

**NATIONAL COMPANY LAW TRIBUNAL**  
**MUMBAI BENCH COURT VI**

Item No. P1.

C.P. (IB)/685(MB)2025

CORAM:

**SHRI SAMEER KAKAR**  
**HON'BLE MEMBER (TECHNICAL)**

**SHRI NILESH SHARMA**  
**HON'BLE MEMBER (JUDICIAL)**

ORDER SHEET OF HEARING (HYBRID) DATED **17.03.2026**

NAME OF THE PARTIES:

**State Bank of India**

**Vs**

**M/s Sumeru Bulcon 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/-**

**SAMEER KAKAR**  
**MEMBER (TECHNICAL)**

//Sumant//

**Sd/-**

**NILESH SHARMA**  
**MEMBER (JUDICIAL)**

**IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI**

**C.P. (IB)/685/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]*

**STATE BANK OF INDIA**

[PAN No. AAACS8577K]

1<sup>st</sup> Floor , State Bank Bhavan,

Madam Cama Road, Nariman Point

Mumbai - 400021

**...Financial Creditor**

V/s

**M/s. SUMERU BUILDCON PRIVATE LIMITED**

[CIN No. U45200PN2012PTC144824]

Sumeru Devepolers

Shop No.1 & 2 Sr. No. 33 Omkar Apartment ,

Manikbaug Singhagad Road, Pune

Maharashtra - 411051

**...Corporate Debtor**

**Pronounced: 17.03.2026**

**CORAM:**

**HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)**

**HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)**

**Appearances: Hybrid**

For Applicant: Adv. Mr. Subir Kumar a/w Adv Ms. Ashita Agrawal i/b SDS  
Advocate

For Respondent: Ex-Parte

**ORDER**

***[PER: CORAM]***

**1. BACKGROUND**

1.1. C.P. (IB) No.685/MB/2025 (Application) was filed on 22.05.2025 by **State Bank Of India**, the Financial Creditor (FC), 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, for initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of M/s **Sumeru Buildcon Private Limited** the Corporate Debtor having CIN No. U45200PN2012PTC144824

1.2. This Application has been affirmed by one Mr. Shahid Kamal, Assistant General Manager of the Applicant duly authorised by Gazette Notification No.18 dated 02.05.1987 issued under State Bank of India , General Regulation 1955.

1.3. As per Part IV of the Application, the amount claimed to be in default is Rs.40,76,33,602/- (Rupees Forty Crore Seventy-Six Lakhs Thirty-Three Thousand Six Hundred Two Only).

1.4. The date of default is 29.06.2021 as mentioned in Part IV of the Application.

1.5. The Applicant has proposed Mr. Srigini Rajat Naidu , having Registration No.IBBI/IPA-003/IP-N00137/2017-2018/11513,to act as the Interim Resolution Professional (IRP) having valid Authorisation for Assignment up to 31.12.2026 (as per IBBI site), in case the Application is admitted.

## **2. CONTENTIONS OF APPLICANT (FC)**

2.1. The Applicant submits that the Corporate Debtor namely M/s Sumeru Buildcon is engaged in the Construction and Civil Engineering Business.

2.2. The Applicant states that various credit facilities including Fund and non-Fund based facilities were granted to the Corporate Debtor in the year 2018 & 2020.

2.3. The Applicant states that it had granted a Cash Credit Facility of Rs. 25 crores vide sanction letter dated 29.11.2018 and this facility was executed as a Loan Cum Hypothecation Agreement on the same day . The Copy of Sanction letter & Loan cum Hypothecation Agreement are attached as **Annexure E & Annexure K** to the Application respectively.

2.4. Further, this Cash Credit Facility was secured by various documents including Mortgage Deed , Guarantee Agreement & Hypothecation Agreement.

2.5. Further, again the Applicant granted a Working Capital Term Loan under Guarantee Emergency Credit Line (GECL) facility of Rs 4.08 crore vide Sanction letter dated 10.08.2020 and the existing cash Credit facility of 25 crore was also renewed . The same was executed on 10.08.2020 vide

Supplemental agreement of Loan Cum Hypothecation. The Copies of Sanction Letter and Supplemental agreement of Loan Cum Hypothecation are attached as **Annexure F & Annexure M** to the Application respectively.

2.6. The Applicant states that the amount of Rs 25 Crore pertaining to Cash Credit Facility was disbursed on 29.11.2018 and an amount of Rs. 4.08 crore was disbursed on 10.08.2020 pertaining to Working Capital Term Loan under Guarantee Emergency Credit Line (GECL) facility.

