NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P1

C.P. (IB)/208(MB)2026

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **31.08.2026**

NAME OF THE PARTIES: **Central Bank of India Limited**

Vs

Rama Agro Foods Private Limited

Under Section 7, IBC 2016.

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)

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

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IN THE NATIONAL COMPANY LAW TRIBUNAL MUMBAI BENCH-VI

CP (IB) No.208/MB/2026

[Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016]

IN THE MATTER OF:

CENTRAL BANK OF INDIA
[CIN No. U99999MH1911PTC000337]
Chander Muki, Nariman point
Mid Corporate Finance Branch
Mumbai-400021, Maharashtra.

…Financial Creditor/Applicant

V/s

M/s RAMA AGRO FOODS PRIVATE LIMITED
[CIN: U15499PN2004PTC019287]
Anant Residency, 1st Floor, 2055
Sadashiv Peth, Tilak Road
Pune - 411030, Maharashtra.

...Corporate Debtor

Pronounced: 31.08.2026

CORAM:
HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)
HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid
Financial Creditor: Adv. Ms. Riddhi Vora a/w CA Mr. Rakesh Kumar Jindal.
Corporate Debtor*: Ex-parte*.

ORDER

[PER: BENCH]

1. **BACKGROUND**

1.1 This is an Application bearing C.P. (IB) No.208/MB/2026 filed on 26.02.2026 by Central Bank of India, the Applicant (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "the Code") read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (hereinafter referred to as "the AAA Rules") through Mr. Amrendra Jha, authorised *vide* Power of Attorney dated 11.03.2024, for initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of Rama Agro Foods Private Limited, the Corporate Debtor (CD).

1.2 The Applicant is a public sector bank registered under Banking Companies (Acquisition & Transfer of Undertaking) Act, 1970. The CD, is a Private Limited Company incorporated under Companies Act, 1956 on 19.12.2004. The CD is a Corporate Guarantor to the debt payable by the Principal Borrower i.e., Shri Gajanan Maharaj Sugar Limited was formerly known as Utech Sugar Limited, to the Applicant.

1.3 The Applicant has proposed the name of Mr. Shekhar Arvind Parkhi, having registration no. IBBI/IPA-001/IP-P-02494/2021-2022/13801, to act as an IRP. The Applicant has attached written communication in Form-2, stating that no disciplinary proceedings are pending against the IRP, and valid AFA till 31.12.2025. However, on perusal of the IBBI website, it is seen that the AFA of the proposed IRP is valid till 30.06.2027.

1.4 The Applicant has relied on the following documents:

i. Copy of Corporate Guarantee Deed executed by the Corporate Debtor (i.e. the Respondent herein M/s Rama Agro Foods Private Limited) dated 14.12.2016.

ii. Copy of the Invocation of Guarantee to the Corporate debtor (i.e. the Respondent herein M/s Rama Agro Foods Private Limited) dated 17.01.2026 along with the tracking report.

iii. Copy of the Email dated 10.02.2026 sent by the Applicant Bank to Corporate Debtor for invocation of Corporate Guarantee.

iv. Copy of Master Data of the Corporate Debtor from the website of MCA.

v. Copy of Certificate of Incorporation dated 24.02.2021 pursuant to change of name of the Principal Borrower i.e., Shri Gajanan Maharaj Sugar Limited (formerly known as Utech Sugar Limited).

vi. Copy of the renewed Sanction Letter dated 25.10.2016 and sanction letter dated 26.07.2016 to sanction financial assistance by way of a Term Loan of Rs. 23.68 Crore to the Principal Borrower.

vii. Copy of the list showing details of disbursement into the A/c of the Principal Borrower.

viii. Copy of the Inter-Se Agreement dated 14.12.2016 executed by the Principal Borrower in respect of financial assistance of Rs. 23.68 Crore (Rupees Twenty-Three Crore Sixty-Eight Lakh only) by way of a Term Loan.

ix. Copy of Facility Agreement dated 14.12.2016 executed by Principal Borrower in respect of financial assistance of Rs. 23.68 Crore by way of a Term Loan.

