same parties to canvass the matter again. This*

principle of res judicata is embodied in relation to suits in Section 11 of the Code of Civil Procedure; but even where Section 11 does not apply, the principle of res judicata has been applied by courts for the purpose of achieving finality in litigation. The result of this is that the original court as well as any higher court must in any future litigation proceed on the basis that the previous decision was correct. "

From the above extract, it is clear that while res judicata may have been codified in Section 11, that does not bar its application to other judicial proceedings, such as the one in the present case. "

….

186. Res judicata cannot apply solely because the issue has previously come up before the court. ***The doctrine will apply where the issue has been "heard and finally decided" on merits through a conscious adjudication by the court.*** *In the present case, the NLCT's order dismissing the first withdrawal application makes it clear that it had only considered only that part of Prayer (iv) which related to re - evaluation of the resolution plan, possibly because Ebix had hoped to reevaluate the resolution plan on the basis of the information received as a consequence of Prayers (i) and (ii) and those prayers*

were rejected since such information was not available ... "

5.20 Thus, the law with regard to *principle of res judicata* is unambiguous and same does not apply in cases where the matter/case is dismissed as withdrawn and has not been adjudicated by the competent court/authority.

6. SHORT NOTE OF SUBMUISSION (FC) dated 04.12.2025

6.1 The financial debt arises out of an Inter-Corporate Deposit (ICD) Agreement dated 10.02.2017**,** wherein the Financial Creditor deposited a sum of Rs.25,00,00,000/- (Rupees Twenty-Five Crores only) with the Corporate Debtor for general corporate purposes. The loan was secured by:

a) First and exclusive pledge of 91.06% of promoter shareholding in the Corporate Debtor,
b) A personal guarantee dated 10.02.2017 by Mr. Vishwajeet Jhawar.
c) A corporate guarantee dated 10.02.2017 by Marvel Realtors and Developers Limited, and
d) A Demand Promissory Note dated 10.02.2017.

6.2 The Corporate Debtor defaulted on repayment of both principal and interest, constituting an event of default under Clause 21.1 of the ICD Agreement. As per Clause 22.1.2, upon default, the Financial Creditor was entitled to declare the entire outstanding dues as immediately payable. Accordingly, a demand notice dated 31.10.2023 was issued, calling upon the Corporate Debtor to repay Rs.174.94 crores with further interest on Rs.81.66 crores until realization.

6.3 Subsequently, pursuant to a Demerger approved by the Hon'ble NCLT on 18.12.2023, the loan account was vested with APRN Enterprises Private Limited. Thereafter, both parties entered into a Settlement Agreement dated 20.01.2025, whereby the CD undertook to repay the outstanding dues on or before 28.02.2025. However, upon failure to honor the settlement terms, the Financial Creditor issued a cancellation letter dated 14.05.2025, terminating the settlement agreement.

6.4 Respondent is challenging the present petition preliminarily on two grounds viz (1) that the petition deals with time barred debt and hence is barred by limitation as contemplated in Section 238A of the Code read with Article 137 of the Limitation Act, 1963 and (2) present petition arises on the same cause of action as refereed in CP 520 of 2024 which was withdrawn by the Petitioner *vide* Order dated 27.09.2024 and hence petitioner is barred by the principles of res judicata.

6.5 Issue relating to limitation and the consequent maintainability of the present petition is concerned, the Petitioner has already placed on record a detailed chronology of events in the Additional Affidavit dated 14 August 2025, filed on the same date, clearly demonstrating that the petition is not barred by limitation. The present petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 on the basis of a Settlement Agreement dated 20.01.2025. The Petitioner further relies upon the judgment of the Hon'ble Supreme Court in Kotak Mahindra Bank Ltd. v. Kew Precision Parts Pvt. Ltd., judgment dated 05 August 2022, reported in (2022) 9 SCC 364, wherein it has been categorically held that a written promise to pay a time-barred debt constitutes a valid and enforceable

contract amounting to novation, capable of forming the basis of independent proceedings, and that such acknowledgment gives rise to a fresh period of limitation. Vide cancellation letter dated 14 May 2025, the terms of settlement stood cancelled since the Corporate Debtor has admittedly failed to adhere to its obligations thereunder.

