



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

Item No. P-1

C.P. (IB)/717(MB)2025

CORAM

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

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

ORDER SHEET OF HEARING DATED **06.05.2026**

NAME OF THE PARTIES : **Pavitra Commercials Limited**

**Vs**

**Simara Foods Private Limited**

**Under Section 7 of the IBC, 2016.**

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**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)**

//SS//

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



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

**C.P. (IB)/717/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]*

**Pavitra Commercial Limited**

[CIN: U74899DL1983PLC094347]

108 Ansal Bhawan 16 Kasturba Gandhi Marg,  
New Delhi - 110001,

**...Financial Creditor**

V/s

**Simara Foods Private Limited**

[CIN No.: U51101MH1993PTC073090]

Office No 7, Floor 4<sup>th</sup>, Plot 237/243,  
Barar House, Abdul Rehman Street,  
Sutar Chawl, Mandvi,  
Mumbai - 400003

**...Corporate Debtor**

**Pronounced: 06.05.2026**

**CORAM:**

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

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

**Appearances: Hybrid**

For Applicant: Adv.Mr. Nakul Mohta a/w Adv Mr. Yash Sinha i/b Tushar A Goradia

For Respondent: Adv.Ms. Reema Jain

**ORDER**

**[PER: CORAM]**

**1. BACKGROUND**

- 1.1. This C.P. (IB) No.717/MB/2025 (Application) was filed on 06.06.2025 by Pavitra Commercial Limited, the Financial Creditor (Financial Creditor),



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 Simara Foods Private Limited , the Corporate Debtor (Corporate Debtor) having CIN No.: U51101MH1993PTC073090

- 1.2. This Application has been affirmed by one Mr Rajesh Agarwal , authorised signatory of the Applicant as per Board Resolution dated on 07.04.2025
- 1.3. As per Part IV of the Application, the default as claimed by the Applicant is Rs 6,74,22,969/- (Rupees Six Crore Seventy-Four Lakh Twenty-Two Thousand Nine Hundred Sixty-Nine Only ).
- 1.4. The date of default as mentioned in part IV with respect to 1<sup>st</sup> ICD is 19.08.2019, 2<sup>nd</sup> ICD is 01.10.2019, 3<sup>rd</sup> ICD is 09.10.2019, 4<sup>th</sup> ICD is 10.10.2019, 5<sup>th</sup> ICD 31.08.2019
- 1.5. The Applicant has proposed Mr. Navin Khandelwal , having Registration No. IBBI/IPA-001/IP-P00703/2017-2018/11301, to act as the Interim Resolution Professional (IRP) having valid Authorisation for Assignment up to 30.12.2026.

## **2. CONTENTIONS OF APPLICANT**

- 2.1. It is stated that the Applicant is an NBFC , Applicant has attached Certificate dated 09.01.2023 issued by the RBI at **Exhibit – C**.
- 2.2. It is stated that the Corporate Debtor through its Directors had approached the Financial Creditor for obtaining certain amounts as they were in need of funds.
- 2.3. The Financial Creditor between the period 20.05.2019 till 14.08.2019, had lent an amount of Rs.4,05,00,000/- vide five separate transactions. The Financial Creditor had transferred the said amount of Rs.4,05,00,000/- to the Corporate Debtor as Inter Corporate Deposits ("ICDs")



- 2.4. The Corporate Debtor was obligated to repay the ICDs along with 13% interest per annum from the date of payment to the Financial Creditor on a date as agreed between them.
- 2.5. The Financial Creditor states that it had forwarded emails along with letters to the Corporate Debtor after transferring the respective ICD amounts inter-alia to reiterate that the amounts of the respective ICD are transferred by the Financial Creditor to the Corporate Debtor and the Corporate Debtor is obligated to return the said amounts along with 13 % interest per annum. The Copy of emails are attached as **Exhibit – G** of the Application.
- 2.6. The time period for the First ICD which was disbursed on 20.05.2019 expired on 19.08.2019. The Corporate Debtor failed to repay the amounts along with interest at the rate of 13% per annum to the Financial Creditor on the due date.
- 2.7. The Financial Creditor thereafter forwarded an email dated 22.08.2019 along with a Letter dated 20.08.2019 inter-alia seeking repayment of the first ICD for an amount of Rs. 1,00,00,000/-. The said amount was given to the Corporate Debtor for a period of 91 days which was to be repaid along with 13 % interest per annum on or before 19.08.2019. The Corporate Debtor failed to respond to the said email dated 22nd August 2019.
- 2.8. Further it is stated that the time period for the Fifth ICD which was disbursed on 14.08.2019 expired on 31.08.2019. The Corporate Debtor again failed to repay the amount along with interest at the rate of 13% per annum to the Financial Creditor on the due date.
- 2.9. The Financial Creditor thereafter forwarded an email dated 31.08.2019 along with a letter dated 30.08.2019 inter-alia seeking repayment of the fifth ICD for an amount Rs. 50,00,000/- which was given to the Corporate Debtor for a period of 18 days on interest @ 13 % p.a. and was due for repayment on 31.08.2019. The copy of email is annexed as **Exhibit I** to the Application.



2.10. Further The time period for the second , third and fourth ICD which were disbursed on 03.07.2019, 11.07.2019 & 12.07.2019 also got expired on 01.10.2019, 09.10.2019 & 10.10.2019 respectively . The Corporate Debtor again failed to repay the amounts along with interest at the rate of 13% per annum to the Financial Creditor on the due date.