x. Copy the Joint Deed of Hypothecation dated 14.12.2016 executed by Principal Borrower in respect of financial assistance of Rs. 23.68 by way of a Term Loan.

xi. Copy of Mortgage Deed dated 14.12.2016 executed by the Mortgagors in favour of the Applicant Bank.

xii. Copy of the "Deed of Declaration cum Undertaking dated 15.12.2016 executed by Principal Borrower in respect of financial assistance of Rs. 23.68 Crore.

xiii. Copy of Deed of Guarantee dated 14.12.2016 executed by 'Personal Guarantors

xiv. Copy of the Certificate of registration of charge with RoC of the Principal borrower in favor of the Applicant.

xv. Copy of the notice dated 02.01.2020 issued u/s 13(2) of the SARFAESI Act, 2002 by the Applicant upon the Principal Borrower demanding payment of the outstanding amount.

xvi. Copy of the Demand Notice dated 23.12.2022 issued by the Applicant Bank to the Principal Borrower for repayment of the outstanding dues.

xvii. Copy of the Statement of Accounts of the Principal Borrower along with Certificate under Section 2A of the Bankers Books' Evidence Act 1891, NPA Certificate and Proof of default.

xviii. Copy of the Record of Default (NeSL Report) in respect of the Debt due from the Principal Borrower.

xix. Copy of the Balance Sheet of the Principal Borrower for the Financial year 2023-2024 acknowledging the debt of the Financial Creditor.

xx. Copy of the OTS Proposal dated 23.02.2023 given by the Principal Borrower to the Applicant Bank.

xxi. Copy of the OTS approval issued by the Applicant Bank vide letter dated 30.03.2023.

xxii. Copy of the letter dated 13.01.2025 revoking the OTS approval by the Applicant Bank dated 30.03.2023

xxiii. Copy of the Power of Attorney in favour of Mr. Amrendra Jha to act on behalf of Financial Creditor.

xxiv. Copy of Consent in Form 2 given by Proposed Interim Resolution Professional Mr. Shekhar Arvind Parkhi along with IBBI Registration Certificate and a valid Authorization for Assignment.

2. AVERMENTS OF THE APPLICANT

2.1 As per Part-IV of the Application the total amount claimed to be in default by the Applicant is Rs. 27,29,61,728.78/- (Twenty-Seven Crore Twenty-Nine Lakhs Sixty-One Thousand Seven Hundred and Twenty-Eight Rupees and Seventy-Eight Paisa) with the following break-up:

Particulars	Amount (Rs.)
Principal Amount	8,89,83,700.78
Accrued Interest	17,41,85,646.00
Arrears Penalty	97,92,382.00
TOTAL	**27,29,61,728.78**

2.2 The amount was disbursed to the account of the Principal Borrower i.e., Shri Gajanan Maharaj Sugar Limited on various dates. The details of disbursement are annexed as Annexure – 6. Copy of renewed Sanction Letters dated 26.07.2016 & 25.10.2016, to sanction financial assistance by way of a Term Loan of Rs. 23.68 crores are attached as Annexure-5.

2.3 The Applicant invoked the Corporate Guarantee provided by the CD herein and issued demand and recall notice dated 17.01.2026 calling upon the Corporate Guarantor to discharge its obligations under the guarantee. The said invocation notice dated 17.01.2026 was sent to the CD (i.e. the M/s Rama Agro Foods Private Limited) through speed post and was returned with the remark “Addressee Left without Instructions” on 02.02.2026. The Applicant Bank again issued the Invocation Notice to the CD *vide* email dated 10.02.2026 on the email ID of the CD registered with ROC. However, there was no repayment made by the CD and therefore, the CD herein has committed default on 10.02.2026.

2.4 The default by the Principal Borrower occurred on 02.01.2020 when notice u/s 13(2) of SARFAESI ACT,2003 was issued upon the Principal Borrower demanding repayment of the outstanding amount from the Principal Borrower and the Principal Borrower failed to make payment of the outstanding.

2.5 The default by the Principal Borrower also occurred on 23.12.2022 when the repayment of the outstanding amount was demanded by the Applicant from the Principal Borrower *vide* Demand Notice dated 23.12.2022 and the Principal Borrower failed to clear the outstanding.

