



S.No.2

**IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE
ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
05-02-2026 AT 11: 45 AM**

CP (IB) No. 213/7/HDB/2024
u/s. 7 of IBC, 2016

IN THE MATTER OF:

H D F C Bank Ltd.,

AND

M/s. Vivin Laboratories Pvt Ltd.,

...Financial Creditor

...Corporate Debtor

C O R A M:-

SH. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)

SH. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

ORDER

Present: Mr. Indraprateek Naidu, Learned Counsel for the Financial Creditor.

Ms. Ramani, Learned Counsel for the Corporate Debtor.

Orders pronounced, recorded vide separate sheets.

In the result, this application is admitted.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)



IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH – I, HYDERABAD

CP (IB) No. 213/7/HDB/2024

*(Under Section 7 IBC, 2016 R/w Rule 4 of the Insolvency and Bankruptcy
(Application to Adjudicating Authority) Rules, 2016)*

IN THE MATTER OF M/s. VIVIN LABORATORIES PVT. LTD.

Between:

HDFC BANK LIMITED

Registered office at HDFC Bank House, Senapati Bapat Marg,
Lower Parel (West), Mumbai-400013;
Branch office at H. No. 6-3-246 & 6-3-244 /A, 3rd Floor,
Roxana Palladium, Road No. 1, Banjara Hills,
(Besides Virinchi Hospital), Hyderabad-500034.

.... Financial creditor

VERSUS

M/s. VIVIN LABORATORIES PRIVATE LIMITED

At: 2A&3A, New MLA & MPs Colony Road No.10C,
Jubilee Hills, Hyderabad, Telangana, India - 500033.

..... Corporate Guarantor/Corporate Debtor

Date of order: 05.02.2026

Coram:

Sri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Sri Sanjay Puri, Hon'ble Member (Technical)

Parties/Counsels:

For Applicant : Shabbeer Ahmed, Advocate
For Respondent : Ms. G Sumathi, Advocate



PER: BENCH

ORDER

1. The present Application is filed by the HDFC Bank¹ against M/s. Vivin Laboratories Pvt Ltd² corporate guarantor to M/s. Vivin Drugs & Pharmaceuticals Limited³ under section 7 of the Insolvency and Bankruptcy Code, 2016⁴ r/w Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, seeking to initiate Corporate Insolvency Resolution Process in respect of corporate debtor under the code, 2016.

Case of the Financial Creditor:

2. The Applicant is a banking company, and M/s. Vivin Drugs & Pharmaceuticals Ltd (formerly known as Eytan Labs Limited) approached the Applicant seeking financial assistance. Pursuant thereto, an Initial Sanction Letter dated 26.04.2017 was issued, whereby credit facilities aggregating to Rs. 6,437 lakhs were sanctioned in favour of the Principal Borrower. To secure the said credit facilities and to crystallize the governing terms and conditions, the parties executed various loan and security documents, including the Master Facility Agreement, Term Loan Agreements, Deeds of Hypothecation, Powers of Attorney, and other ancillary security documents.
3. Subsequent thereto, the credit facilities were, from time to time, renewed and enhanced by issuance of various Sanction Letters and execution of supplementary and amendment agreements. In furtherance thereof, the Corporate Debtor executed Letters of Continuing Guarantee dated 27.04.2017, 23.07.2018, 30.06.2020, 20.10.2021 and 10.10.2022, guaranteeing repayment of the facilities availed by the Principal Borrower to the extent of Rs. 8,437 lakhs, and

¹ Applicant/Financial creditor

² Corporate Guarantor/Corporate Debtor/Respondent

³ Principal Borrower

⁴ Code, 2016



its liability as guarantor is co-extensive with that of the Principal Borrower, in terms of Section 128 of the Indian Contract Act, 1872.