2.11. The date of disbursement along with date when the payment is due is Annexed as **Exhibit E** of the Application and is reproduced here as under.

S. No.	Date of Payment	Amount (Rs)	No. of Days	Mode of Payment	Due date for Repayment
1.	20.05.2019	1,00,00,000/-	91	RTGS under UTR No. ICICR5201905 2000288982	19.08.2019
2.	03.07.2019	1,00,00,000/-	90	RTGS under UTR No. ICICR5201907 0300723083	01.10.2019
3.	11.07.2019	55,00,000/-	90	RTGS under UTR No. ICICR5201907 1100266708	09.10.2019
4.	12.07.2019	1,00,00,000/-	90	RTGS under UTR No. ICICR5201907 1200327631	10.10.2019
5.	14.08.2019	50,00,000/-	18	RTGS under UTR No. ICICR5201908 1400732626	31.08.2019
	<b>Total</b>	<b>4,05,00,000/-</b>			

2.12. The Financial Creditor thereafter forwarded an email dated 21.05.2020 along with a letter dated 21.05.2020 inter-alia requesting the Corporate Debtor to repay the entire amount of Rs. 4,05,00,000/- along with interest@ 13% p.a. on or before 21.05.2020. The Corporate Debtor failed to respond to the email.

2.13. The Financial Creditor thereafter forwarded an email dated 04.06.2020 inter-alia seeking confirmation of balance confirmation with the ICDs for an amount of Rs.4,05,00,000/- along with 13% interest per annum up until 31.03.2020 for accounting purposes of the Financial Creditor. The copy of email is attached as **Exhibit – K** of the Application.



- 2.14. The Corporate Debtor responded vide an email dated 19.06.2020 inter-alia confirming the obligation of repayment of an amount of Rs.4,40,74,912/- (inclusive of interest at the rate of 13% up until 31.03.2020). The copy of Email is attached as **Exhibit L** of the Application.
- 2.15. The Corporate Debtor thereafter paid certain amounts to the Financial Creditor in pursuance of the interest component on the ICDs between the period 23.09.2020 to 12.11.2021. The Corporate Debtor has paid an amount of Rs.37,92,470/- to the Financial Creditor.
- 2.16. The Financial Creditor states that the Corporate Debtor time and again has confirmed its obligations towards the Financial Creditor in connection with the ICDs.
- 2.17. The Corporate Debtor had forwarded an email dated 31.08.2021 along with a letter dated 31.08.2021 inter-alia acknowledging the liability of the Corporate Debtor in connection with outstanding total balance of Rs. 4,72,75,917 /- i.e. Principal Amount of Rs.4,05,00,000/- along interest @ 13% p.a. as on 31st March, 2021, in view of the ICDs. The copy of email is attached as **Exhibit N** of the Application.
- 2.18. The Corporate Debtor has also deposited the following amounts: (i) Rs. 3,97,213/- towards TDS on interest of Rs. 39,72,123/- for the Financial Year 2019-20, (ii) Rs.4,05,694/ towards TDS on interest of Rs.52,64,999/- for the Financial Year 2020-21 and (iii) Rs.1,31,265/- towards TDS on interest of Rs.13,12,648/- for the Financial Year 2021-22. The Copy of Form 26 AS is attached as **Exhibit – O** of the Application.
- 2.19. The Financial creditor thereafter vide an email dated 08.09.2021 sent a Statement of outstanding balance up to 31.08.2021 in connection with the ICDs & requested the Corporate Debtor to transfer the said amounts without any delay. The Financial Creditor had also attached a calculation of the interest component on the ICDs i.e. Rs. 1,11,75,675/-
- 2.20. The Corporate Debtor forwarded an email dated 08.03.2022 to the Financial Creditor inter-alia acknowledging the liability of the Corporate



Debtor towards the Financial Creditor in connection with the due amounts. The Copy of the same is attached as **Exhibit – Q** of the Application.

- 2.21. The Financial Creditor further states that the Corporate Debtor has also falsely stated that the funds that were borrowed by them were borrowed for certain trades that were in the joint interest of the parties. The Corporate Debtor further on the pretext of pandemic and other reasons had requested the Financial Creditor to apply simple interest on the due amount.
- 2.22. The Financial Creditor had responded to the said email dated 08.03.2022 vide an email dated 16.06.2022. The Corporate Debtor in response to the email dated 16.06.2022 forwarded an email dated 18th June 2022 inter-alia acknowledging that the debt was in nature of ICDs which was to be repaid along with interest. It is pertinent to note that the Corporate Debtor had mischievously in his letter dated 18.06.2022 referred to the 'ICDs' as payments in connection with trade purchase. The Corporate Debtor has also further assured that some payments can be made in some weeks. The copy of email is attached as **Exhibit – R & S** to the Application.
- 2.23. The Financial Creditor vide an email dated 21.06.2022 responded to the said Corporate Debtor's mail and reiterated that the amount was paid purely as ICDs and not for Joint Trades
- 2.24. The Corporate Debtor forwarded an email dated 24.06.2022 inter-alia wrongly stating that although they will repay the amount to the Financial Creditor, the nature of the transaction was in connection with an advance payment towards the Joint Trade and not ICDs. The copy of the Email is attached as **Exhibit U** of the Application.
- 2.25. That in spite of repeated requests and reminders from the Financial Creditor, the Corporate Debtor failed to make any payments in connection with the acknowledged and admitted liability of an amount of Rs.4,05,00,000/- and till date interest to the Financial Creditor. The Corporate Debtor is liable to pay to the Financial Creditor an interest amount of Rs.3 ,07,15,439/- as on 30th April 2025.