2.6 Default also occurred on 23.02.2023 when the Principal Borrower made OTS proposal to the Applicant Bank.

2.7 Default also occurred on 06.09.2023 when the Principal Borrower made the following submission before the NCLT in previous Section 7 Petition i.e., C.P.(1B)/275(MB)2023.

> *"Ld. Counsel for the Corporate Debtor submits that there is no irregularity in payment as per the OTS terms as on date and this fact is also confirmed by the letter dated 20.07.2023 issued by the Branch Manager of Applicant Bank. The said letter is submitted and taken on record."*

2.8 The Copy of the Statement of Accounts of the Principal Borrower along with Certificate under Section 2A of the Bankers Books' Evidence Act 1891, NPA Certificate and Proof of default is annexed herewith and marked as Annexure-16 Colly. The copy of the NeSL Report is attached and marked as Annexure -17. The copy of the revocation letter of the OTS approval by the Applicant Bank dated 13.01.2025 is attached as Annexure-21.

2.9 The date of default is stated as 10.02.2026 and hence, the Application is within Limitation.

2.10 The Applicant held various securities as under:

i. Primary Security for loan A/c no 3578160374:

a) Paripassu first charge on fixed assets, i.e., Land & Building, Plant & Machinery etc. of the company situated at Gat No. 10, 11/1, 11/2, 13/1, 13/2, 14 & 15/3 admeasuring 47.00 acre located at Kavathe Malkapur, Tal. Sangamner, Dist: Ahmednagar owned by the Corporate Debtor.

ii. Collateral Security:

a. Paripassu 1st charge on Non-Agricultural land located at Gate No. 257 & 260 (Part), village Penjalwadi, Tal Bhor, Dist Pune owned by Mr. Ravindra Birole, Mrs. Ashwini Birole and Mr. Shantanu Birole.

b. Paripassu 1st charge on residential flat No. 0020603 at Sector No. R2, tower no. 2, sixth floor, Amanora Park, Sadesatranali Hadapsar, Pune admeasuring 1600.00 sq.ft owned by Mr. Ravindra Birole and Mrs. Ashwini Birole.

c. Paripassu charge on Flat No. 101 adm.1128 sq.ft. & 102 adm. 1104 sq.ft. & Car Parking of both the flats adm. 100 sq.ft. each at Anant Residency, Sadashiv Peth, Pune owned by Mr. Ravindra Birole and Mrs. Ashwini Birole.

iii. Personal Guarantees

Personal Guarantee of all the directors in personal capacity

Mr. Ravindra Purushottam Birole

Mrs. Ashvini R. Birole

Mr. Shantanu Ravindra Birole

iv. **Corporate Guarantees**

M/s Utech Engineering Works (India) Ltd.

M/s Rama Agro Foods Pvt. Ltd.

3. CONTENTIONS OF CORPORATE DEBTOR

3.1 The matter was listed on 11.03.2026, wherein this Tribunal directed the Applicant to serve the court notice upon the CD. The matter was listed on 09.04.2026. In compliance, the Applicant filed Affidavit of Service dated 25.03.2026. The Applicant attached proof of Dasti service dated 21.03.2026 and proof of speed post service made on the CD on 25.03.2026. Therefore, this Tribunal recorded that service upon the CD was complete.

3.2 None had appeared on behalf of the CD on 09.04.2026. This Tribunal as a final opportunity, directed the CD to file its Reply within the extended time period of 7 days, failing which a suitable order will be passed.

3.3 The matter was listed on 07.05.2026, wherein it was recorded that none appeared on behalf of the CD and no vakalatnama or Reply was reflecting on the DMS. Therefore, the right of the CD to file Reply was closed and the CD was set ***ex-parte***.

3.4 It is seen that no recall application of the order dated 07.05.2026 has been filed by the CD.

4. WRITTEN SUBMISSIONS

4.1 The Applicant filed written submissions which are similar to the facts of the case, hence the same is not reiterated for the sake of brevity.

