



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **16.03.2026** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

APPLICATION NUMBER :
PETITION NUMBER : CP(IBC)/95(CHE)/2025
NAME OF THE PETITIONER(S) : M/s V S Enterprises
NAME OF THE RESPONDENTS : M/s Futuristic Global Resources Pvt Ltd
UNDER SECTION : Sec 7 Rule 4 of IBC, 2016

ORDER

Present: Ld. Counsel Shri. Aadarsh for the Petitioner.

Vide separate order pronounced in Open Court, the petition is dismissed.

File be consigned to records.

Sd/-

(VENKATARAMAN SUBRAMANIAM)
MEMBER (TECHNICAL)

MG

Date: 16.03.2026

Sd/-

(SANJIV JAIN)
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI**

CP(IB)/95(CHE)/2025

*(filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 under r/w Rule 4 of the
Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)*

In the matter of

M/s. Futuristic Global Resources Private Limited

V.S. Enterprises,

A Partnership Firm registered under The Indian
Partnership Act, 1932,

Represented by its Partner: Mr. Vipul Mehta,

Having its Registered Office at:

Old No. 87, New No. 177,

N.S.C. Bose Road, Chennai-600 079

... Petitioner/Financial Creditor

Versus

Futuristic Global Resources Private Limited,

A Private Limited Company incorporated under the
Provisions of the Companies Act, 2013

Having its Registered Office at:

No. 572/533, Anna Salai, Teynampet,

Chennai-600 018

... Respondent/Corporate Debtor

Present:

For Petitioner : *Shri. K. Pawan Jhabakh, Advocate*

Shri. Adharsh S., Advocate

For Respondent : *Shri. Dhanaram Ramachandran, Advocate*

Shri. Yashwanth Hariharan, Advocate



CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Order Pronounced on 16th March, 2026

ORDER

(Heard through Hybrid Mode)

This petition has been filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 under r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016) by **V.S. Enterprises**, a Partnership Firm registered under The Indian Partnership Act, 1932, represented by its Partner: Mr. Vipul Mehta (hereinafter referred to as "**Petitioner/Financial Creditor**") against **Futuristic Global Resources Private Limited** (hereinafter referred to as "**Respondent/Corporate Debtor**") seeking initiation of Corporate Insolvency and Resolution Process ("CIRP").

2. **Part-I** of the petition sets out the details of the Petitioner i.e. V.S. Enterprises, a Partnership Firm registered under the Indian Partnership Act, 1932 It has its Registered Office at Old No. 87, New No.177, N.S.C. Bose Road, Chennai-600 079. **Part-II** of the petition sets out the particulars of the Corporate Debtor i.e. Futuristic Global Resources Private Limited. It was incorporated on 24.09.2019 with Authorised Capital of Rs.5,00,00,000/- and



Paid-up Capital of Rs.1,00,000/--. Its Registered Office is situated at No.572/33, Anna Salai, Teynampet, Chenna-600 018 within the jurisdiction of this Tribunal. In **Part-III** of the petition, the Petitioner has proposed the name of AAA Insolvency Professionals having Registration No. IBBI/IPE-0002/IPA-1/2022-23/50001 as the Interim Resolution Professional.

3. **Part-IV** of the petition provides the particulars of the financial debt being Rs.1,10,00,219/- (Rupees One Core Ten Lakhs Two Hundred and Nineteen only). The amount in default is stated as Rs.1,10,00,219/- and dates of default are stated as 25.07.2024, 25.08.2024 and 25.09.2024 respectively.

4. **Part-V** of the petition provides the list of documents attached with the petition to prove the existence of financial debt and amount in default.