6.6 Reliance is further placed on the judgment of the Hon'ble National Company Law Appellate Tribunal in Edelweiss Asset Reconstruction Company Limited v. Nishiland Park Limited, Company Appeal (AT) (Insolvency) No. 528 of 2021, wherein it was held that an acknowledgment and express promise to pay, even if made several years after the original date of default, constitutes a valid promise to pay a time-barred debt under Section 25(3) of the Indian Contract Act, 1872, thereby giving rise to a fresh and independent cause of action. Therefore, in cases where there is an admitted contract to pay time-barred debt under section 25(3) of Contract Act, for the purposes of period of limitation the date of acknowledgment would be determined from the date, when the settlement was entered into ensuring for remittance of the amount and thereafter when it was defaulted, it was on account of the default committed by the appellant, despite of the settlement agreement.

6.7 In the case of Priyal Kantilal Patel v. IREP Credit Capital Pvt. Ltd., reported in 2023 SCC OnLine NCLAT 51 in which it has been held that a settlement agreement does not bar the FC from filing a Section 7 petition. If Corporate Debtor sign settlement agreements and then subsequently deny their liabilities then such kind of tricks would give a premium to unscrupulous Corporate Debtor to get the petition withdrawn on the basis of settlement which ultimately does not follow the same.

6.8 It is a settled position of law that the doctrine of res judicata applies only where a matter has been adjudicated between the same parties and a final and binding judgment on merits has been rendered, thereby precluding re-litigation of the same issues of law or fact. One of the essential prerequisites for the applicability of res judicata is that the judgment in the former proceedings must have attained finality after due adjudication. In the present case, the earlier petition was withdrawn by the Petitioner on the basis of settlement terms, which settlement has been indisputably breached by the answering Respondent/Corporate Debtor. Such withdrawal cannot be construed as a final adjudication on merits or as conferring finality to the issues involved. In case of Amruddin Ansari (Dead) Through Lrs and Others Versus Afajal Ali and Others reported in 2025 SCC OnLine SC 912 it was observed that an order of dismissal of a suit or application in default under Rule 2 or Rule 3 of Order IX of the CPC is neither an adjudication or a decree, nor is it an appealable order. If that is so, such order of dismissal of a suit under Rule 2 or Rule 3 of Order IX of the CPC does not fulfill the requirement of the term "judgment" or "decree", inasmuch as there is no adjudication. In our considered opinion, therefore, if a fresh suit is filed, then such an order of dismissal cannot and shall not operate a res judicata.

6.9 In case of Ebix Singapore Pvt Ltd vs CoC of Educomp Solutions Limited and Another reported in (2022) 2 Supreme Court Cases 401, has also dealt with the principle of Res-judicata and has observed that the principle ofres judicata is based on the need of giving a finality to judicial decisions and the doctrine will apply where the issue has been "heard and finally decided" on merits through a conscious adjudication by the court.

6.10 Thus, the law with regard to the principle of res judicata is unambiguous and same does not apply in cases where the matter/case is dismissed as withdrawn and has not been adjudicated by the competent court/authority.

7. WRITTEN SUBMISSIONS (CD)

7.1 The present petition is barred by limitation as contemplated under Section 238A of the Code read with Article 137 of the Limitation Act, 1963. The cause of action arose on 10.05.2017, being the stipulated date for repayment under the Inter-Corporate Deposit ("ICD") Agreement dated 10.02.2017. The default, if any, thus occurred on that date and the limitation period expired in 2020. The present petition, filed in 2025, is therefore hopelessly time-barred and liable to be dismissed *ab initio.*

7.2 The recall notice dated 31.10.2023, issued more than six years after the original default, cannot operate as an acknowledgment under Section 18 of the Limitation Act nor create a fresh cause of action. It is well settled that once the limitation period expires, no subsequent correspondence or recall notice can revive a stale claim.

7.3 The Petitioner's reliance on the Settlement Agreement dated 20.01.2025 is misplaced. The said agreement, executed long after the expiry of the limitation period, amounts to a novation of the earlier ICD Agreement and cannot serve to revive a time-barred debt. The judgment in *Kotak Mahindra Bank Ltd. v. Kew Precision Parts Pvt. Ltd. (2022) 9 SCC 364* supports this proposition, clarifying that such a promise constitutes a fresh contract and does not extend limitation for the original debt.