5. ANALYSIS AND FINDINGS

5.1 We have heard the Ld. Counsels for the Applicant and have perused the records as placed before us. Our findings in the matter are as under: -

5.2 The present Application has been filed under Section 7 of the Code seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Guarantor on account of alleged default by the Principal Borrower (i.e., Shri Gajanan Maharaj Sugar Limited) in repayment of the financial facilities extended by the Applicant and thereafter, default by the Corporate Guarantor after guarantee was invoked by the Applicant on 10.02.2026.

5.3 It is well settled that while considering an application under Section 7 of the Code, the Adjudicating Authority is required to examine whether (i) a financial debt exists; (ii) default has occurred; (iii) the application is complete in all respects as contemplated under Section 7(5) of the Code and (iv) there is no disciplinary proceeding pending against the proposed resolution professional. The Adjudicating Authority is not expected to enter into an adjudication of disputed questions relating to the quantum of claim or to conduct a trial on contractual disputes.

5.4 On perusal of the documents, it is observed that Principal Borrower obtained financial assistance from the Applicant by way of a Term Loan aggregating to Rs. 23.68 Crores, which was sanctioned to the Principal Borrower pursuant to the renewed Sanction Letters dated 26.07.2016 and 25.10.2016.

5.5 The statement of accounts at page nos. 207-221 of the Application establish that the loan amounts were actually disbursed to the Principal Borrower.

5.6 It is seen that the Principal Borrower executed all necessary loan and security documents in favour of the Applicant. To secure the said facilities the CD executed a Corporate Guarantee dated 14.12.2016 undertaking to repay the outstanding dues in the event of default by the Principal Borrower.

5.7 It is observed that the loan account was classified as NPA on 29.12.2019 as the Principal Borrower defaulted in making payment of the outstanding and the Applicant issued notice dated 02.01.2020 under Section 13(2) of SARFAESI Act, 2002 to the Principal Borrower and CD herein. The Principal Borrower failed to pay the outstanding called for in the notice and thereafter, the Applicant filed a Section 7 Application against the Principal Borrower, wherein the Principal Borrower is admitted into CIRP *vide* order dated 31.07.2026 of this Tribunal, in CP No. 22 of 2026.

5.8 Meanwhile, the guarantee was invoked by serving a notice dated 17.01.2026 to the Corporate Guarantor as per the Corporate Guarantee Deed dated 14.12.2016. The relevant clause of the Guarantee Deed is reproduced hereunder:

(v) <u>Demand of payment :</u>

The Guarantor agrees to pay on demand without demur, without protest, without contest and notwithstanding any disputes between the said Banks and the Borrower, the general balance of account and/or sum or sums of money owing to the said Banks by the Borrower as decided by the said Banks at their sole discretion and any notice or demand or request or otherwise hereunder shall be deemed to have been duly given to the Guarantor by sending the same by post and/or leaving the same at the last known place of business or its registered office in India as recorded with the Bank and if sent by post it shall be deemed to have been given at the time it would be delivered in due course of post and shall be sufficient to prove that the envelope containing the notice was posted. If by reason whatsoever or otherwise the Guarantor cannot be given any such notice the same if inserted once as an advertisement in a newspaper circulating in the place mentioned at the commencement of this guarantee, where the branches of the said Banks are situated, shall be deemed to have been effectually given and received on the day on which such advertisement appears.

5.9 As it is seen that the Applicant invoked the guarantee *vide* letter dated 17.01.2026 to the CD, whereby the CD was called upon to honour its obligations under the guarantee, however, the notice sent through physical mode was returned with the endorsement "Addressee Left without Instructions". As per the above produced clause of the Guarantee Deed any notice of demand shall be deemed to be given to the Guarantor by sending the same by post. The said clause further states that if sent by post the notice shall be deemed to have been given at the time it would be delivered in due course of post and shall be sufficient to prove that the envelope containing the notice was posted. The Applicant has established with the help of the tracking report attached that the Demand Notice invoking the Guarantee dated 17.01.2026 was sent by the Applicant to the CD through speed post at the registered office of the CD, however, the said notice was returned on 02.02.2026 with the remarks "Addressee left without instructions". As such, as per Clause (v) of the Guarantee Deed, as reproduced above, a notice sent to the registered office of the CD or to the last known place of business of the CD as recorded with the bank, by way of post, the same is deemed to have been given at the time when notice would be delivered in due course of post and therefore as per the Deed of Guarantee signed by both the parties, the demand notice dated 17.01.2026 is deemed to have been served on 02.02.2026 i.e., the date on which the same was returned. However, subsequently, the Applicant has also produced evidence of dispatch of the invocation notice through email dated 10.02.2026 on the registered email address of the CD as available in the records of the Registrar of Companies. The same also gave rise to the obligation of the CD to make the payment of the outstanding after invocation of its guarantee on 10.02.2026 and therefore, 10.02.2026 has been taken as date of default by the Applicant.