2.7. As the Corporate debtor failed to repay the amount as per the terms and condition agreed, the account of Corporate Debtor was classified as NPA on 26.09.2021.

2.8. The Applicant also sent a re-call notice dated 27.10.2021 under section 13(2) of the SARFAESI Act 2002 to the Corporate Debtor. However, the amount demanded has not been repaid till date.

2.9. The date of default as mentioned in the NeSL report is 29.06.2021 & the Status of Authentication of Default is "AUTHENTICATED".

2.10. Part V of the Application states the particulars of the security held which includes :-

- i. First charge on piece of land admeasuring 6,365.14 sq.mtr. situated at S. no. 150 Hissa No. 4+7,5/12,1/3(P),10 at Village Dhayari, Taluka Haveli District Pune.
- ii. First charge on stock and receivables form project Navjyot Abha Phase II situated at S. no. 150 Hissa No. 4+7,5/12,1/3(P),10 at Village Dhayari, Taluka Haveli District Pune.
- iii. Negative lien on unsold unites relating to the project avjyot Abha Phase II situated at S. no. 150 Hissa No. 4+7,5/12,1/3(P),10 at Village Dhayari, Taluka Haveli District Pune

- iv. Deed of further charge 13.10.2020 by Registered Mortgage on Land admeasuring 2115.11 sq. mtr. situated at S. no. 128 Hissa No. 5/2/1 at Village Dhayari, Taluka Haveli District Pune

2.11.The Applicant has attached the following documents along with the Application and / or Additional Affidavit:

- a) Copy of the master data of the Corporate Debtor
- b) Copy of Written Consent in Form 2 issued by RP
- c) Copy of Sanction letter dated 29.11.2018 for Cash Credit Facility
- d) Copy of Sanction letter dated 10.08.2020 for Cash Credit & GECL Facility
- e) Statement of Accounts for both the Facilities
- f) Deed of Mortgage dated 29.11.2018
- g) Guarantee Agreements dated 29.11.2018 & 10.08.2020
- h) Agreement of loan cum hypothecation dated 29.11.2018
- i) Supplemental Agreement of Loan cum Hypothecation dated 10.08.2020
- j) Deed of Further Charge dated 13.10.2020
- k) Copy of NeSL record of default
- l) Copy of certificate under banker's book evidence
- m) Copy of Section 13(2) Notice under SARFAESI Act dated 27.10.2021
- n) Copy of project valuation report.
- o) Copy of the Email dated 29.11.2022 from the Corporate Debtor to the Financial Creditor acknowledging the debt.

p) A Copy of the Email dated 31.03.2023 from the Financial Creditor to the Corporate Debtor.

q) Copy of the letter by the Corporate Debtor.

**3. ADDITIONAL AFFIDAVIT (FC) dated 31.07.2025**

3.1. This Tribunal at the hearing held on 24.07.2025 had granted an opportunity to the Applicant to file Additional Affidavit for modifying Form 1 and to show whether the Application is within limitation.

3.2. Additional Affidavit dated 31.07.2025 was filed by the Applicant through Mr. Vimal Homi Vachha, who is stated to be an authorized Representative of the Applicant.

3.3. The Applicant vide Additional Affidavit submits that the Corporate Debtor issued letter of Acknowledgement via email dated 29.11.2022. The Copy of email is attached as **Exhibit B** of the additional Affidavit.

3.4. Further the Applicant intimated the Corporate Debtor via email dated 31.03.2023 that restructuring is not viable and upon depositing of Rs. 75 lakh the bank will not Proceed with SARFAESI action. As a result, the Corporate Debtor deposited the said amount and requested not to initiate recovery action vide letter dated 31.03.2023. The Copies of the said email and letter are attached as **Exhibit C & D** of the Additional Affidavit.

3.5. The Applicant has also provided Statement of Accounts which shows the receipt of Rs 75 Lakh in furtherance to the Acknowledgement of Debt. The Statement of Accounts is attached as **Exhibit E** of the Additional Affidavit.

3.6.The Applicant has also modified the Part IV of the Form 1 and has included the following table.

