

**NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH  
COURT HALL NO: II**

(Video Conference) Virtual Hearing

CORAM: DR.VENKATA RAMAKRISHNA BADARINATH NANDULA – HON'BLE MEMBER (J)

CORAM: SHRI SATYA RANJAN PRASAD- HON'BLE MEMBER (T)

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,  
HYDERABAD BENCH, HELD ON 24.01.2023 AT 4:00 PM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	Company Petition IB/94/2022
NAME OF THE COMPANY	Golkonda Textiles Pvt Ltd
NAME OF THE PETITIONER(S)	Ahmed Alam Khan
NAME OF THE RESPONDENT(S)	Golkonda Textiles Pvt Ltd
UNDER SECTION	7 of IBC

**ORDER**

Order in CP(IB) 94/7/2022 pronounced, recorded vide separate sheets. In the result, the Company Petition **CP(IB) 94/7/2022** is allowed and the Corporate Debtor is admitted into CIRP as per the terms and conditions mentioned in the Code.



**MEMBER (T)**



**MEMBER (J)**

Syamala



**IN THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH - II, HYDERABAD**

**CP (IB) No. 94/07/HDB/2022**

**Under section 7 of Insolvency & Bankruptcy  
Code, 2016**

**In the matter of  
M/s Golconda Textiles Private Limited,**

**Mr. Ahmed Alam Khan**  
S/o. Mr. Shah Alam Khan  
Aged about 62 years,  
R/o A 1-7-140, Musheerabad,  
Hyderabad – 500 048

**.... Applicant /  
Financial Creditor**

**Vs**

**M/s Golconda Textiles Private Limited,**  
1-7-140, Musheerabad,  
Hyderabad, Telangana State

**.. Respondent/  
Corporate Debtor**

**Date of order: 24<sup>th</sup> January 2023**

**Coram:**

**DR. VENKATA RAMAKRISHNA BADARINATH NANDULA  
MEMBER (JUDICIAL)**

**SHRI SATYA RANJAN PRASAD  
MEMBER (TECHNICAL)**



**Counsels present:**

For Financial Creditor: Shri M.S. Srinivasa Iyengar, senior counsel assisted by Shri Hirendernath and Shri T. Sudhakar, Advocates.

For Corporate Debtor : Shri Chandrasen Reddy, Senior Counsel assisted by Shri Rohan Aloor, Advocate.

**[PER: BENCH]**

**ORDER**

1. Under Consideration is an Application filed Under Section 7 of the Insolvency and Bankruptcy Code, 2016 by Mr. Ahmed Alam Khan against the Corporate Debtor herein namely M/s Golconda Textiles Private Limited, praying for initiation of Corporate Insolvency Resolution Process against the Corporate Debtor, alleging *default* by the Corporate Debtor in repayment of a financial debt of a sum of over Rupees one crore allegedly due and payable.
2. Brief facts of the case, as stated by the Financial Creditor are as under:-
  - a. That Corporate Debtor is a company involved in the business of spinning, weaving and finishing yarn. That the Financial Creditor is one of the Directors of the Corporate Debtor Company.



- b. That the Corporate Debtor was struggling financially and was indebted to various banks/financial institutions and there was no access to funds. It is submitted that at the request of other directors, and to bail out the Corporate Debtor, the Financial Creditor has lent and sum of Rs. 9,15,78,532/- (Rupees Nine Crores Fifteen Lakhs seventy Eight Thousand Five Hundred and Thirty Two only) from time to time as financial loans.
- c. That the total amount due from the Corporate Debtor is Rs. 18,28,95,628/- (Rupees Eighteen Crores Twenty Eight Lakhs Ninety Five Thousand Six Hundred and Twenty Eight only) out of which Rs. 13,84,72,064/- (Rupees Thirteen Crores eighty four Lakhs Seventy Two Thousand and Sixty Four only) is towards principal amount disbursed by the Applicants whereas the balance of Rs. 4,44,23,565/- (Rupees Four Crores Forty Four Lakhs Twenty Three Thousand five Hundred and sixty five only) is towards the interest @ 14% p.a. from the respective date of disbursement of the amounts to the Corporate Debtor till 21/02/2022. The Applicant is also entitled to future interest from the date of filing of this application till the date of actual payment. Rs. 13,84,72,064/-



(Rupees Thirteen Crores eighty four Lakhs Seventy Two Thousand and Sixty Four only).