5.10 Based on the examination of the above terms of the Corporate Guarantee, we find that the Applicant has invoked the guarantee of the CD in terms of the stipulations in the said guarantee. The CD defaulted in paying the outstanding immediately.

5.11 The Applicant has stated the date of default as 10.02.2026 which is also the date of invocation of guarantee *vide* notice issued by the Applicant bank to the CD *via* email. The CD was to pay the outstanding to the Applicant immediately. The relevant portion of the notice is reproduced as under:

6. In case you fail to make payment immediately as aforesaid, Central Bank of India shall be constrained to take such steps or legal action against you, for enforcing the Guarantee and realizing the dues at your own risk as to the costs and consequences, including but not limited to:

    i. Initiate the recovery proceeding before competent Court/ Tribunal for recovery of the aforesaid outstanding amount.
    ii. Initiate the process under the relevant provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 for enforcement of security interest, if applicable.
    iii. Initiate such other legal proceeding; whether civil or criminal, as may be advised, in the facts and circumstances of the case.

As the outstanding was to be paid immediately, the Applicant has stated the date of default as 10.02.2026 and hence, the Application filed on 26.02.2026, falls within limitation.

5.12 As regards limitation, it is to be noted that the Principal Borrower acknowledged its liability in its audited balance sheet as on 31.03.2024 and that the OTS proposal dated 23.02.2023 given by the Principal Borrower to the Applicant also constitutes acknowledgment of liability in writing. Moreover, in the order for the admission of Principal Borrower by this Tribunal in CP No. 22 of 2026, on 31.07.2026, the issue on limitation had been checked in detail. For reference, the calculation of limitation in respect of the Principal Borrower is as under:

Event of default	**Limitation Period**
Date of NPA	30.12.2019
Date of expiry of limitation	29.12.2022
Considering the exclusion period from 15.03.2020 to 28.02.2022 as per the Hon'ble Supreme Court Suo Moto judgment	716 days 25.12.2024
OTS proposal	23.02.2023

Debt acknowledged by the CD in Audited Balance Sheet as on 31.03.2024	31.03.2024
OTS proposal dated 23.02.2023 revoked by the Applicant	13.01.2025
Fresh limitation available up to	12.01.2028
Invocation of Guarantee	10.02.2026
Application filed on	26.02.2026

5.13 Therefore, relying on the above table, it is safe to say that the invocation of the guarantee dated 10.02.2026 and also the filing of the Application on 26.02.2026 is within limitation.

5.14 It is also relevant here to note that the Applicant has placed on record the NeSL record of default in Form D of the Principal Borrower, which records the status of authentication of default as "**Authenticated**".

5.15 It is seen that the CD was set *ex-parte vide* order dated 07.05.2026 as there was no representation made by the CD.

5.16 This Tribunal places reliance on the judgment of ***Hon'ble Supreme Court in Power Trust (Promoter of Hiranmaye Energy Ltd.) v. Bhuvan Madan, IRP of Hiranmaye Energy Ltd. and Ors. [Civil Appeal No(s). 2211/2024 decided on 18.02.2026]*** while examining the validity of the admission of the Corporate Debtor to CIRP has laid down as under :-

> ***"B. Validity of CIRP Admission***
>
> *28. The other aspect on which the Appellant has heavily relied is the acceptance of various sums of money paid by the Corporate Debtor purportedly under the 1st and 2nd restructuring proposals, which according to them amounts to deemed approval of such proposal. As discussed earlier, such argument flies in the face of the fact that the 2nd Respondent had resolutely maintained and rightly so, that the restructuring proposals were underpinned on pre-implementation conditions which the Corporate Debtor had failed to fulfil. Under such circumstances, receipt of various sums of money would not amount to acceptance of the restructuring proposals, thereby novating the earlier loan agreement. Neither would such part*

payments constitute full satisfaction of the existing debt so as to render the Section 7 application inadmissible.