4. The Applicant also submits that the Financial Creditor issued a letter dated 04.05.2017 to the State Bank of India stating that it was taking over certain credit facilities availed by the Principal Borrower from SBI and requesting SBI to issue a No Due Certificate and to discharge the securities held by it.
5. It is further submitted that the Financial Creditor issued a letter dated 01.10.2019 calling upon the Principal Borrower to acknowledge its liability of Rs. 191,41,467.68/- as on 30.09.2019. Pursuant thereto, the Principal Borrower, by letter dated 05.03.2020, acknowledged that as on 30.09.2019 it was liable to pay the said amount to the Financial Creditor.
6. It is submitted that in addition to the facilities availed under the Initial Sanction Letter, the Financial Creditor granted additional credit facilities including Auto Premium Loan, Business Premium Loan, BG – WC Term Loans and other facilities, which were secured by execution of requisite loan documents and security documents.
7. The Applicant submits that, in view of the continued non-payment of the amounts due and payable, the Financial Creditor issued a Loan Recall-cum-Guarantee Invocation Notice dated 15.07.2024, calling upon the Principal Borrower and the Corporate Debtor to repay the entire outstanding dues amounting to Rs. 54,07,93,286.71 as on 30.06.2024, together with further interest and additional/penal interest, till realization, within seven days from the date of the said notice.
8. The Applicant submits that as on 31.08.2024, the Corporate Debtor is in default in respect of an amount of Rs. 55,61,66,019.58, comprising the principal amount of Rs. 52,50,58,853.41 and interest of Rs. 3,11,07,166.17.



9. The Applicant places reliance on the Record of Default issued by the Information Utility and the Statements of Account duly certified under the Bankers' Books Evidence Act, evidencing the occurrence of default.
10. It is submitted that the present Application is complete in all respects, the existence of financial debt and occurrence of default stand established, and the threshold prescribed under Section 4 of the Insolvency and Bankruptcy Code, 2016 is duly satisfied. Accordingly, the Applicant prays for admission of the Application and initiation of the Corporate Insolvency Resolution Process against the Corporate Debtor.
11. The Applicant filed a memo dated 23.07.2025 seeking change of the Interim Resolution professional as Mr. Chillale Rajesh, having Registration No. IBBI/IPA-001/IP-P00699/2017-2018/11226 as Interim Resolution Professional, whose contact details are: chillalerajesh@yahoo.co.in Address: B-725, Western Plaza, OU Colony, HS Darga, Manikonda, Hyderabad, Telangana, 500008 along with the consent form.

Case of the Respondent:

12. In compliance with the directions issued by this Tribunal *vide* order dated 07.01.2026 for filing a proper counter affidavit, the Respondent filed its counter affidavit on 27.01.2026, wherein the Respondent has vehemently denied the allegations made in the petition.
13. It is submitted that the Respondent Company is a well-established pharmaceutical company having its own manufacturing unit spread over 16 acres near Gaddapotharam/Kazipally Industrial Estate, near Hyderabad. It is stated that the company has achieved a turnover of more than Rs. 350 crores in a year and provides direct employment to nearly 200 persons, besides indirect employment to several others.
14. Further submitted is that the respondent is only a corporate guarantor for the financial assistance availed by its associate company, namely Vivin Drugs & Pharmaceuticals Limited, Hyderabad, against whom the



Financial Creditor has already initiated Corporate Insolvency Resolution Process proceedings before this Tribunal.

15. It is submitted that the Financial Creditor has invoked the provisions of Section 128 of the Indian Contract Act, 1872, claiming that the liability of the corporate guarantor is co-extensive with that of the principal borrower, despite the availability of sufficient assets with the principal borrower.
16. It is submitted that the amount claimed against the principal borrower is more than sufficient to meet the demand for repayment of dues, and the present petition is filed only to destabilise the operations of the Respondent company and to prevent it from pursuing its main objects
17. The Respondent submits that, since the year 2017, financial assistance to the extent of Rs. 133.65 crores were extended to the Company, whereas the outstanding amount as on the date of filing of the petition stood at Rs. 54.07 crores, including interest of Rs. 2.37 crores. It is stated that the Respondent had repaid nearly Rs. 70.00 crores to the Petitioner, demonstrating that repayments were regular till recently.
18. It is further stated that the principal borrower was declared as NPA on 31.05.2024 and the loan was recalled on 15.07.2024, to which the principal borrower responded seeking rescheduling and relaxation, being a registered MSME. It is alleged that without considering the said request, proceedings under Section 7 of the IBC were initiated against the principal borrower and, as an act of vendetta, the Respondent has now been dragged into the present proceedings under the guise of Section 128 of the Indian Contract Act.
19. It is submitted that due to a steep fall in sale prices of the goods manufactured by the Respondent, the Company has been facing difficulties in disposing of finished products, resulting in accumulation of inventories of raw materials and finished goods. In this background, the Respondent requested the Petitioner not to classify the account as NPA.