- 2.26. The Corporate Debtor has till date only paid an amount of Rs.28,58,300/- along with an amount of Rs. 9,34,170/- deposited towards TDS on Interest. The Corporate Debtor has failed to pay to the Financial Creditor the balance interest amount of Rs. 2,69,22,969/-.
- 2.27. The Corporate Debtor therefore is liable to pay to Financial Creditor a sum of Rs.6,74,22,969/- i.e. principal amount of Rs. 4,05,00,000/- along with balance interest amount of Rs.2,69,22,969/- as on 30.04.2025/-, along with interest at the rate of 13% p.a. from till actual payment and/or realization.
- 2.28. That the Corporate Debtor has grossly attempted to enrich themselves in an illegal manner and they have acted against the interest of morality in attempting to usurp the hard-earned money of Financial Creditor.
- 2.29. The Corporate Debtor has failed and neglected to pay the outstanding amounts to the Financial Creditor. The Corporate Debtor has time and again assured the Financial Creditor that the Corporate Debtor would pay the outstanding amounts. However, inspite of repeated requests the Corporate Debtor has failed to repay the amounts.
- 2.30. In view of the above-mentioned facts and circumstances, the Corporate Debtor has committed default in terms of section 3(12) of the code and in the interest of justice and equity the Financial Creditor through this petition prays this Hon'ble Tribunal to initiate Corporate Insolvency Resolution Process in respect of the Corporate Debtor.
- 2.31. While accepting the said amount the Corporate Debtor had assured that the said payments made by Financial Creditor will be repaid on their respective due dates. The Corporate Debtor on the maturity of the ICDs failed to repay the principal amount of ICD's along with the and interest. The Corporate Debtor had made no payments in furtherance of the said dues.
- 2.32. The Applicant has attached the following documents along with the Application:
- a. Copy of master data of the Corporate Debtor
  - b. Table containing the Details of the Inter Corporate Deposit



- c. Copies of Emails and Letters by FC to CD in Connection with ICD disbursement.
- d. Copy of Email dated 22.08.2019, 31.08.2019 by FC to CD
- e. Copy of Email dated 21.05.2020 & 04.06.2020 by FC to CD
- f. Copy of Email dated 19.06.2020 by CD to FC
- g. Copy of Email dated 31.08.2021 by CD to FC
- h. Copy of Email dated 08.09.2021 by FC to CD
- i. Copy of Form 26 AS
- j. Copies of Email dated 08.03.2022 , 18.06.2022 , 21.06.2022 by CD to FC
- k. Copies of Email dated 16.06.2022 & 24.06.2022 by FC to CD
- l. Copy of Bank Statement.

### **3. REPLY**

- 3.1. The Affidavit in reply was filed on 18.10.2025 by one Praveen Satpal Jain, who is stated as the Director of the Corporate Debtor
- 3.2. The Corporate Debtor contends that application is devoid of clarity and has been filed with the sole intent of squandering the invaluable time of this Tribunal.
- 3.3. The Corporate Debtor states that It is a settled position of law that proceedings under Section 7 of the IBC are not intended to be used as a tool for recovery of alleged debts, but are restricted to cases where a genuine financial debt and a clear default can be established in terms of the Code.
- 3.4. However, In the present case, the Applicant has failed to demonstrate either the existence of a legally enforceable financial debt or the occurrence of a default as per the statutory requirements. The attempt of the Applicant is therefore misconceived, mala fide, and squarely outside the scope and intent of the IBC. Accordingly, the present application is liable to be dismissed at the very threshold, as it is devoid of merits and amounts to a clear abuse of the process of law.
- 3.5. The Corporate debtor has placed reliance on the following judgements.



- i. Hpcl Bio-Fuels Ltd vs Shahaji Bhanudas Bhad
- ii. Jaypee Kensington Boulevard vs Nbcc (India) Ltd.  
AIRONLINE 2021 SC 224
- iii. Swiss Ribbons Pvt. Ltd. vs Union Of India
- iv. Maulik kirti bhai shah v. United Telecoms Ltd.
- v. Permali Walla Ce Private Limited vs Narbada Forest  
Industries Private
- vi. Rohit Motawat vs Madhu Sharma Proprietor M/S Hind  
Chem

- 3.6. The Respondent argues that the amount disbursed by the Applicant would be termed as “Advances for Joint trade” and not “disbursement in the form of ICD.”
- 3.7. It is stated amount disbursed to the Respondent by the Applicant/Financial Creditor would be termed as 'Advances for Joint Trades' and not to be termed as 'disbursement in the form of ICD'.
- 3.8. Further it is submitted that the Applicant has failed to file any documentary evidence in support of the alleged disbursement of loan or debt advanced in the form of ICD to the Respondent. No due process under Companies Act or as per RBI guidelines have been followed in respect of the purported ICD by the Financial Creditor.
- 3.9. The Corporate Debtor argues that as per the guidelines issued by the Reserve Bank of India (RBI), the terms and conditions governing credit facilities extended by banks/financial institutions must be reduced into writing after due negotiation between the lending institution and the borrower. Such agreement is required to be duly certified by the authorised official, and a copy of the loan agreement along with all enclosures referred therein is to be furnished to the borrower. In the present matter, no such document or copy of the loan agreement has been produced by the Applicant, which clearly indicates that the alleged transaction does not meet the mandatory requirements prescribed by the RBI.
- 3.10. Further, the RBI guidelines specifically mandate that a loan agreement must also stipulate that certain credit facilities are solely at the discretion



of the lender. These include, inter alia, approval or disallowance of facilities such as: drawings beyond sanctioned limits, honouring cheques for purposes other than those specifically agreed in the sanction, and disallowing drawings on accounts classified as nonperforming assets or for non-compliance with terms of sanction.