7.4 The Hon'ble Supreme Court in *Tottempudi Salalith v. State Bank of India (2024) 1 SCC 24* has reaffirmed that the limitation period under Section 7 of the IBC begins from the date of default, and any acknowledgment made after expiry of that period cannot revive a time-barred claim. Similarly, in *B.K. Educational Services Pvt. Ltd. v. Parag Gupta & Associates (2019) 11 SCC 633 and Babulal Vardharji Gurjar v. Veer Gurjar Aluminium Industries Pvt. Ltd. (2020) 15 SCC 1*, the Supreme Court held that proceedings under the IBC cannot be used to enforce extinguished debts.

7.5 In the present case, the admitted default occurred on 10.05.2017, and the limitation expired in 2020. The subsequent recall notice dated 31.10.2023, issued well beyond this period, cannot extend or revive limitation. Hence, the petition is ex facie time-barred and liable to be dismissed *in limine*.

7.6 The Petitioner has approached this Hon'ble Tribunal with unclean hands, having deliberately suppressed material facts and misrepresented the true date of default. It has concealed that it had earlier filed CP (IB) No. 520 of 2024 before this Hon'ble Tribunal against the same Respondent, based on the identical cause of action arising from the same Inter-Corporate Deposit Agreement.

7.7 The said CP (IB) No. 520 of 2024 was found defective for being barred by limitation, and the Petitioner, instead of curing the defect, sought liberty to withdraw it unconditionally. This Hon'ble Tribunal, by order dated 27.09.2024, dismissed the petition as withdrawn without granting any liberty to refile. The present petition, founded on the same cause of action, is therefore barred by principles analogous to res judicata embodied in Order XXIII Rule 1(4) of the Code of Civil Procedure, 1908.

7.8 In *Sarguja Transport Service v. State Transport Appellate Tribunal (1987) 1 SCC 5*, the Supreme Court held that where a party withdraws a proceeding unconditionally and without liberty to file afresh, it is precluded from reagitating the same cause of action in a subsequent proceeding, as such withdrawal amounts to abandonment of the claim. This principle, though derived from civil procedure, was held to extend to all judicial and quasi-judicial proceedings to prevent multiplicity of litigation and forum abuse.

7.9 The Supreme Court has recently reaffirmed this position in *HPCL Bio-Fuels Ltd. v. Shahaji Bhanudas Bhad, 2024 SCC OnLine SC 3190*, holding that even though Order XXIII Rule 1 CPC may not apply *stricto sensu* to arbitral or insolvency matters, its underlying principle applies as a rule of public policy to prevent re-litigation of the same dispute once a party has withdrawn roceedings without express liberty to refile. The Petitioner, having consciously withdrawn CP (IB) No. 520 of 2024 without any liberty, is precluded from re-agitating the same claim through the present petition. The attempt to revive the same cause of action by instituting a fresh proceeding constitutes a clear abuse of the process of this Hon'ble Tribunal.

7.10 In light of the foregoing, it is respectfully submitted that the present petition is barred by *res judicata* and analogous procedural principles. The Petitioner's repeated attempts to agitate an identical, time-barred claim amount to forum abuse and should be rejected at the threshold.

7.11 In view of the foregoing, the present petition is not only hopelessly barred by limitation but is also vitiated by suppression of material facts and abuse of process. The Petitioner, having concealed the earlier proceedings in CP (IB) No. 520 of 2024 and attempted to misstate the date of default, has failed

to approach this Hon'ble Tribunal with candour and good faith. The petition seeks to revive a time-barred and extinguished claim under the guise of insolvency proceedings, which is impermissible in law and contrary to the settled jurisprudence of the Hon'ble Supreme Court. Accordingly, the present petition deserves to be dismissed in limine, with exemplary costs imposed upon the Petitioner for misuse of the process of this Hon'ble Tribunal.