20. However, citing stringent banking norms, the Petitioner proceeded to file the present petition instead of rescheduling the repayment, despite the Respondent being a pharmaceutical company essential to public interest and foreign exchange earnings. It is stated that the Respondent Company is a USFDA-approved plant.
21. The Respondent submits that it has learnt that the Financial Creditor was kept informed by the principal borrower about steps being taken to repay and settle debts, including infusion of funds through third-party investments or sale of undertaking.
22. It is stated that some negotiations were at an advanced stage, but certain unscrupulous investors attempted to take advantage of the financial stress by quoting significantly lower prices and it is within the knowledge of the respondent that the principal borrower offered a One Time Settlement.
23. It is further submitted that CIRP proceedings against the principal borrower were already ordered on 11.11.2024, an Interim Resolution Professional was appointed, and subsequently, upon appeal, the Hon'ble NCLAT, Chennai stayed the orders passed by this Tribunal.
24. It is stated that the present petition is subservient and consequential to the main petition against the principal borrower, and further proceedings ought to await the final outcome of the appeal pending before the Hon'ble NCLAT, Chennai.
25. It is further submitted that efforts are being made by the Respondent to infuse funds into the Company through third-party investments and that the Respondent is hopeful of a positive outcome enabling settlement of the Petitioner's dues.
26. The Respondent submits that it has repeatedly sought negotiations for One Time Settlement and that admission of the present Company Petition would seriously jeopardise the existence of the Respondent Company and adversely affect hundreds of employees and other labour force dependent on it. It is contended that the Petitioner ought not to have acted hastily in initiating insolvency proceedings.



27. In view of the above, the point that arises for consideration before this Tribunal are as follows:

- I. **Whether the present Application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, against the Corporate Guarantor is maintainable in law?**
- II. **Whether a 'Financial Debt' of a sum exceeding rupees one crore due and payable by the Corporate Debtor to the Financial Creditor? If so, whether the Corporate Debtor has committed default in repayment of the same?**

28. We have heard Mr. Indrapruteek Naidu, Learned Counsel along with Shabbeer Ahmed for the Financial creditor/Applicant, Ms. Sumathi G, Learned counsel for the Corporate Guarantor and perused the record.

Point I

Whether the present Application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, against the Corporate Guarantor is maintainable in law?

29. At the outset, we observe that the present application is filed under Section 7 of the Code against the corporate guarantor. It is settled law that financial creditor is entitled to initiate proceedings against the corporate guarantor.

30. The Hon'ble Supreme Court in ***BRS Ventures Investments Ltd. vs. SREI Infrastructure Finance Ltd. and Ors. MANU/SC/0736/2024***, held that a financial creditor is entitled to initiate separate and even simultaneous proceedings under Section 7 of the Code, 2016, against the corporate debtor as well as the corporate guarantor. The relevant paragraph is extracted below:

"28. Hence, we summarize some of our conclusions as under:

...

c. The financial creditor can always file separate applications Under Section 7 of the IBC against the corporate



debtor and the corporate guarantor. The applications can be filed simultaneously as well;”

Therefore, in view of the above, we have no hesitation in holding that the present application filed against the Corporate Guarantor is maintainable in law.

Point II

Whether a ‘Financial Debt’ of a sum exceeding rupees one crore due and payable by the Corporate Debtor to the Financial Creditor? If so, whether the Corporate Debtor has committed default in repayment of the same?

31. Now coming to the essential statutory requirements of a petition filed under Section 7 of the Code, 2016, it is incumbent upon the Financial Creditor to establish the existence of a financial debt of a sum of Rs.1 crore is due and payable by the Corporate Debtor to the Petitioner and that the Corporate Debtor had defaulted in repayment of the said financial debt.

On existence of Financial Debt

32. In order to ascertain the existence of debt and default, we observe that the principal borrower had availed credit facilities from the Financial Creditor to the tune of Rs. 3,437 lakhs on 26.04.2017. In support of the said financial debt, the Financial Creditor has placed on record the relevant bank statements, which are duly certified and supported by a certificate issued under the provisions of the Bankers’ Books Evidence Act, 1891.
33. We further observe that, in the counter affidavit filed by the Respondent, no contention has been raised disputing the existence of the financial debt. On the contrary, the Respondent has admitted the outstanding dues to the extent of Rs. 54.07 crores and also stated that principal borrower has offered a one-time settlement to the Financial Creditor.



34. Thus, we hold that the Corporate Debtor had availed credit facilities from the Financial Creditor and that a valid and subsisting financial debt exists exceeding Rs. 1 crore.