- 3.11. Since the Applicant has failed to place on record any such agreement or document substantiating the disbursement of the alleged amount termed as "Inter-Corporate Deposit (ICD)", the Respondent submits that the said amount, in absence of proof of a financial arrangement, the disbursement can only be treated as an advance towards Joint Trade arrangements.
- 3.12. That the alleged financial debt as claimed by the Applicant is not admitted by , the Respondent as ICD but is to be termed as the advances for Joint Trades.
- 3.13. Further submitted that the instant application is nothing but an abuse of process of law and has been filed with a malicious intent to arm twist and pressurize the Respondent.
- 3.14. In the hearing held on 14.01.2026 the Corporate debtor sought an opportunity to take on record an additional affidavit dated 13.01.2026 attaching certain additional documents . The same was already e filed. This Tribunal granted the Opportunity to take on record the additional affidavit subject to a cost of 3 lakh to be deposited in PMNRF within a period of One week as the additional documents have been sought to be submitted at a very belated stage.
- 3.15. The Tribunal also granted the Applicant to file its reply with respect to the Additional Affidavit.
- 3.16. However, on hearing held on 17.02.2026 the CD failed to deposit the amount and stated that an Appeal has been filed in NCLAT against the order for payment of cost. Further the Counsel for FC stated that the said appeal is not even numbered. In the due course of hearing the respondent confirmed that that there is no legal impediment to continue this present matter.



3.17. Considering that the documents were allowed to be taken on record subject to deposit of cost and that the Respondent has failed to deposit the cost, the additional affidavit dated 13.01.2026 was not taken on record.

#### 4. **REJOINDER**

4.1. The Rejoinder is filed by Mr. Rajesh Agarwal stated to be Director of the Financial Creditor.

4.2. The Financial Creditor states that that while considering an application under section 7 of IBC, the Adjudicating Authority is required to determine the existence of "financial debt" and ascertain whether any "default" has occurred. Upon being satisfied that a default exists on a financial debt, and an application being complete under all mandatory aspects, the Adjudicating Authority shall admit the application under section 7 of IBC for initiation of CIRP proceedings. Hence upon establishment of debt and default the Section 7 application is ought to be admitted,

4.3. The Financial Creditor has placed reliance on the following Judgements on this regard.

- a. M.Suresh Kumar Reddy vs Canara Bank, /(2023) 8 SCC 387]
- b. E.S. Krishnamurthy v. Bharath Hi-Tech Builders Private Limited [(2022) 3 SCC 161]
- c. Innoventive Industries Ltd vs. ICICI Bank [(2018) I SCC 407],

4.4. Further the Financial Creditor states that the Respondent can not take the legal plea that no financial debt incurred towards the Financial Creditor. The Corporate Debtor having acknowledged its liability towards repayment of ICD's vide mail dated 31.08.2021, cannot now take a contrary plea seeking to deny the existence of such debt. That once the corporate debtor has admitted the liability and the nature of debt being ICD the plea that no financial debt exists is legally impermissible and contributes to the settled principles of estoppel and acknowledgement of debt in law

4.5. Thus, the Corporate Debtor's attempt in treating the ICD's as Joint Trades is unsustainable being inconsistent with its own admission and evidence



on record. Further vide letter dated 19.06.2020, sent via mail, the Corporate Debtor had acknowledged credit balance in the account of Financial Creditor reflecting Rs. 4,40,74,912. Further, apart from mere allegations stating that the ICDs provided are in terms of Joint Trades, there is no document/proof submitted by the Corporate Debtor evidencing the same.

- 4.6. It is stated that vide the letters dated 08.03.2022 and 18.06.2022 the Corporate Debtor has admitted to the fact that the trades for which the funding's were applied went into trouble, therefore they needed funds for business and are at financial difficulty, therefore while accepting to repay the principle requested the Financial Creditor for reduction in rate of interest by applying simple interest. In so far as the admission by the Corporate Debtor that it borrowed money for business, it is submitted that in Pioneer Urban Land and Infrastructure Ltd vs. Union of India (2019) 8 SCC 416 the Hon'ble Supreme Court held that financial debt implies raising money for deploying in the business of some activity.
- 4.7. The Financial Creditor further states that written agreement is not a condition precedent to prove the existence of financial debt. The Hon'ble Courts/Ld. Tribunals have consistently held that, to prove the existence of financial debt a written agreement is not a mandatory requirement. In **Bijendra Prasad Mishra vs HS Mercantile Pvt Ltd & Anr. 2025 SCC Online NCLAT 1491** the Hon'ble National Company Appellate Tribunal, Delhi Bench has held that a written agreement is not a condition precedent to prove existence of financial debt and that, the acknowledgement by the Corporate Debtor coupled with TDS deduction certificate (26 AS) is sufficient to prove the existence of financial debt.
- 4.8. Further it is stated that though there is no written agreement, financial contract between the parties, disbursement has been reflected from the Bank Statement and other documents, such as confirmation letters and confirmation of accounts. The same was held in **Sinki Commodities Pvt Ltd vs ABC Floors Pvt Ltd 2025 SCC Online 1657** by the Hon'ble NCLAT.
- 4.9. The contention of the Corporate Debtor that the Financial Creditor has not followed the RBI guidelines in respect of the ICD's is unsustainable and



misconceived. As per the Master Circular issued by Reserve Bank of India on "Raising Norms for Financial Institutions" dated 01.07.2011, it's expressly clarified that RBI has not prescribed any norms or laid down any specific rules, limits, procedures or regulatory conditions that the Financial Institutions must follow, when raising funds through ICDs. The Financial Institutions are very much eligible to issue ICD's that are permissible under the Act.