<i>Sr No.</i>	<i>Particulars</i>	<i>Date</i>	<i>Annexure/Page No.</i>
1.	<i>Date of Default</i>	29.06.2021	Ann-P @pg.220 is NeSL Certificate
2.	<i>Date of NPA</i>	26.09.2021	Amm-R@pg 243 is the Demand Notice dtd.27.10.2021
3.	<i>Letter of acknowledgement issued by Corporate Debtor via email dated 29.11.2022</i>	29.11.2022	
4.	<i>Email from the Financial Creditor to the Corporate Debtor intimating that restructuring of Account is not possible and upon depositing of 75 lacs , the bank will not proceed with SARFAESI action</i>	31.03.2023	

5.	<i>Corporate Debtor deposited the Amount of 75 lacs</i>	05.04.2023	
6.	<i>Statement of Account showing the receipt of 75 lacs in furtherance to acknowledgement of debt</i>		

#### **4. REPLY BY CORPORATE DEBTOR**

4.1. Notice was issued to the Corporate Debtor by this Tribunal vide order dated 10.09.2025. The Applicant has placed on record a tracking report issued by the postal authorities, which reveals that Court notice was not served on the Respondent and the Consignment was returned to the sender.

4.2. This Tribunal again directed the Registry to prepare Substitutes Service Notice and hand over the same to the Ld. Counsel of the Applicant. The Applicant was directed to carry out paper publication in Two newspapers i.e one English and One Vernacular Language.

4.3. The Applicant thereafter published the Notice in Financial Express and Loksatta on 14.10.2025.

4.4. Vide order dated 18.12.2025 last opportunity was given to the Respondent to appear and make submissions.

4.5. The CD never appeared, hence, vide Order dated 12.01.2026, the CD was set ex-parte.

## 5. WRITTEN SUBMISSIONS BY FINANCIAL CREDITOR

5.1. The Financial Creditor has reiterated the facts in the Written Statement.

For the sake of brevity, the same are not repeated here.

5.2. Further the Financial Creditor has placed reliance on judgement of Hon'ble Supreme Court in **Dena Bank Vs C. Shivkumar Reddy and Anr(2021)10SCC330** .

## 6. ANALYSIS AND FINDINGS

6.1. We have perused the documents as placed before us and have heard the Ld. Counsel for the Applicant. Our findings in the matter are as under:-

6.2. On perusal of the documents we observe that the State Bank of India sanctioned two credit facility namely Cash Credit Facility and Working Capital Term Loan under Guarantee Emergency Credit Line (GECL) facility Rs 25 Crore on 29.11.2018 and Rs 4.08 Crore on 10.08.2020 respectively. These loans were disbursed by the Applicant to the Corporate Debtor on 29.11.2018 and 10.08.2020. Applicant has filed Certificate under Bankers Books Evidence Act, supporting the disbursement at page number 239 of the Application.

6.3. The repayment terms of the Cash Credit facility of Rs 25 Crore was that the funds would be available for a period of 36 months including a moratorium of 24 months. The same would be repaid on or before last

day of each Quarter after the 24 months moratorium period. The Repayment Schedule is here as under:-

<i>Year</i>	<i>No of Months</i>	<i>No of Installments</i>	<i>Repayment</i>
<i>Upto Sept 2020</i>	<i>24</i>	<i>Moratorium</i>	<i>0.00</i>
<i>Oct 2020 to Dec 2020</i>	<i>3</i>	<i>Rs 3.00 crore x 1 Equal Quaterly Installments</i>	<i>3.00</i>
<i>Jan 2021 to Mar 2021</i>	<i>3</i>	<i>Rs 6.00 crore x 1 Equal Quaterly Installments</i>	<i>6.00</i>
<i>April 2021 to June 2021</i>	<i>3</i>	<i>Rs 7.50 Crore x 1 Equal Quaterly Installments</i>	<i>7.50</i>
<i>July 2021 to Sept 2021</i>	<i>3</i>	<i>Rs. 8.50 crore x 1 Equal Quaterly Installments</i>	<i>8.50</i>
<i>Total</i>	<i>36</i>		<i>25.00</i>

6.4. Further the repayment terms for the Working Capital Term Loan Limit (under GECL) was that it was available for 15 months including a 3 month moratorium .The same would be repaid in 12 Monthly instalments after the 3 month Moratorium period. The Repayment Schedule is reproduced here under:-

<i>Year</i>	<i>No. of Months</i>	<i>No. of Instalments</i>	<i>Amount (Rs in Crs)</i>
<i>Upto Sept 2020</i>	<i>3</i>	<i>Moratorium</i>	<i>0.00</i>
<i>Oct 2020 to Sept 2021</i>	<i>12</i>	<i>Rs. 3400000 x 12 Monthly Installment</i>	<i>4.08</i>
<i>Total</i>	<i>15</i>		<i>4.08</i>

6.5. There was no repayment by the Corporate Debtor with respect to both the Loans on the due dates. Hence the account of the Corporate Debtor was classified as NPA on 26.09.2021.

6.6. The Financial Creditor thereafter issued 13(2) demand Notice under SARFAESI Act dated 27.10.2021 demanding repayment of Rs 26,82,18,484.94 within a period of 60 days, however the same has not been paid till date.