29. It has also been vociferously contended that the Corporate Debtor is an ongoing concern and does not lack the ability to repay the debt. It has a subsisting PPA for 25 years with WBSEDCL, and has raised bills of Rs. 906 crore from 01.11.2024 to 31.03.2025. It also has a continuous fuel supply arrangement with Mahanadi Coalfields Ltd. under the SHAKTI scheme and had earned EBIDTA of Rs. 20 crore per month during the CIRP. These facts though attractive at first blush, do not yield either legal or factual justification to rebut the admission of the Section 7 application.

30. On the legal score, one must bear in mind the scope and purpose for which IBC was promulgated. The main objective of its enactment was to create a complete code for easy, prompt and seamless resolution of insolvency process and thereby ensure that the net worth of the corporate debtor is not dissipated and the entity is salvaged from corporate death through a viable resolution plan accepted by its CoC. <u>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.</u> 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.26 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.27 "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.28 "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.29 31. In Swiss Ribbons (P) Ltd. v. Union of India [(2019) ibclaw.in 03 SC],30 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. <u>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):</u>

"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. <u>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.</u> <u>These are the only two courses of action which are open to the adjudicating authority in accordance with Section 7(5).</u> The adjudicating authority cannot compel a party to the proceedings before it to settle a dispute."

34. <u>In a similar vein, the Adjudicating Authority is not required to go into the inability of a corporate debtor to pay its debt.</u> This is a clear departure from the scheme of winding up envisaged under Section 433(e) of the erstwhile Companies Act, 1956 which required the Adjudicating Authority to come to a finding with regard to the inability of the company to pay the debt and thereby arrive at a requisite satisfaction whether it is just and equitable to wind up the company.

The Code restricts the scope of enquiry for admission of an insolvency process by a financial creditor merely to the existence of default of a debt due and payable and nothing more. The legislative intent behind such prompt and summary intervention is "to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation."

35. The Appellant has heavily relied on Vidarbha (supra) to argue that the Adjudicating Authority has ample discretion to apply its mind to relevant factors including the feasibility of initiation of insolvency process notwithstanding the existence of default on a debt due and payable by the Corporate Debtor. In Vidarbha (supra), this Court observed:-

"61. In our view, the Appellate Authority (NCLAT) erred in holding that the adjudicating authority (NCLT) was only required to see whether there had been a debt and the corporate debtor had defaulted in making repayment of the debt, and that these two aspects, if satisfied, would trigger the CIRP. The existence of a financial debt and default in payment thereof only gave the financial creditor the right to apply for initiation of CIRP. The adjudicating authority (NCLT) was required to apply its mind to relevant factors including the feasibility of initiation of CIRP, against an electricity generating company operated under statutory control, the impact of MERC's appeal, pending in this Court, order of Aptel referred to above and the overall financial health and viability of the corporate debtor under its existing management.

………………………………………………………………

90. We are clearly of the view that the adjudicating authority (NCLT) as also the Appellate Tribunal (NCLAT) fell in error in holding that once it was found that a debt existed and a corporate debtor was in default in payment of the debt there would be no option to the adjudicating authority (NCLT) but to admit the petition under Section 7 IBC."

36. However, in review, this Court clarified that observations made in Paragraph 90 are restricted to the facts of Vidarbha (supra):-

"6. The elucidation in para 90 and other paragraphs [of the judgment under review] were made in the context of the case at hand. It is well settled that judgments and observations in judgments are not to be read as provisions of statute. Judicial utterances and/or pronouncements are in the setting of the facts of a particular case."