4.10. Hon'ble National Company Law Appellate Tribunal, Delhi in **Sinki Commodities Pvt Ltd vs ABC Floors Pvt Ltd 2025 SCC Online 1657** has also held that when the amount was disbursed for time value of money and the amount is nothing but a commercial borrowing, the mere fact that there is some breach of RBI guidelines which are statutorily in character, the Corporate Debtor cannot be permitted to contend that the definition of financial debt under Section 5(8) need to be looked into with reference to the guidelines.

4.11. Further the financial Creditor states that the Supporting Affidavit filed by the Corporate Debtor, has been notarised without mentioning essential particulars such as date, full address and place A plain reading of the Affidavit would indicate that the stated details appear to have been inserted after notarisation, seemingly by editing the scanned copy of the affidavit. On this aspect alone, the Reply of the Corporate Debtor deserves to be rejected and not considered

## 5. WRITTEN SUBMISSIONS OF APPLICANT

5.1. The Financial Creditor states that the disbursement of Inter Corporate Deposits constitutes Financial Debt which was disbursed on various dates between May 2019 to August 2019.

5.2. The Corporate Debtor has unequivocally acknowledged and admitted its liability to repay the Inter-Corporate Deposits (ICD's) of 4,05,00,000/- along with an interest at 13% per annum to the Financial Creditor, vide various emails as mentioned below and by depositing TDS on interest against the ICDs borrowed.



- 5.3. Further the Financial Creditor states that Adjudicating Authority has to determine whether a "default" has occurred i.e., whether the debt (which may still be disputed) was due and remained unpaid and if the Adjudicating Authority is of the opinion that the default has occurred the application is to be admitted unless it is incomplete.
- 5.4. The Financial Creditor submits that various emails sent by the Corporate Debtor reflects its acknowledgement of debt. The abovementioned emails dated 19th June 2020 and 31st August 2021 constitute as clear admissions of liability within the period of limitation. Thereafter, the subsequent emails dated 8th March 2022, 18th June 2022 and 24th June 2022 amount to further acknowledgements, thereby extending the period of limitation in accordance with law.
- 5.5. Further the corporate Debtor has unequivocally admitted the nature of debt in several earlier and even in the last email dated 24th June 2022 it has admitted that liability to repay and sought more time. Furthermore, on 16th October 2025, the Corporate Debtor has also made oral submissions being financially distressed which means in the interest of creditors and CD itself the CIRP process should be commenced expeditiously.
- 5.6. Further the Financial Creditor submits that written agreement is not a condition precedent to prove the Existence of Financial debt. The absence of a formal written contract does not defeat the claim of financial debt.
- 5.7. The applicant has placed reliance on the following judgements:-
- a. Elegna co-operative Housing & Commercial society Ltd vs Edelweiss Asset Reconstruction Co. Ltd. in C.A. No. 10261 of 2025
  - b. Global credit capital Ltd vs. Sach Mktg. (P) Ltd., I(2024) 9 SCC 482]
  - c. Orator Marketing (P) Ltd. v. Samtex Desinz (P) Ltd., /2023J i SCC 753
  - d. M. Suresh Kumar Reddy vs Canara Bank, (2023) 8 SCC 387
  - e. E.S.Krishnamurthy vs Bharat Hi-Tech Builders Private Limited [(2022) 3 SCC 16
  - f. Innoventive Industries Ltd. v. ICICI Bank (2018) 1 SCC 407
  - g. Food Corpn of India vs Assam State Coop. Marketing & Consumer Federation Ltd., I(2004) 12 SCC 36



- h. Bijendra Prasad Mishra vs HS Mercantile Pvt Ltd & Any [2025 SCC Online NCLAT 1491
- i. Sinki Commodities Pvt Ltd vs ABC Floors Pvt Ltd [2025 SCC Online 1657

## 6. WRITTEN SUBMISSIONS OF CORPORATE DEBTOR

- 6.1. The Corporate Debtor submits that transaction was a Joint Trade Advance and not a Financial Debt . The Arrangement was purely commercial in nature and part of joint trading activity. Further the Financial Creditor has not produced a single contemporaneous document demonstrating that the transaction was treated as a loan at the time of disbursement.
- 6.2. In the present case, admittedly there is: (i) no loan agreement; (ii) no interest stipulation; (iii) no repayment structure; (iv) no documentation evidencing borrowing; (v) no proof of disbursement against time value of money. In absence of these essential statutory ingredients, the alleged transaction cannot be categorised as a financial debt.
- 6.3. The Corporate Debtor submits that there is Non-Compliance with Companies Act. The Financial Creditor has attempted to label the transaction as an Inter Corporate Deposit (“ICD”). However, no Board Resolution under Section 179(3) or Section 186 of the Companies Act, 2013 has been produced. No statutory approvals, disclosures, or compliance documents have been demonstrated. In absence of mandatory statutory compliance, the alleged ICD is not legally sustainable.
- 6.4. The Corporate Debtor submits that TDS deposit does not extend limitation or create Financial Debt. Even assuming arguendo that TDS was deposited, such deposit does not extend limitation nor create a financial debt. The NCLT Mumbai in **Kalpesh Jaysukh Shah v. Arch Pharmalabs Limited** held that mere accounting entries or TDS deduction does not establish financial debt nor constitute valid acknowledgment for limitation purposes. Therefore, statutory conduct relied upon by the Financial Creditor does not support existence of a loan.