5. As per the averments made in the petition, the Petitioner/Financial Creditor is a partnership firm registered under the Indian Partnership Act, 1932. It is engaged in providing financial services. The Corporate Debtor is a Private limited company. It was in urgent need of funds to sustain its day-to-day business operations. It, by way of a letter dated 25.04.2024, requested the Financial Creditor to extend a short term loan of Rs.1,50,00,000/-. Considering the Corporate Debtor's capital requirements, the Petitioner agreed to lend



funds to the Corporate Debtor. A Loan Agreement was signed on 25.04.2024 and an amount of Rs.1,50,00,000/- was disbursed through RTGS on 25.04.2024 by the Financial Creditor from its account maintained with YES Bank to the Corporate Debtor's IndusInd Bank account. The loan was repayable in five equal monthly installments at Rs.30,00,000/- per month carrying an interest @ 24% per annum as per Clause 3(c) of the loan agreement and Clause-1 Schedule 3 of Personal Guarantee. It was stipulated in the agreement that in the event of any delay in repayment of monthly installments, the Corporate Debtor shall pay additional interest @ 3% per annum on the unpaid amount for the delay. The Corporate Debtor executed a Promissory Note in favour of the Petitioner and a Deed of Guarantee forming part of Schedule-3 of the loan agreement. As per Clause -5, in the event of default, the lender shall have right to forthwith recall the entire loan amount along with the accrued interest and borrower shall pay penal interest @ 3% per annum. In case of pre-payment of loan before the agreed term, rebate or interest shall be made at the discretion of the Petitioner. The Corporate Debtor issued the post-dated cheques. The directors signed the Personal Guarantees in favour of the Financial Creditor.



6. It is stated that the Corporate Debtor paid the first two installments and thereafter, defaulted with effect from 25.07.2024. It failed to make the payment of the balance installments which fell due on 25.07.2024, 25.08.2024 and 25.09.2024. The cheques for the above installments on presentation, were dishonoured for insufficient funds. The Petitioner sent legal notice dated 10.09.2024 and 07.10.2024 calling upon the Corporate Debtor to make the payment but despite that the Respondent did not make the payment. The Petitioner also initiated the proceedings under Section 138 of The Negotiable Instrument Act, 1881 before the Metropolitan Magistrate Courts, George Town, Chennai. It is stated that as on 31.03.2025, total outstanding amount is Rs.1,10,00,219/- which includes the principal amount of Rs.90,00,000/- and interest of Rs.20,00,219/- @ 24% per annum in terms of Clause 3(c). The Petitioner has placed the copy of the registered Partnership Deed, request letter of the Respondent seeking financial assistance dated 25.04.2024 with Board Resolution, copy of loan agreement, statement of bank accounts, working by the Financial Creditor for the computation of the outstanding amounts as on 31.03.2025, legal notices dated 10.09.2024 and 07.10.2024, NeSL Certificate issued in Form-C dated 26.04.2025 and consent of the proposed IRP in Form-2 and Form-B.



7. The Petitioner also filed additional documents vide memo S.R. No. 2801 dated 10.07.2025 enclosing the record of default issued in Form-D showing the default amount as Rs.1,10,00,219/- and date of default as 25.07.2024 and date of last acknowledgment of debt as 25.09.2024.

8. **On getting notice of the petition, the Respondent / Corporate Debtor filed the reply** stating that the petition does not meet the threshold of Rs.1.0 Crore as provided under Section 4 of IBC, 2016. The object of IBC is not to penalize the solvent companies facing temporary financial crunch.

9. It is stated that the Respondent is engaged in the construction and water resources business. It admitted that it had availed short term loan of Rs.1,50,00,000/- under a loan agreement dated 25.04.2024 to meet its day-to-day business requirements. Out of the said loan, it repaid Rs.60,00,000/- and defaulted to the extent of Rs.90,00,000/- which became due on 25.07.2024 owing to downturn in the real estate market.