8. ANALYSIS AND FINDINGS

8.1 We have perused the documents as placed before us and heard both the Ld. Counsels for the Applicant and the CD.

8.2 The undisputed/admitted facts in this matter are:

a) Inter-Corporate Deposit Agreement dated 10.02.2017 was signed between PRPL Enterprises Private Limited and the CD for a sum of Rs.25,00,00,000/-.

b) The said amount was disbursed on 10.02.2017 for general corporate purposes and was secured by pledge of 91.06% of promoter shareholding, a personal guarantee, a corporate guarantee, and a demand promissory note, all dated 10.02.2017.

c) The CD failed to repay the said amount along with interest, and a recall notice dated 31.10.2023 was issued demanding an aggregate sum of Rs.174,94,18,485/-.

d) Subsequently the parties entered into a Settlement Agreement dated 20.01.2025 whereby the CD undertook to repay the dues on or before

28.02.2025, which obligation was not fulfilled, leading to cancellation of the settlement on 14.05.2025.

8.3 However, several issues remain disputed, namely:

a) The principal dispute between the parties revolves around the issue of limitation and maintainability of the present petition.

b) The CD has contended that the date of default is 10.05.2017, being the contractual due date under the ICD Agreement, and therefore the limitation period expired in the year 2020, rendering the present petition time-barred under Section 238A of the IBC read with Article 137 of the Limitation Act, 1963. It is further contended that the recall notice dated 31.10.2023 cannot revive a time-barred claim and that the Settlement Agreement dated 20.01.2025, being executed after expiry of limitation, amounts to a novation and cannot be treated as an acknowledgement under Section 18 of the Limitation Act.

8.4 It is a settled and fundamental principle of contract law that where parties, acting with full knowledge and free consent, have entered into a binding agreement, the adjudicatory forum is not vested with the jurisdiction to rewrite, vary, or dilute the terms of such agreement. The role of this Adjudicating Authority is confined to examining the existence of a legally enforceable debt and default, and not to redesign the commercial bargain struck between the parties. In the matter at hand, the Settlement Agreement dated 20.01.2025 is an admitted document, the execution and contents of which have not been denied by either side. Once such an agreement is placed on record, the Tribunal is bound to give full effect to its terms as agreed.

8.5 In this regard, Clause 6 of the Settlement Agreement assumes critical importance and reads as follows:

> *"6. That it is hereby understood and agreed between the Parties that if the Obligors fail to honour their obligations under this Settlement Agreement for any reason whatsoever; including their obligation to make payments in accordance with Clause 3 (three) of this Settlement Agreement, then the same shall be construed as an Event of Default under Loan Agreement as well as this Settlement Agreement. Consequently, the Parties will revert back to their original position under Loan, as existing prior to the execution of this Settlement Agreement and the original terms of the Loan Agreement, including all claims and all associated and connected documents, including the security documents and guarantees, shall become applicable and prevail with immediate effect. The Lender shall be entitled to seek recovery of the entire amounts due and payable by the Obligors under the Loan Agreement and security documents, as on date of breach of this Settlement Agreement along with the accumulated interest and other amounts thereon."*

8.6 A plain reading of the above clause leaves no doubt that the parties themselves have contractually stipulated the consequence of breach,

namely, automatic reversion to the original loan arrangement along with revival of all rights, securities, guarantees and claims. This is not a situation where the Tribunal is required to infer intention or fill gaps; rather, the contract explicitly governs it. Any attempt by the Tribunal to disregard or dilute this clause would amount to rewriting the contract, which is impermissible in law.

8.7 The Hon'ble Supreme Court has consistently held that courts and tribunals cannot rewrite the terms of a contract between parties. In *Nabha Power Ltd. v. Punjab State Power Corporation Ltd*. (Civil Appeal No.179 of 2017), the Hon'ble Supreme Court categorically held that a contract must be interpreted as it stands, and courts cannot add, subtract, or substitute terms under the guise of interpretation. It was observed that commercial contracts must be enforced strictly in accordance with their terms, particularly when they are entered into between parties of equal bargaining power.

8.8 In *Maharashtra State Electricity Distribution Co. Ltd. v. Datar Switchgear Ltd.* [2018 (3) SCC 133], the Hon'ble Supreme Court reaffirmed that contractual stipulations voluntarily agreed between parties are binding and cannot be altered by judicial intervention unless found to be illegal or contrary to public policy.

8.9 Contractual terms governing the relationship between parties cannot be disregarded, and the adjudicatory authority must give due effect to such terms unless specifically prohibited by statute.