- 6.5. It is stated that the RBI Fair Practices Code mandates, inter alia: (i) execution of a written loan agreement; (ii) disclosure of terms including interest; (iii) borrower acceptance; (iv) structured appraisal and documentation. No such compliance has been demonstrated. The absence of these mandatory lending safeguards reinforces that the transaction was commercial in nature and not financial borrowing.
- 6.6. Further Corporate Debtor submits that Section 3(12) of the IBC defines “default” as non-payment of a debt which has become due and payable. The Financial Creditor has not established: (i) any defined due date; (ii) any recall notice; (iii) any crystallised repayment obligation; (iv) any acknowledgment under Section 18 of the Limitation Act. In absence of legally enforceable financial debt, the question of default does not arise.
- 6.7. Further the Corporate Debtor states that Where the nature of the transaction is disputed and lacks foundational financial documentation, admission under Section 7 would amount to permitting IBC to be used as a pressure tactic.
- 6.8. Further the Corporate Debtor has relied on the following judgements;
- a. HPCL Bio-Fuels Ltd. v. Shahaji Bhanudas Bhad
  - b. Phoenix ARC Pvt. Ltd. v. Spade Financial Services Ltd
  - c. Jaypee Kensington Boulevard Apartments Welfare Association v. NBCC (India) Ltd
  - d. Innoventive Industries Ltd. v. ICICI Bank Ltd
  - e. Mr. Kalpesh Jaysukh Shah v. Arch Pharmalabs Limited

## **7. ANALYSIS AND FINDINGS**

- 7.1. We have perused the documents as placed before us and heard the Ld. Counsels for the Applicant and the Corporate Debtor. Our findings in the matter are as under :
- 7.2. On perusal of the documents we observe that Financial Creditor disbursed credit in form of Inter Corporate Deposits between May 2019 to August 2019 in 5 tranches with an interest rate of 13% per annum.
- 7.3. The 1<sup>st</sup> & 2<sup>nd</sup> ICD of Rs. 1 crore each were disbursed on 20.05.2019 & 03.07.2019 respectively which were to be repaid within 90 days.



Thereafter The 3<sup>rd</sup> and 4<sup>th</sup> ICD of Rs 55 lakh and Rs 1 Crore were disbursed on 11.07.2019 & 12.07.2019 respectively which were also to be repaid within 90 days.

- 7.4. Again on 14.08.2019, 5<sup>th</sup> ICD of Rs 50 lakh was disbursed which was to be repaid within 18 days from the date of Disbursal. The disbursal can be verified by the Account Statement as provided by the Applicant.
- 7.5. The Corporate Debtor failed to repay the outstanding amount on the due dates.
- 7.6. The Financial Creditor vide various mails dated 20.08.2019,30.08.2019,21.05.2020 asked the Corporate Debtor to repay the amount. However, till date the Corporate Debtor has only paid an amount of Rs 28,53,300/- along with an amount of Rs 9,34,170/- deposited towards TDS on Interest. Hence amount of Rs. 6,74,22,969/- as on 30.04.2025 is yet to be repaid.
- 7.7. Further the Financial Creditor vide email dated 04.06.2020 asked the Corporate Debtor for Confirmation of Balance of the Outstanding ICD's. The Corporate Debtor vide email dated 19.06.2020 confirmed the balance. The same is reproduced here under:



**SIMARA FOODS PVT LTD**

OFFICE NO.7, FLOOR 4<sup>TH</sup> PLACE, PLOT 237/243, BARAR HOUSE,  
ABDUL REHMAN STREET, MUMBAI,  
MAHRASHTRA INDIA - 400003  
Tell: 022-23401464  
CIN-US1101MH1993PTC073090

Date-19-06-2020

To,  
Pavitra Commercial Limited,  
108, Ansal Bhawan, 16, Kasturba Gandhi Marg,  
New Delhi-110001

**Subject:- Balance Confirmation as on 31-03-2020**

Dear Sir,

We hereby confirm that our books show a credit balance in your account of INR 4,40,74,912.00 as per below statement of accounts:

Date	Amount(INR)	Days till Maturity	Interest @ 13% (INR)	TDS Deducted @ 10% (INR)	Net Interest Payable
20-05-2019	10,000,000.00	317	1,129,041.00	112,904.00	1,016,137.00
3/7/2019	10,000,000.00	273	972,329.00	97,233.00	875,096.00
11/7/2019	5,500,000.00	265	519,110.00	51,911.00	467,199.00
12/7/2019	10,000,000.00	264	940,274.00	94,027.00	846,247.00
14-08-2019	5,000,000.00	231	411,370.00	41,137.00	370,233.00
	40,500,000.00		3,972,124.00	397,212.00	3,574,912.00

Your Faithfully,

- 7.8. Further again vide email dated 31.08.2021 the Corporate Debtor confirmed the balance of the outstanding amount and stated that TDS on interest for FY 2020-2021 has been deposited .
- 7.9. Thereafter the Corporate Debtor vide email dated 18.06.2022 acknowledged the debt and committed to repay the debt. The same is reproduced below:-