10. It is stated that in Clause-1, column pertaining to interest has been left blank. The interest @ 24% per annum finds mention only in the Personal Guarantee. Therefore invocation of Clause-1 of the Personal Guarantee to claim 24% interest is untenable. The invocation of Clause-3(c) is wholly misconceived as the said clause is attracted only in case the Corporate Debtor



seeks rescheduling of the loan. It is stated that no penal interest can be imposed as the above provision pertains only to rescheduling of charges and not to penal interest. To invoke Clause-5 and penal interest @ 3% per annum, lender is first required to recall the loan in a manner known to law. The liability to pay penal interest arises only upon failure to repay the recalled amounts. Therefore a valid recall notice is a condition precedent for the applicability of the penal provision. The Petitioner has already initiated the proceedings under Section 138 of the Act. IBC cannot be invoked as a substitute recovery forum.

11. **The Petitioner filed the rejoinder** wherein it denied the averments made in the petition. It is stated that the total outstanding as on 31.03.2025 is more than Rs.1.0 Crore. The computation of interest has been made strictly in accordance with the contractual terms. The loan agreement, personal guarantee and promissory note constitute a composite contract. The agreed rate of interest is 24% per annum and in the event of delay, penal interest @ 3% per annum is leviable. Legal notice dated 10.09.2024 was issued demanding repayment of outstanding sums and would constitute lawful recall notice under Clause-5. The guarantee was executed simultaneously and is integral to the transaction. It reiterates the agreed rate of 24% interest



and 3% penal interest. The pendency of the proceedings under Section 138 of the Negotiable Instrument Act, 1881 does not preclude the Financial Creditor from invoking Section 7 of IBC. The existence of arbitration clause does not oust the jurisdiction of this Tribunal as held in the case of *Vidya Drolia v. Durga Trading Corporation (2021) 2 SCC 1*.

12. We have heard the arguments advanced by Ld. Counsels for the parties and perused the record.

13. It is not in dispute that the Respondent had availed short term loan of Rs.1,50,00,000/- under a loan agreement dated 25.04.2024 to meet its day-to-day business requirements. The loan was repayable in five monthly installments at Rs.30,00,000/- per month. The Respondent also executed the Promissory Note on 25.04.2024. It also issued post-dated cheques towards repayment of loan. It paid the two installments i.e. Rs.60,00,000/- and thereafter committed the default. The Petitioner presented the cheques for the remaining sums which on presentation were dishonoured for insufficient funds. The Petitioner initiated the proceedings under 138 of the Negotiable Instrument Act, 1881 which are pending before the Metropolitan Magistrate Court.



14. It is true that the loan agreement contains an arbitration clause for resolution of disputes but as held in the case of *Vidya Drolia supra*, the existence of arbitration clause does not oust the jurisdiction of this Tribunal under the IBC. Similarly, pendency of 138 Negotiable Instruments Act proceedings, would not bar the Tribunal from initiating insolvency proceedings against the Corporate Debtor.

15. The issue before this Tribunal is “*whether the petition meets the threshold of Rs.1.0 Crore as provided under Section 4 of IBC, 2016 for filing the petition under Section 7 of IBC*”.

16. It is not in dispute that the principal sum remained to be paid is Rs.90,00,000/-. Clause-1 of the loan agreement provides that the loan shall carry an interest(left blank) and be payable in five monthly installments. The term of loan shall be for a period of five months. The borrower shall repay the principal amount along with interest in monthly installments to the lender in the manner indicated in Schedule-1. In Schedule-1 attached to the petition at page-74, the rate of interest has been left blank. Only the installment amount payable on the due date has been mentioned. In Schedule-2 i.e. on demand promissory note placed at page-67 of the petition, the rate of interest has been left blank. The request made by



the Respondent vide letter dated 25.04.2024 at page-60 of the petition does not find mention of repayment of loan amount with interest. In the letter, request was made to sanction a loan amount of Rs.1,50,00,000/- due to urgent business requirements which it shall repay in five equal monthly installments of Rs.30,00,000/- each.