6.7. The Date of Default is 29.06.2021, which can also be seen from NeSL Form D. On further perusal of NeSL Form D it is observed that status of the Authentication of default is "AUTHENTICATED".

6.8. Further the Corporate Debtor has acknowledged the Debt vide email dated 29.11.2022 wherein it requested the Financial Creditor to restructure the Loan account however the same was rejected by the Financial Creditor.

6.9. Further the Corporate Debtor had also deposited Rs.75 lakhs on 05.04.2023.

6.10. Hence as the date of default is 29.06.2021 the limitation shall begin from that date. However as Corporate Debtor has acknowledged the debt due within period of 3 years on 29.11.2022. It is seen from the account Statement that a sum of Rs 75 lakh was deposited by the Corporate Debtor on 05.04.2023. This extends the limitation by a further period of 3 years. The present application was filed on 22.05.2025 and as such the same is within limitation.

6.11. This Tribunal has relied on Hon'ble Supreme Court's judgment in the matter of **Dena Bank v. C. Shivkumar Reddy, (2021) 10 SCC 330**, wherein it was held that:-

*“139 Section 18 of the Limitation Act cannot also be construed with pedantic rigidity in relation to proceedings under the IBC. This Court sees no reason why an offer of One Time Settlement of a live claim, made within the period of limitation, should not also be construed as an acknowledgment to attract Section 18 of the Limitation Act....Be that as it may, the Balance Sheets and Financial Statements of the Corporate Debtor for 2016-2017, as observed above, constitute acknowledgement of liability which extended the limitation by three years.*

6.12. Considering the facts of this matter and applying the decision of the Hon'ble Supreme Court in Dena Bank (Supra) we are of the view that as the present Application is filed on 22.05.2025 which is within a period of three years from the date of acknowledgement of debt by the Corporate

Debtor through its restructuring proposal dated 29.11.2022, the petition is well within limitation. Moreover on 05.04.2023 there was also a payment of Rs 75 lakh made by the Corporate Debtor which further extended the limitation.

- 6.13. Further this Tribunal has relied in the matter of Power Trust (Promoter of Hiranmaye Energy Ltd.) v. Bhuvan Madan, IRP of Hiranmaye Energy Ltd. and Ors. Civil Appeal No(s). 2211/2024 wherein the Hon'ble Supreme Court has *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. 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. 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.<sup>26</sup> 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.<sup>27</sup> “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.<sup>28</sup> “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.<sup>29</sup> 31. In *Swiss Ribbons (P) Ltd. v. Union of India* [(2019) ibclaw.in 03 SC],<sup>30</sup> 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)*

- 6.14. In view of the above discussion, the Applicant has successfully demonstrated the existence of a financial debt as the transaction involves money borrowed against the payment of interest under section 5(8)(a) of IBC 2016, the occurrence of default which is way above the threshold as stipulated under Section 4 of the Code , and continuing nature of such default supported by clear documentary evidence.
- 6.15. Financial Creditor has also proposed the name of an Insolvency Professional (IP) i.e. Srigini Rajat Naidu , having Registration No IBBI/IPA-003/IP-N00137/2017-2018/11513 as the proposed IRP and as per the Form 2 attached along with the Application, no disciplinary proceedings are going on against the said IRP. Further, this Application is complete as all the required documents have been attached along with the Application. Accordingly, the present Application is fit for admission under Section 7 of the IBC, 2016.
- 6.16. 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) 685/MB/2025 filed under Section 7 of IBC, 2016, by State Bank Of India, the Applicant (FC) for initiating CIRP in respect of M/s. Sumeru Buildcon Private Limited the Corporate Debtor, 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. Srigini Rajat Naidu, having Registration No. **IBBI/IPA-003/IP-N00137/2017-2018/11513** and **e-mail address [rajat.naidu@yahoo.com](mailto:rajat.naidu@yahoo.com)** having valid Authorisation for Assignment up to 31.12.2026 (as per IBBI site) 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. **6,00,000/-** (Six 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, Pune Maharashtra, 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 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. It is observed that the Corporate Debtor is a real estate developer. Accordingly, the Resolution Professional (RP) is directed to display Form A on a flex sheet of reasonable size at a conspicuous place, preferably at the main gate or another prominent location within the premises of the development project, so as to ensure adequate public notice.
- XV. **Compliance report of the order by Designated Registrar is to be submitted today.**

**Sd/-  
SAMEER KAKAR  
MEMBER (TECHNICAL)**

//SJ/

**Sd/-  
NILESH SHARMA  
MEMBER (JUDICIAL)**