*“The ICD was the contribution to come from your side for the fulfilment of joint trades of pulses. The interest – to be applied was also taken from a similar venture that our company had with others at that time so that the party contributing funds factors Interest on their part of contribution. Both parties had good intentions to make profit and share rewards and the funds released from your side were booked as ICD.*

*Although largely the discussions were in persons, you may recall communication related to pulses trades on emails, specifically*



*related to above ICD release during second half of 2019. Your allegation of dishonesty is not called for. The brighter and positive part is for us to take on the complications and fulfil repayments and interest rather than to get into discussions to share calculations of losses. The very fact that the debt acknowledgments when asked for were provide along with TDS compliance reflects our honest intent. The families had friendly relations for over two decades and both sides have benefited from this relationship, therefore we request leaving allegations and causing bitterness aside and let's focus on how best mutually the ICD could be closed at earliest towards mutual interest.*

*Nevertheless, we have committed to repay and will stand behind that commitment.Recent discussions last week were concluded with escalation of interim repayments amounting to Rs one crore. We are working on the same and will let you know how best these funds could be connected in coming weeks.”*

- 7.10. However, the Corporate Debtor disputed the ICD and stated that the Credit was given for a trade funding, which went into trouble .
- 7.11. Replying to the same the Financial Creditor denied the same and stated that the amount was an Inter Corporate Deposit which was given for fixed period of days on an agreed rate of Interest i.e. of 13%.
- 7.12. Further the date of default of the 1<sup>st</sup> ICD is 19.08.2019, 2<sup>nd</sup> ICD is 01.10.2019, 3<sup>rd</sup> ICD is 09.10.2019, 4<sup>th</sup> ICD is 10.10.2019, 5<sup>th</sup> ICD 31.08.2019 as mentioned in Part IV of the Application. Hence the Limitation begins from the Date of default. However, vide email letter dated 19.06.2020 the Corporate Debtor has Confirmed the Balance which further extends the limitation to another 3 years. Again, vide email dated 18.06.2022 the Corporate Debtor acknowledged the debt which again extended the limitation for a period to another 3 years.
- 7.13. It is pertinent to refer to section 18 of the Limitation Act here , which states that the fresh period of limitation shall start from the date when the debt is acknowledged and signed. Section 18 of the Limitation Act is reproduced herein below;-



*(1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgment was so signed.*

*(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed; but subject to the provisions of the Indian Evidence Act, 1872 (1 of 1872), oral evidence of its contents shall not be received.*

*Explanation. —For the purposes of this section, —*

*(a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to set off, or is addressed to a person other than a person entitled to the property or right,*

*(b) the word "signed" means signed either personally or by an agent duly authorized in this behalf, and*

*(c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right*

7.14. Considering Section 18 of the Limitation Act, this Tribunal is of the view that the Application being filed on 06.06.2025 is well within limitation period.

7.15. One of the contentions of the Corporate Debtor is that the transaction is a Joint Trade Advance and not a Financial Debt. The expressions "Financial Creditor" and "Financial Debt" have been defined under Section 5(7) and 5(8) of the code respectively which are reproduced below:

*(7) "Financial Creditor" means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to;*



*(8) “financial debt” means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes—*

*(a) money borrowed against the payment of interest;*

*(b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;*

*(c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;*

*(d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;*

*(e) receivables sold or discounted other than any receivables sold on non-recourse basis;*

*(f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing*

*[Explanation.—For the purposes of this sub-clause,—*

*(i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and*

*(ii) the expressions, “allottee” and “real estate project” shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);]*

*(g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;*



*(h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;*  
*(i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause.*

- 7.16. On perusal of the emails and letters produced by the Applicant as referred to earlier, it is observed that the Applicant has disbursed the amount of Rs. Rs.4,05,00,000 as Inter Corporate Deposits in 5 tranches. The terms of the ICD were that the same would be repayable along with interest of 13% p.a., which shows that there was time value of money involved in the lending.
- 7.17. Further merely naming the facility as a Joint Trade Advance does not change the nature of the transaction. Moreover, the Corporate Debtor never named the facility as Joint trade Advance during the time of disbursement but only raised the contention after default in payment. In reply the CD has failed to file any document which supports the contention of the CD that the money was advanced for advance trade in commodities. Hence in our view only bald averments have been made in the reply qua the commodity trade.
- 7.18. Thus, this Tribunal is of the view that the debt was disbursed against the time value of money which was borrowed against the payment of interest. Hence the transaction satisfies all the essential of it being a financial debt.
- 7.19. Another Contention of the Corporate Debtor is that the Applicant has failed to provide a loan agreement with respect to the Inter Corporate Deposits. The CD further contends that the applicant has failed to adhere to the guidelines of the RBI on fair Practices Code for Lenders.
- 7.20. In this regard, this Tribunal has relied on the Judgement of Hon'ble NCLAT in the matter of **Sinki Commodities Pvt Ltd Vs ABC Floors Pvt Ltd 2025 SCC Online 1657** wherein it was held that even if no financial contract exists between the parties, Court is not precluded from looking into the real nature of transaction, which can be proved by the Financial



Creditor from the material brought on record. Further it was also held that when the amount is disbursed against time value of money the fact that there is a breach of some RBI guidelines, the CD cannot be permitted to contend that definition of financial debt under Section 5(8) need to be looked into with reference to the guidelines. The Relevant part of the said judgement is reproduced here;-