17. Clause-1 of the agreement finds mention that the borrower shall repay the principal amount along with interest in monthly installments to the lender in the manner indicated in Schedule-1 where the rate of interest has been left blank. Clause-3(c) of the agreement finds mention that rescheduling charges @ 24% on the outstanding principal amount per each rescheduling shall be paid by the borrower and the interest shall be compounded monthly in the following instances subject however to clause-c i.e. (d) if the borrower defaults in making monthly installment payments; (e) if the borrower fails to fully discharge the loan at the end of the agreed loan period; and (f) any other breach of terms of this agreement by the borrower. Clause-5 of the agreement finds mention that in the event the borrower defaults in any of its interest/principal/installments payment obligations, then the lender has a right to call back forthwith the entire outstanding loan amount along with all interest outstanding. In the event the borrower fails to repay the recalled



amounts, then it shall be liable to pay penal interest on this recalled amount @ 3% per annum.

18. In the present case, as evident from the record, the Petitioner/Lender never recalled the loan amount nor rescheduled the loan at any time as provided in the agreement. No recall notice was given by the Lender/Petitioner. The Petitioner had issued legal notice under Section 138 read with Section 141 of the Negotiable Instruments Act on 10.09.2024 and 07.10.2024 but in those notices, it never recalled the loan nor mentioned that the borrower/Respondent would be liable to pay interest @ 24% per annum as claimed in the petition. The notices only find mention that the cheques issued towards payment of installments have been dishonoured for want of sufficient funds and the Respondent was called upon to make the payment against the dishonoured cheques within the timeframe.

19. It is true that while availing the loan, Guarantee Deeds were executed by Mr. R. Rajaguru and Mr. Satheesh Rathinam as Guarantor No.1 & 2/confirming parties in favour of the Petitioner/Financial Creditor at page-68 and 71 which find mention that the Lender has advanced through a Loan Agreement dated 25.04.2024 (loan agreement) a loan of Rs.1,50,00,000/- together with interest @ 24% per annum for a period of five months to the



Respondent/borrower which is guaranteed by surety or guarantor acceptable to the Lender. In the loan agreement, the rate of interest column is blank. In Schedule-1 to the loan agreement, the rate of interest column is blank. In the Promissory Note, the rate of interest column is blank. The Personal Guarantee has not been signed by the Corporate Debtor/Respondent. It has only been signed by the Guarantors. In the absence of any specific averment in the loan agreement, the rate of interest @ 24% per annum mentioned in the Deed of Guarantee does not bind the Corporate Debtor. It only binds the Personal Guarantors i.e. Guarantor No. 1 & 2 i.e. Mr. R. Rajaguru and Mr. Satheesh Rathinam .

20. In the present case, although the Petitioner has attached the calculation sheet as to the calculation of interest for the period from 25.05.2024 to 31.03.2025 claiming an interest of Rs.20,00,219/- on the principal sum of Rs.90,00,000/- making the amount in default to be Rs.1,10,00,219/- exceeding threshold of Rs. 1.0 Crore and also placed the NeSL Certificate i.e. record of default issued in Form-D showing the amount in default as Rs.1,10,00,219/- and the date of default as 25.07.2024 but in the absence of interest rate in the loan agreement, Schedule-1 to the loan agreement and Promissory Note



attached with the loan agreement, the interest amount as claimed in the petition cannot be considered and included in the amount in default.

21. In the present case, against the loan amount of Rs.1,50,00,000/-, the Respondent has already paid Rs.60,00,000/-. The balance payable by the Respondent is Rs.90,00,000/- which is less than Rs.1.0 Crore i.e. the minimum threshold for maintaining the petition under Section 7 of IBC, 2016.

22. Since the petition does not meet the minimum threshold of Rs.1.0 Crore, the petition in its present form is not maintainable.

23. The petition is accordingly **dismissed** with no orders as to costs.

File be consigned to records.

Sd/-
VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

Sd/-
SANJIV JAIN
MEMBER (JUDICIAL)

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