

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

ATTENDANCE CUM ORDER SHEET OF THE HEARING  
HELD ON **09.12.2024** THROUGH VIDEO CONFERENCING

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

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**APPLICATION NUMBER** :  
**PETITION NUMBER** : CP(IB)/29(CHE)/2024  
**NAME OF THE PETITIONER(S)** : Vijay Ram Traders Pvt Ltd  
**NAME OF THE RESPONDENTS** :  
**UNDER SECTION** : Sec 10 Rule 7 of IBC, 2016

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**ORDER**

Present: None for the Petitioner.

Ld. Counsel Shri. Chirag Gupta for the Operational Creditor.

Vide separate order pronounced in Open Court, the Corporate Debtor  
M/s. Vijay Ram Traders Pvt Ltd is admitted into CIRP.

Shri. G. Mukundan is appointed as IRP.

**Sd/-**

**(VENKATARAMAN SUBRAMANIAM)**  
MEMBER (TECHNICAL)

MG

**Sd/-**

**(SANJIV JAIN)**  
MEMBER (JUDICIAL)

**6IN THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH – I, CHENNAI**

**CP/IB/29/(CHE)/2024**

*(Filed under Section 10 of the Insolvency and Bankruptcy Code, 2016 r/w Rule 7 of the  
Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)*

*In the matter of Vijay Ram Traders Private Limited*

**Vijay Ram Traders Private Limited**

Rep. by its Director, Shri Raajendra,  
No:310, PeriyaKoil street, Kottakuppam,  
Uthukottai Taluk, Periyapalayam Road,  
Thiruvallur district, Chennai 600067

*... Corporate Applicant*

*Order Pronounced on 09<sup>th</sup> December, 2024*

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**SANJIV JAIN, MEMBER (JUDICIAL)**

**VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)**

*For Corporate Applicant*

*: Rohan Rajasekaran, Advocate*

*: Ashlin Christo, Advocate*

*For WS Industries*

*: Sarangan, Advocate*

*Madhusruthi Neelakantan, Advocate*

*For Ram Chandran Traders Pvt Ltd*

*: Chirag Gupta, Advocate*

**ORDER**

*(Hearing through hybrid mode)*

Under Consideration is an Insolvency & Bankruptcy Petition filed  
u/s 10 of the Insolvency & Bankruptcy Code, 2016 (“**the Code**”) by one  
**Vijay Ram Traders Private Limited** (in short, “**the Corporate Applicant**”)

for initiation of Corporate Insolvency Resolution Process (CIRP) under Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (for brevity, '**I&B Rules 2016**'), following a default in meeting the financial obligations to its Financial Creditors (Secured/Unsecured Creditors) and Operational Creditors and other Creditors as shown in the Company Petition filed in Form-VI.

2. In Part-I of the Petition, it is stated that the Corporate Applicant is a Private Limited company incorporated on 23.12.2011 bearing CIN: U51109TN2011PTC083736 and the Registered Office of the Corporate Applicant as per the petition is situated at No:310, PeriyaKoil street, Kottakuppam, Uthukottai Taluk, Periyapalayam Road, Thiruvallur district, Chennai - 600067

3. In Part-II of the petition, it is stated that the Corporate Applicant has proposed one Mr. K J Vinod as the IRP. He has filed his written consent in Form-2 and the AFA is valid till 30.06.2024.

4. Part-III of the Petition, discloses the details of the total amount of default with respect to Financial Creditors as Rs. 26,99,01,544/- (Rupees

Twenty-Six Crores Ninety-Nine Lakhs One Thousand Five Hundred and Forty-Four Only). The list of documents to prove the existence of debt is as follows:

- a) Memorandum of agreement made on 31.03.2019 between the Corporate Applicant and Raam Chandra Traders Pvt Ltd as Annex I.
- b) Written communication proposed of the IRP as Annex III.
- c) Copy of relevant books of accounts of the Corporate Debtor evidencing default to creditors as Annex IV
- d) Copy of audited financial statements of the Corporate Debtor for the last two financial years from 01.04.2021 to 31.03.2022 and from 01.04.2022 to 31.03.2023 as Annex V
- e) Updated Statement of Affairs as Annex VI
- f) Resolution of the Board of Directors of the Corporate Debtor dated 09.12.2023 and shareholders/members resolution dated 18.12.2023 as Annex VII
- g) Demand Notice from M/s. Ram Chandran Traders Pvt. Ltd. for immediate payment of Outstanding dues dated 15.11.2019 at Page 1 of Additional Documents filed by the Applicant
- h) Demand Notice from M/s. Ram Chandran Traders Pvt. Ltd. for immediate payment of Outstanding dues dated 30.03.2022 at Page 2 of Additional Documents filed by the Applicant
- i) Reply letter from the applicant requesting time for repayment of dues dated 02.04.2022 at Page 3 of Additional Documents filed by the Applicant