*“15. We take notice of the recent judgment of the Hon’ble Supreme Court in “Global Credit Capital Ltd. vs. Sach Marketing (P) Ltd.- (2024) 9 SCC 482” where Hon’ble Supreme Court has held that the nature of transaction has to be found out to take a decision as to whether debt is a financial debt or not. The real nature of transaction thus, is a key to come to decision as to whether financial debt exists or not. It is true that there are no written agreements but financial contract between the parties is reflected from bank statement and other materials which have been referred in paragraph 8 of the impugned order, as noted above. Even if there is no financial contract exists between the parties, Court is not precluded from looking into the real nature of transaction which can be proved by the Financial Creditor from the materials brought on the record. In the present case, Financial Creditor has brought sufficient material on record to prove that transaction between the parties was a financial debt.”*

*“14.in event, an NBFC is in breach of guidelines with respect to disbursement of any amount to company statutory consequences need to be followed and there can be no quarrel to the said proposition, but the question which has arisen for consideration is as to whether the amount which was disbursed by the Financial Creditor to the Corporate Debtor is a financial debt or not. When the amount was disbursed for time value of money and the amount is nothing but a commercial borrowing, the mere fact that there is some breach of RBI Guidelines which are statutorily in character, the Corporate Debtor cannot be permitted to contend that definition of financial debt under Section 5(8) need to be looked into with reference to the guidelines. IBC is a special legislation and it has been enacted with the object and purpose of insolvency*



*resolution for corporate persons in a time bound manner. Financial debt within the meaning of Section 5(8) has to be looked into to find out as to whether the Corporate Debtor owes a financial debt or not which empowers the financial creditor to initiate insolvency proceeding against the Corporate Debtor.”*

- 7.21. Considering the facts of this matter and applying the decision of the Hon'ble NCLAT in Sinki Commodities (Supra) we are of the view that the Applicant has placed enough documents including Statement of Account, which evidences disbursal and the letter's dated 20.05.2019,03.07.2019, 11.07.2019 ,12.07.2019 and 14.08.2019 which states the terms and condition of the ICD including payment terms along with interest rates and due dates. Thus, even if there is some breach in adherence to the RBI guidelines, the contention of the CD is not sustained.
- 7.22. The contention of the Corporate Debtor that the Applicant has filed this Application for recovery rather than resolution is not maintainable as the applicant has established the existence of the Financial debt and default, which is way above the threshold limit of Rs. 1 Crore as stipulated under section 4 of the Code, which is beyond doubt.
- 7.23. The Corporate Debtor has relied upon the following judgments, which in our view do not help its case for the following reasons: -
- I. *The Judgment of Ld. NCLT in the matter of Mr. Kalpesh Jaysukh Shah v. Arch Pharamalabs Limited CP (IB) 3460/MB/2019 does not apply to the facts of this case as the Applicant has been able to demonstrate with the help of the documents placed on record that multiple acknowledgement vide various emails latest being 18.06.2022 have been made which extend the limitation period.*
  - II. *The Judgments of Hon'ble Supreme Court in the matter of Innoventive Industries Ltd. v. ICICI Bank and Phoenix ARC Pvt. Ltd. v. Spade Financial Services Ltd. do not support the case of the Corporate Debtor rather the same support the case of the Applicant as the latter has been able to demonstrate that the transaction entered into by it are of the nature of financial debt.*



7.24. Further this Tribunal has relied on 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***

*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.”*

*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.”*

*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)*

7.25. The Applicant has neither provided the Appeal memorandum nor any filing number of the same in support of his assertion that an appeal has already been filed before the Hon'ble NCLAT against the order directing payment of costs for filing additional documents, which this Tribunal had permitted subject to payment of ₹3,00,000/- as the documents were produced at a very belated stage of the hearing. However, as the Corporate Debtor failed to pay the cost as imposed by this Tribunal, the additional documents filed vide Additional Affidavit are not taken into record. Further, during the hearing held on 17.02.2026 the Counsel for Respondent confirmed that there is no legal impediment to continue with the present matter.

7.26. Thus, this Tribunal is of the view that

- I. Applicant has proved the Disbursement.
- II. Applicant has proved interest @ 13% p.a. which was duly confirmed by letter dated 19.06.2020
- III. Applicant has furnished form 26 AS Confirming deduction of TDS on interest
- IV. For limitation aspect there are repeated acknowledgement by the respondent more particularly letter dated



18.06.2022 where the CD committed itself for the repayment.

V. Further no evidence is produced by the respondent that money was advanced for financing trades for commodity.

7.27. In view of the above discussion, the Applicant has successfully demonstrated the existence of a financial debt as the transaction involves amount raised under section 5(8)(a) of the IBC, the occurrence of default, and the continuing nature of such default and all supported by clear documentary evidence.

7.28. Financial Creditor has also proposed the name of an Insolvency Professional (IP) Mr. Navin Khandelwal as the proposed IRP, and as per the Form 2 attached along with the Application, no disciplinary proceedings are going on against the said IP. 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.

7.29. 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) 717/MB/2025 filed under Section 7 of IBC, 2016, by Pavitra Commercials Limited, the Applicant (Financial Creditor) for initiating CIRP in respect of Simara Foods Private Limited having CIN No.U51101MH1993PTC073090 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. Navin Khandelwal**, having Registration No. IBBI/IPA-001/IP-P00703/2017-2018/11301, **email id** : [navink25@yahoo.com](mailto:navink25@yahoo.com) , having valid Authorisation for Assignment up to **30.12.2026** 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, 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 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/-

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

Sd/-

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

//Sumant //