8.10 The principle has also been echoed more recently in insolvency jurisprudence by the Hon'ble Supreme Court in *Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Ltd.* reported in (2022) 2

Supreme Court Cases 401, wherein it was held that the Adjudicating Authority cannot modify or alter the terms of a binding agreement and must respect the commercial wisdom and contractual autonomy of parties. Though rendered in the context of resolution plans, the ratio squarely applies to contractual arrangements, including settlement agreements.

8.11 Courts cannot rewrite contracts for the parties and must enforce the bargain as agreed, unless it is diminished by fraud, coercion or illegality, none of which is even alleged in the present case. Contractual rights, particularly those arising from financial documents and guarantees, must be respected and cannot be interfered with except in accordance with law. The Insolvency framework does not permit adjudicatory authorities to ignore binding contractual stipulations, especially where they clearly define the consequences of default.

8.12 Applying the aforesaid principles to the present case, once the parties have expressly agreed under Clause 6 that upon breach of the Settlement Agreement the original loan obligations revive in toto, the Tribunal is bound to enforce such stipulation. The Tribunal cannot selectively disregard the revival clause or impose a different consequence, as that would constitute judicial rewriting of the contract.

8.13 This position is further encouraged by the law laid down in *Kotak Mahindra Bank Ltd. v. Kew Precision Parts Pvt. Ltd*. [2022] 9 SCC 364, wherein the Hon'ble Supreme Court held that a written promise to pay a time-barred debt constitutes a valid and enforceable contract, amounting to novation, and gives rise to a fresh cause of action. Once such a contract is entered into, its terms must be enforced as they stand. The Court specifically

observed that the new agreement is independent and enforceable, and that the Adjudicatory Authority must proceed based on the rights flowing from such agreement.

8.14 Therefore, when the Settlement Agreement in the present case contains (i) an unequivocal promise to pay, and (ii) a clearly defined consequence of default through Clause 6, the Tribunal cannot selectively enforce only parts of the agreement or disregard its operative provisions. The law does not permit a court or tribunal to create a new contract for the parties under the guise of interpretation. The only legally permissible course is to enforce the agreement as it stands.

8.15 In this backdrop, the CD's attempt to rely on limitation while simultaneously ignoring the binding effect of the Settlement Agreement is untenable. Having consciously entered into the agreement and accepted its terms, including Clause 6, the CD cannot now seek to avoid its consequences. To permit such a course would not only amount to rewriting the contract but would also undermine commercial certainty and sanctity of agreements, which the Supreme Court has repeatedly cautioned against.

8.16 Accordingly, this Adjudicating Authority is bound to give full effect to the Settlement Agreement, including Clause 6, and cannot substitute its own interpretation or equitable considerations in place of the clear contractual stipulations agreed between the parties.

8.17 We also hold that the Application is complete as all the required details/ documents have been provided/ attached along with the Application. Further, there are no disciplinary proceeding pending against the proposed

IRP as is seen from the statement made by the said proposed IRP in its consent form.

8.18 In the view of the above, we hold that the Applicant has been able to establish the existence of a debt and default for an amount exceeding the threshold of Rs. One Crore as per section 4 of IBC and that the other requirements of section 7(5)(a) of IBC and fulfilled and therefore, the Application deserves to be admitted.

8.19 We make it clear that at this stage we have not crystallised the amount as claimed in this Application; the same is left to be collated by the IRP.

ORDER

In view of the aforesaid findings, this Application bearing C.P. (IB) 732/MB/2025 filed under Section 7 of IBC, 2016 by APRN Enterprises Private Limited, the FC for initiating CIRP in respect of Marveledge Realtors Private Limited, the CD, is **admitted.**

We further declare a moratorium under Section 14 of IBC, 2016 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 the 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 Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and;

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 IBC 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 immediately as specified under Section 13 of the IBC 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. Nilesh Rajendra Kothari**, having **Registration No. as IBBI/IPA-002/IP-N01225/2022-2023/14132**, and **e-mail address ip.nkothari@gmail.com ,** having AFA valid till 30.06.2027**,** as the IRP to carry out the functions under the IBC.

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 IBC. The officers and managers of the Corporate Debtor are directed to provide all 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 IBC 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 Financial Creditor is directed to deposit a sum of Rs.3,00,000/- (Three Lakh Rupees) 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 Financial Creditor on priority upon the funds becoming 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 Financial Creditor, 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)**

//AS//