- d. The total loan Rs. 13,84,72,064/- (Rupees Thirteen Crores eighty four Lakhs Seventy Two Thousand and Sixty Four only) and the financial creditor is also entitled interest at 14% p.a. on the above. The Financial Creditor has been requesting the Corporate Debtor to return the amount without any success.

3. Counsel for the Corporate Debtor filed its counter, *inter alia*, stating as under:-

- e. That in the particulars of the Corporate Debtor in Part II of Form – I filed, the Corporate Debtor is described as Ms. Maruti Rich Ventures Limited. The Company Petition is liable to be dismissed on this ground alone.
- f. That the Form I has been filed for alleged financial debt of Rs. 13,84,72,064/- without any basis. That it is the duty of the Financial Creditor to annex all material documents along with the Form I in order to substantiate its debt.
- g. Section 7 of the Insolvency and Bankruptcy code casts an obligation on the Financial Creditor to furnish the record of default



recorded with the information utility or such other record or evidence of default as may be specified.

- h. By virtue of the order dated 12.05.2020 the National Company Law Tribunal has notified that no new application will be entertained without the record of default with the information utility.
- i. That NESL has been notified as the information utility portal as required under the provisions of the Insolvency and Bankruptcy code, 2016. In the present case, there is no record of information with the information utility. In fact, in column 3 of Part V of the Form I the Financial Creditor has stated that the record of default is not applicable.
- j. A perusal of Part V of the Form I filed would show that the Financial Creditor has no documentary proof to establish that any amount was ever due from the Corporate Debtor. The list of documents and the contents of such documents and the response of the Corporate Debtor to the same is tabulated below:

<b>Sl. No.</b>	<b>Document</b>	<b>Description</b>	<b>Response</b>
1	Copy of the Company Master Data	The document only shows the details of the company i.e., its capital, list of directors, registered office etc.,	The document is no proof of the alleged financial debt.



2	Copy of the certificate of incorporation		The document is no proof of the financial debt.
3	Copy of the annual return for the financial year 2019-2020	The document shows the total unsecured loans of the company	The document nowhere mentions that the Corporate Debtor owes any Financial debt to the Financial Creditor
4	Copy of the memorandum of association		The document is no proof of the financial debt.
5	Copy of the articles of association		The document is no proof of the financial debt.6
6	Original written consent of the interim resolution professional	This is a statutory requirement for filing of the application	The document is no proof of the financial debt.
7	Statement of account showing the existence of financial debt	An unstamped excel statement has been filed	The document in no way can be treated as proof of financial debt. It is a statement prepared by the Financial Creditor unsupported by any kind of proof.
8	Letter from Financial Creditor	This is again a letter issued by the Financial Creditor to directors of the company	This is a letter written by the Financial Creditor and is no proof of existence of debt.

k. In fact there is no iota of proof of financial debt.



- l. That in order to establish a financial debt there must be time value of money, i.e., the money alleged to be pumped by the Financial Creditor into the company should carry interest. Mere claim of interest by the Financial Creditor is not sufficient. There must be an agreement or a board resolution accepting the loan from the Financial Creditor. In the present case, there is no resolution accepting payment of interest to the Financial Creditor much less any resolution accepting any loan from the Financial Creditor.
- m. Section 5 of the Insolvency and Bankruptcy code clearly states that to constitute a “Financial Debt” the debt is disbursed against the consideration for time value of money. “Time value of money” would mean compensation or the price paid for the length of time for which the money has been disbursed. In fact the transaction would not have the effect of ‘commercial effect of borrowing’.
- n. That the Financial Creditor is a director and shareholder of the Corporate Debtor. The Corporate Debtor has three shareholders who are also directors of the Corporate Debtor. It is not out of place to state that the said shareholder directors are own brothers. In such a scenario where the Corporate Debtor is a family run business, assuming without admitting that the Financial Creditor has actually



pumped in money, even then it would not have the commercial effect of borrowing much less such an alleged debt having the consideration for time value of money. Further the nature of family run business is evident from the fact that even the annual returns filed by the Financial Creditor does not specifically show that the Financial Creditor has given unsecured loans to the company. All the directors have equally pumped in money whenever required by the Company.

4. Counsel for the Financial Creditor filed its rejoinder to the counter filed by the counter, inter-alia stating as under:-
  - a. That the National Company Law Tribunal's order dated 12.05.2020 was modified on 13.08.2020. It is further submitted that modified order specifically omits the sentence "No new application will be entertained without the record of default with the information utility" from the order. Furthermore, as stated in section 7(3) of the IBC, 2016 as well as in para 4 of the Corporate Debtor's counter, the Financial Creditor is required to furnish the record of default recorded with the information utility or such other record or evidence of default. Therefore, it is not mandatory for the applicant



to furnish the record of default with the information utility as is alleged by the Corporate Debtor.