On Default of debt

35. From the facts stated hereinabove, it is evident that the Financial Creditor had sanctioned loan facilities to the principal borrower, who subsequently committed default in repayment of the outstanding dues. As a consequence, thereof, the loan account was classified as a Non-Performing Asset (NPA) on 31.05.2024.
36. The default is borne out from the Statement of Accounts, which reflects that the instalments were not serviced by the principal borrower from March 2024 onwards⁵. The same stands further corroborated by the Record of Default (Form D) maintained by NeSL dated 15.09.2024⁶, which records that *M/s. Vivin Drugs & Pharmaceuticals Pvt. Ltd.* defaulted in respect of the financial debt bearing Unique Debt Identifier AAACH2702H_84720028, with the date of default being 31.05.2024. Therefore, we are satisfied that a default, as defined under the Code, has occurred.

On execution of Guarantee:

37. Admittedly, that the Corporate Guarantor executed a guarantee in respect of the credit facilities availed by the principal borrower. We further note that, pursuant to a resolution passed by the Corporate Guarantor in its Board Meeting held on 26.04.2017, the Corporate Guarantor resolved to guarantee the due repayment of the said credit facilities availed by the principal borrower. It is also evident from the record that the credit facilities were enhanced from time to time, and that the Corporate Guarantor executed a Letter of Continuing

⁵ Annexure 139 of the Application

⁶ Annexure 138 of the Application



Guarantee dated 10.10.2022, thereby guaranteeing repayment of the facilities up to an amount of Rs. 8,437 lakhs.

38. It is further observed that the Respondent, in the counter affidavit filed, has admitted that it stood as a corporate guarantor for the financial assistance availed by its associate company. Therefore, we are of the view that the Corporate guarantor has executed a guarantee agreement.

On Invocation of Guarantee:

39. In compliance with the directions issued by this Tribunal *vide* order dated 07.01.2026 for filing a proof of service of invocation of guarantee, the Financial Creditor filed a memo dated 20.01.2026, annexing the letter of invocation of guarantee dated 15.07.2024, on perusal of the same, it is evident that the invocation notice was duly delivered to the Corporate Guarantor on 20.07.2024. Therefore, the guarantee stood validly invoked in accordance with law.

On Limitation:

40. On perusal of the material on record, it is evident that the loan account of the principal borrower was classified as a Non-Performing Asset (NPA) on 31.05.2024. Subsequently, the Financial Creditor invoked the guarantee by issuing a notice dated 15.07.2024. In so far as proceedings against a corporate guarantor are concerned, the period of limitation commences from the date of invocation of the guarantee. The present application having been instituted on 14.10.2024, well within the prescribed period of three years from the date of invocation, is therefore within limitation.
41. We have also considered the contentions of the Respondent that the outstanding debt is only Rs. 54.07 crores, that substantial repayments have already been made, that the principal borrower is financially viable, and that an OTS was offered.



42. However, the Respondent has failed to place on record any material to substantiate the alleged feasibility or repayment capacity of either the principal borrower or the Corporate Guarantor. Mere assertions of viability or settlement proposals, in the absence of supporting evidence, cannot displace the statutory consequences flowing from the established existence of debt and occurrence of default.
43. Our attention has also been drawn to the judgement of the Hon'ble Supreme Court of India, in ***M. Suresh Kumar Reddy v. Canara Bank & Ors. (MANU/SC/0561/2023)***, wherein it was held that once the existence of a financial debt and the occurrence of default are established, and the debt has become due and payable, the Adjudicating Authority is left with no discretion but to admit the application filed under Section 7 of the code, 2016.
44. It is further clarified that the observations made in *Vidarbha Industries Power Limited v. Axis Bank Limited (MANU/SC/0874/2022)* regarding the requirement for the Adjudicating Authority to apply its mind to the relevant facts and circumstances of the case cannot be read or understood as laying down a principle contrary to the law settled in *Innoventive Industries Ltd. v. ICICI Bank* and *E.S. Krishnamurthy v. Bharath Hi Tech Builders Pvt. Ltd.* the relevant para is extracted below:

"10. Thus, once NCLT is satisfied that the default has occurred, there is hardly a discretion left with NCLT to refuse admission of the application Under Section 7. Default is defined Under Sub-section 12 of Section 3 of the IB Code which reads thus:

3. Definitions: In this Code, unless the context otherwise requires,

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.....