5. The Applicant has filed audited financial statements for the year ended 31.03.2022 & 31.03.2023 and financial statement for the period from 01.04.2023 to 15.12.2023. The Applicant has also filed Independent Auditor's Report along with Audited Balance Sheet as on 31.03.2024 vide SR No. 3287 dated 02.07.2024.

6. The Applicant Company has placed on record the Board resolution dated 09.12.2023 authorising Shri Rajendra, Director of the Company to submit an application before this Tribunal for initiation of Corporate Insolvency Resolution process under Section 10 of the Code against the Corporate Applicant. The Corporate Applicant has filed a Special Resolution dated 18.12.2023 qua approval of members / shareholders to initiate the CIRP against the Corporate Applicant.

7. The Applicant was directed to serve copy of the petition on all the creditors and file Affidavit of Service (AOS). In compliance of the same, Affidavit of Service was filed on 16.04.2024 vide SR No. 1882. As per the AOS, notice was served only to 5 out of 10 creditors. Hence, the Petitioner was directed vide order dated 16.04.2024 to take steps for service by way of publication in English ("Business Standard") (All India Edition) and another in vernacular language ("Makkal Kural") (Tamil Nadu Edition). The Applicant effected service in compliance of order dated 16.04.2024 and filed AOS on 02.07.2027 vide SR. No 3286.

8. A creditor for the Applicant, M/s Ram Chandran Traders Private Limited entered appearance and filed an affidavit on 07.08.2024 vide SR

No. 4005. It is stated that as per agreement dated 31.03.2019, the Corporate Applicant was liable to pay a sum of Rs.9,21,58,686/- in 12 EMIs starting from 01.11.2019. The Applicant defaulted from the first EMI and date of default is 10.11.2019. Further, the Applicant is liable to pay additional default interest @ 18% p.a. as per the aforesaid agreement. It is stated that the creditor herein has no objection for initiation of CIRP against the Applicant.

9. A memo was filed by M/s. W.S. Industries (India) Limited vide SR No. 4817 dated 27.09.2024. It is stated that according to the Applicant, the company is liable to pay Rs. 1,34,564/- (Rupees One Lakh thirty-four thousand five-sixty-four) to W.S. Industries (India) Limited. However, in the books of W.S. Industries (India) Limited, there is no existing debt between the Corporate Applicant and the W.S. Industries (India) Limited. It is stated that the creditor herein has no objection for initiation of CIRP against the Applicant.

10. During the hearing dated 14.11.2024, it is stated by the Applicant that Income Tax Department had issued notice in October 2024 raising a demand of about Rs. 3.0 Crores. Further, as per the balance sheet, the receivables are more than the liabilities. It is stated that the Petitioner fulfils

the requirement under Section 11 of IBC and no Section 65 IBC application has been preferred by any of the Creditors.

11. This Tribunal has taken into consideration the documents submitted and the submissions made by the parties.

12. Section 10 of IBC, 2016 is reproduced hereunder,

***“Section 10. Initiation of corporate insolvency resolution process by corporate applicant.***

*(1) Where a corporate debtor has committed a default, a corporate applicant thereof may file an application for initiating corporate insolvency resolution process with the Adjudicating Authority.*

*(2) The application under sub-section (1) shall be filed in such form, containing such particulars and in such manner and accompanied with such fee as may be prescribed.*

*(3) The corporate applicant shall, along with the application furnish the information relating to-*

*(a) its books of account and such other documents relating to such period as may be specified; and*

*(b) the resolution professional proposed to be appointed as an interim resolution professional.*

*(c) the special resolution passed by shareholders of the corporate debtor or the resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be, approving filing of the application.*

*(4) The Adjudicating Authority shall, within a period of fourteen days of the receipt of the application, by an order--*

*(a) admit the application, if it is complete; <sup>2</sup>[and no disciplinary proceeding is pending against the proposed resolution professional]; or*

*(b) reject the application, if it is incomplete:²[or any disciplinary proceeding is pending against the proposed resolution professional:]*