- b. That a perusal of part V of the Form 1 filed would show that the Financial Creditor has no documentary proof to establish that any amount was ever due from the Corporate Debtor. It is also denied that there is no iota of proof of financial debt. It is submitted that Annexure 8 & 9 filed by the Financial Creditor in the main application is proof of existence of debt as it gives details of all the bank transactions between the parties showing the existence of a debt. It is also pertinent to note that the contents of letter dated 17.11.2021 (Annexure 9 filed by the Financial Creditor in the main application) has not been denied by the Corporate Debtor in its counter.
- c. It is relevant to state as admitted by the Corporate Debtor the Corporate Debtor is a family run business and the entire business is based on trust. It is submitted that whenever there was a requirement of the funds by the Corporate Debtor, the Financial Creditor has given an unsecured loan to the Corporate Debtor. The total unsecured loans given by the Financial Creditor as



acknowledged in the audited balance sheet as on 31<sup>st</sup> march 2020 and on 31<sup>st</sup> march 2021 is as under:

Year ending	Total unsecured loans as per Audited Balance Sheet(Rs)	Loan advanced by the Financial Creditor as disclosed in the Audited balance Sheet (Rs)
Financial Year 19-20	12,50,34,119/-	9,37,87,064/-
Financial Year 20-21	16,64,47,049/-	13,84,72,064/-

- d. That the total unsecured loans advanced by the Financial Creditor to the company as on 31st March 2021 is Rs. 13,84,72,064/-. It is submitted that in note no.4 long term borrowings of the Audited Balance Sheet as on 31st March 2021, under loans from Directors the sum of Rs. 16,64,47,049/- is clearly reflected. The breakup of unsecured loans and advances from the Directors as on 31st March 2021 is captured below:

S. No	Particulars	Amount
1	Ahmed Alam Khan Loan A/c	13,84,72,064.00
2	Deccan Safety Match Industries	9,62,930.00
3	Elegant Packaging Industries	-5,13,290.00
4	GB Bakers Industries Pvt Ltd	4,20,07,147.00
5	Golconda Match Industries	-19,20,000.00
6	Mahmood Alam Khan Loan A/c	-50,39,760.00
7	Mustafa Alam Khan Loan A/c	1,68,06,163.00
8	Super Dairy Farm	-2,43,28,205.00
	Total	16,64,47,049.00



- e. That the Corporate Debtor has admitted that the loans advanced at various times were in fact unsecured loans and included the same in the above Audited Balance Sheet for the respective years. It is submitted that a certificate dated 8<sup>th</sup> May, 2022 from the statutory auditor of the Corporate Debtor to substantiate the unsecured loan given by the Financial Creditor and the balance outstanding as on 31.03.2021 is filed as Annexure-3.
- f. That the loans were given by the Financial Creditor at all times to meet the difficult liquidity crunch the company was going through at various time. That on 25.01.2021 the Financial Creditor has advanced a sum of Rs. 3,97,85,000/- to the Corporate Debtor as loans. This amount was utilized by the Corporate Debtor to repay the loans taken by the company from SBI (erstwhile SBH), under the one time settlement scheme offered by the bank to save the Corporate Debtor from the liquidation and attachment.
- g. That for this Adjudicating Authority's ready reference, the major loans are captured along with the references in the bank statements of both Financial Creditor and the Corporate Debtor in the following table:



S. No	Date	Loans given by the Financial Creditor to the Corporate Debtor (Rupees)	Reference in the Financial Creditor's Bank statement	Reference in the Corporate Debtor's Bank statement
1	09.09.2019	4,98,00,000.00	Page No. 2 of Union bank statement A/c. No. 003210100021301 (Annexure-8)	Page No 1 of the Secunderabad Co-operative Urban Bank Ltd – Current A/c. No. 002007000886 (Annexure-9)
2	31.12.2020	54,00,000.00	Page No. 8 of Union bank statement A/c. No. 003210100021301 (Annexure-8)	Page No. 25 of Union bank statement A/c. No. 003211100001024 (Annexure-10)
3	25.01.2021	3,97,85,000.00	Page No. 9 of Union bank statement A/c. No. 003210100021301 (Annexure-8)	Page No. 27 of Union bank statement A/c. No. 003211100001024 (Annexure-10)