(12) "default" means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [paid] by the debtor or the corporate debtor, as the case may be;



Thus, even the non-payment of a part of debt when it becomes due and payable will amount to default on the part of a Corporate Debtor. In such a case, an order of admission Under Section 7 of the IB Code must follow. If the NCLT finds that there is a debt, but it has not become due and payable, the application Under Section 7 can be rejected. Otherwise, there is no ground available to reject the application.

....

13. Thus, it was clarified by the order in review that the decision in the case of Vidarbha Industries MANU/SC/0874/2022: 2022 (8) SCC 352 was in the setting of facts of the case before this Court. Hence, the decision in the case of Vidarbha Industries MANU/SC/0874/2022 : 2022 (8) SCC 352 cannot be read and understood as taking a view which is contrary to the view taken in the cases of Innoventive Industries MANU/SC/1063/2017 : (2018) 1 SCC 407 and E.S. Krishnamurthy MANU/SC/1249/2021 : (2022) 3 SCC 161. The view taken in the case of Innoventive Industries MANU/SC/1063/2017 : (2018) 1 SCC 407 still holds good.

45. As clarified by the Hon'ble Supreme Court in *M. Suresh Kumar Reddy* (supra), proof of debt and default is sufficient to trigger proceedings under Section 7 of the Code, and at *praesenti*, the Respondent has also failed to bring the case within the narrow factual contours of *Vidarbha Industries Power Limited vs Axis Bank Limited* (MANU/SC/0874/2022). Accordingly, we find that the contentions raised by the Respondent are devoid of merit.
46. Further, the Respondent has contended that CIRP was already initiated against the principal borrower, *Vivin Drugs & Pharmaceuticals Limited*, by this Adjudicating Authority vide order dated 11.11.2024 in CP (IB) No. 87/9/HDB/2024, and that the said order was kept in abeyance by the Hon'ble NCLAT, Chennai, by orders dated 27.11.2024



and 29.11.2024, and therefore sought deferment of the present proceedings.

47. However, we observe the Hon'ble NCLAT, Chennai, by order dated 02.06.2025 in Company Appeal (AT) (INS) No. 428 of 2024, disposed of the appeal, pursuant to which the principal borrower approached the Hon'ble Supreme Court in Civil Appeal No. 44939 of 2025, wherein interim stay was granted on 25.08.2025.
48. On careful examination of annexures filed in IA No. 1952 of 2025 filed in CP (IB) No. 87/9/HDB/2024, we find that the Hon'ble Supreme Court, *vide* order dated 28.11.2025, dismissed Civil Appeal No. 44939 of 2025 and disposed of the same. Consequently, the contention raised by the Respondent is untenable.
49. Therefore, the present application filed on 14.10.2024 is within the time and the procedural requirements under Section 7 of the Code, 2016 and the relevant Rules stand duly satisfied.
50. Accordingly, the instant petition, i.e., CP (IB) No.213/7/HDB/2024 is admitted and put in CIRP forthwith. Accordingly, the point is answered.

ORDER

51. Hence, the Adjudicating Authority admits this Petition under Section 7 of IBC, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions:
 - A. Corporate Debtor, **M/s. VIVIN LABORATORIES PRIVATE LIMITED**, is admitted in Corporate Insolvency Resolution Process under Section 7 of IBC.
 - B. The Bench hereby prohibits institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, Tribunal, Arbitration Panel or any other authority; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial



interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

- C. That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.
- D. Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.
- E. That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- F. That order of moratorium shall have effect from the date of this order till completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.
- G. That public announcement of initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.



H. That this Bench hereby appoints Mr. Chillale Rajesh, having Registration No. IBBI/IPA-001/IP-P00699/2017-2018/11226 as Interim Resolution Professional, whose contact details are:
Address: B-725, Western Plaza, OU Colony, HS Darga, Manikonda, Hyderabad, Telangana, 500008.

E-mail: chillaleraajesh@yahoo.co.in

This information is also available in IBBI Website.

I. Registry of this Tribunal is directed to send a copy of this order to the Registrar of Companies, Hyderabad for marking appropriate remarks against the Corporate Debtor on website of Ministry of Corporate Affairs as being under CIRP.

This CP(IB) No. 213/7/HDB/2024 filed under Section 7 of the IBC, 2016, is **admitted**, and the Insolvency Resolution Process is initiated against the corporate debtor.

Sd/-

Sanjay Puri
Member (Technical)

Sd/-

Rajeev Bhardwaj
Member (Judicial)