*Provided that Adjudicating Authority shall, before rejecting an application, give a notice to the applicant to rectify the defects in his application within seven days from the date of receipt of such notice from the Adjudicating Authority.*

*(5) The corporate insolvency resolution process shall commence from the date of admission of the application under sub-section (4) of this section.”*

13. As per Section 10 of IBC, 2016, a Corporate Debtor which has committed a default can file an application for initiating of corporate insolvency resolution process along with information relating to relevant documents for specified period, resolution professional proposed to be appointed as IRP and special resolution passed by shareholders. In the instant case, the Corporate Applicant has filed a Special Resolution dated 18.12.2023 passed by the members / shareholders granting approval to initiate the CIRP against the Corporate Applicant. Further, from the documents filed along with the type set of documents, more particularly Memorandum of Arrangement between the Applicant and M/s Ram Chandran Traders Private Limited and Demand notices of M/s Ram Chandran Traders Private Limited dated 15.11.2019 and 30.03.2022, it is seen the Corporate Debtor has committed 'default in repayment of amount' to certain Financial Institutions.

14. The Hon'ble National Company Law Appellate Tribunal (hereinafter, Hon'ble NCLAT), New Delhi in *M/s. Unigreen Global Private Limited vs. Punjab National Bank and others (Company Appeal (AT) (Insolvency) 81/2017)*, held that if an application under Section 10 is complete and in absence of any ineligibility of Corporate Applicant, the Adjudicating Authority is bound to admit the application. The relevant portion of the judgement is reproduced hereunder,

*“22. Section 10 does not empower the Adjudicating Authority to go beyond the records as prescribed under Section 10 and the informations as required to be submitted in Form 6 of the Insolvency and Bankruptcy (Application to the Adjudicating Authority) Rules, 2016 subject to ineligibility prescribed under Section 11. If all informations are provided by an applicant as required under Section 10 and Form 6 and if the Corporate Applicant is otherwise not ineligible under Section 11, the Adjudicating Authority is bound to admit the application and cannot reject the application on any other ground”*

15. This Tribunal is satisfied that there is a default in the repayment of debt and the application filed under Section 10 is complete with all the necessary information. Further, the Corporate Applicant is not ineligible

to make an application as per Section 11 of IBC, 2016. Therefore, we are of the view that this Company application is required to be admitted u/s 10 of the Code. We order accordingly.

16. The Corporate Applicant has proposed the name of **Mr. K.J. Vinod** as the Interim Resolution Professional (IRP). However, we appoint **Mr. G. Mukundan** having **Registration No. IBBI/IPA-001/IP-P01419/2018-2019/12162** (E-mail ID: *g.mukundan1955@gmail.com*) forming part of the Panel of IPs recommended by IBBI in accordance with, “Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2024” for the period of July 1, 2024 to December 31, 2024, as the IRP in the present application. The IRP who is appointed shall take forward the process of Corporate Insolvency Resolution of the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Statute, more specifically in terms of Section 15,17,18 of the Code and file his report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall

stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

17. As a consequence of the Application being admitted in terms of Section 10 of the Code, moratorium as envisaged under provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor;

- a. The institution of suits or continuation of pending suits or proceedings against the respondent including 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 respondent 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 respondent in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;
- d. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.

*Explanation.*-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance 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 or a similar grant or right during moratorium period;

18. However, during the pendency of moratorium period in terms of Section 14(2) and 14(3) as extracted hereunder;

(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

(3) The provisions of sub-section (1) shall not apply to

- (a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
- (b) a surety in a contract of guarantee to a corporate debtor.

19. The duration of period of moratorium shall be as provided in Section 14(4) of the Code which is reproduced below for ready reference;

- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

20. The Corporate Applicant is directed to pay a sum of **Rs. 5,00,000/- (Rupees Five Lakhs Only)** to the Interim Resolution Professional to meet out the expenses and to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

21. Based on the above terms, the Petition stands **admitted** in terms of Section 10 of the Code and the Moratorium shall come into effect as of this date. A copy of the Order shall be communicated to the Corporate Debtor above named by the Registry. In addition, a copy of the Order shall also be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named shall also be furnished with copy of this Order forthwith by the Registry, who will communicate the initiation of the CIRP

in relation to the Corporate Debtor to the Registrar of Companies  
concerned.

**-Sd-**

**VENKATARAMAN SUBRAMANIAM**  
MEMBER (TECHNICAL)

**-Sd-**

**SANJIV JAIN**  
MEMBER (JUDICIAL)

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