37. Finally, the apparent dichotomy between Innoventive (supra) and Vidarbha (supra) was set at rest in M. Suresh Kumar Reddy (supra), wherein this Court observed: "14. Thus, it was clarified by the order in review that the decision in Vidarbha Industries was in the setting of facts of the case before this Court. Hence, the decision in Vidarbha Industries cannot be read and understood as taking a view which is contrary to the view taken in Innoventive Industries and E.S. Krishnamurthy. The view taken in Innoventive Industries still holds good."

38. In light of the ratio in M. Suresh Kumar Reddy (supra) there is no cavil that the ratio in Innoventive (supra) lays down the correct proposition of law and the observations in Vidarbha (supra) were made in the facts of the case and do not operate as binding precedent.

39. Even otherwise on facts, Vidarbha (supra) does not come to the aid of the Appellant. In Vidarbha (supra), this Court had taken note of an award passed by APTEL in favour of the corporate debtor which far exceeded the claim of the financial creditor, and held in the setting of such facts, initiation of CIRP was unwarranted. In the present case, Appellant's contention regarding Corporate Debtor's viability is highly dubious. Though the Corporate Debtor strenuously demonstrates its commercial viability, the NCLAT has noted that the extent of outstanding liability as on 02.01.2024 was Rs. 3103.31 crore, which far exceeds the bills raised on WBSEDCL to the tune of Rs 906 crore and EBITDA of Rs. 20 crore per month during the CIRP.

40. For these reasons, we are of the opinion the admission of the Section 7 application was lawful and does not call for interference."

(emphasis wherever required supplied)

5.17 To summarize the above judgment, we observe as under: -

a. The Code prescribes whenever a corporate debtor defaults on a debt that is due and payable, an insolvency process must 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.

b. 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.

c. 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).

d. The Adjudicating Authority is not required to go into the inability of a corporate debtor to pay its debt.

e. 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.

5.18 In view of the above discussion, the Applicant has successfully demonstrated the following:

i. existence of a debt against the Principal Borrower
ii. execution of guarantee deed by the Corporate Guarantor in respect of the loan borrowed by the Principal Borrower
iii. default by the Principal Borrower
iv. invocation of guarantee by the Applicant
v. default by the CD in making the outstanding payment as demanded by the Applicant.

5.19 In view of the above, we find that requisite conditions necessary to trigger CIRP in respect of the CD are fulfilled, the Application is complete as all the relevant documents have been attached by the Applicant along with the Application. The Applicant has proposed the name of Mr. Shekhar Arvind Parkhi to act as the Interim Resolution Professional (IRP) having valid AFA valid till 30.06.2027 and the consent of the proposed IRP in Form 2 clearly states that no disciplinary action is pending against the IRP. As a result, the matter deserves to be admitted under Section 7 of the Code.

5.20 At this stage we are not quantifying the exact amount under default, which the IRP will do. We are satisfied that there exists a debt which is in default in excess of Rs. 1 Crore.

ORDER

In view of the aforesaid findings, Application bearing C.P.(IB) No.208/MB/2026 filed under Section 7 of the Code by Central Bank of India, the Applicant, for initiating CIRP in respect of **Rama Agro Foods Pvt. Ltd.**, the Corporate Debtor is hereby **admitted**.

We further declare moratorium under Section 14 of the Code 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 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 Securitisation 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 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 Code 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 in immediately as specified under Section 13 of the Code 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. Shekhar Arvind Parkhi** a registered Insolvency Professional having Registration Number **IBBI/IPA-001/IP-P-02494/2021-2022/13801** and e-mail address ip.shekharparkhi@gmail.com having valid Authorisation for Assignment up to 30.06.2027 as the IRP to carry out the functions under the Code.

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 Code. The officers and managers of the Corporate Debtor are directed to provide effective 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 Code read with Rule 11 of the NCLT Rules for any violation of law.

VIII. That the IRP/IP shall submit to this Tribunal quarterly 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 Applicant is directed to deposit a sum of Rs.3,00,000/- (Rupees Three Lakh) 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 Applicant on priority upon the funds 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, Maharashtra, 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 the 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 Applicant, 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/-	**Sd/-**
NILESH SHARMA	**SAMEER KAKAR**
MEMBER (JUDICIAL)	**MEMBER (TECHNICAL)**

//VM//