- h. That the Financial Creditor is also a shareholder holding 33.33% shares in the equity of the company and the act of advancing unsecured loans to the company protects and enhances the value off his shareholding which would be the consideration for the loans advanced.
- i. That the enhancement of assets, increase in production and the growth in profits, share value, or equity, ensures to the benefit of consideration for disbursement of such amount raised as debt with



obligation on the part of Corporate Debtor to discharge the same. That though, at the first glance it may look that it is an unsecured loan without any interest, but it certainly carries a motive of making profit in future, which relates to the concept of time value of money and effect of commercial borrowing. That there exists an element of foreseeable profit to be secured at a later stage, by providing financial stability to the company, means to expand the company business etc.,

- j. That it is settled law that even an interest free term loan constitutes a financial debt under the Insolvency and Bankruptcy code, 2016. That in the instant case, the Financial Creditor has advanced loans to the Corporate Debtor as evidenced by the Audited Balance Sheet, bank statements of the Corporate Debtor and bank statements of the Financial Creditor, the Financial Creditor has demanded interest on the unsecured loans and the loans advanced are in the nature of commercial borrowing by the Corporate Debtor and it is consideration of the time value of money. That the amount loaned to the Corporate Debtor qualifies as a Financial debt under section 5 (8) of the Insolvency and Bankruptcy code, 2016.



k. That merely because it is a family run business any pumping in of monies by a shareholder/director does not have the commercial effect of borrowing or much less such an alleged debt having the consideration for time value of money.

5. To the Rejoinder filed by the Financial Creditor, Corporate Debtor herein has filed additional counter, *inter-alia*, stating as under:-

a. That the Financial Creditor chose not to file any documents in support of his claim along with the Form 1 and has filed documents only along with the Rejoinder. In law a rejoinder is only permitted to answer the defences raised by the Corporate Debtor. However, in the present case, the Financial Creditor is trying to establish its case on the basis of the documents filed with the rejoinder which is not permitted in law.

b. The Financial Creditor, in the Form 1 has clearly stated that there is no record of default with the information utility and the only documents relied upon by him to evidence the financial debt are 8 documents which in no manner prove the existence of a financial debt.



- c. That having stated the same in Form 1, and after already having amended the Form 1 once, the Financial Creditor failed to file a complete Form 1 showing the existence of a debt.
- d. That the loans advanced at various times were unsecured loans. In fact they are no loans at all. The certificate dated 08-05-2022 from the statutory auditor is denied and the same has been created for the purpose of the present case.
- e. The Financial Creditor has taken money from all group companies belonging to the family and has transferred such amounts into the corporate debtor. The same is evident from the bank statements filed by the Financial Creditor. Therefore, he cannot claim such amounts as being advanced by him. All of the amounts are from the family owned concerns and can in no way be called property of the Financial Creditor.
- f. That the Financial Creditor did not contributed any money. All of the funds are joint family funds and the same is evident from the bank statements filed by the Financial Creditor.
- g. The balance sheet of the Corporate Debtor does not show any amount due to the Financial Creditor. The bank statements also do not prove any existence of debt.



6. Learned counsel for the Financial Creditor as well as the learned counsel for the Corporate Debtor have filed their respective Written Submissions reiterating the contentions raised in the pleadings, besides relying on the following rulings.

6(A). Rulings relied on by the learned counsel for the Financial Creditor:

(i) Hon'ble High Court of Calcutta in Univalue Projects Private Limited Vs. The Union of India & others, 2020 SCC OnLine Cal. 1452.

It is held by the Hon'ble High Court as under:

“51. The only controversy that remains now is with respect to the interpretation of section 215 of the IBC, 2016. [Section 215](#) is therefore pertinent and is extracted as follows:

*"215. Procedure for submission, etc., of financial information. - (1) Any person who intends to submit financial information to the information utility or access the information from the information utility shall pay such fee and submit information in such form and manner as may be specified by regulations.*

*(2) A financial creditor shall submit financial information and information relating to assets in relation to which any security interest has been created, in such form and manner as may be specified by regulations. (3) An operational creditor may submit financial information to the information utility in such form and manner as may be specified."*

*“63. Ms. Chatterjee had relied on Hitendra Vishnu Thakur (supra) to submit that any procedural amendment cannot be made*



*retrospective if the same is in the nature of creating new disabilities and substantively alters the right of the parties. She had also relied on Pradyat Kumar Bose (supra) to stipulate that the law cannot delegate unless specifically provided for. While Mr. Vipul Kundalia, the learned counsel for the Respondents, had refuted the reliance on Hitendra Vishnu Thakur (supra), I am in agreement with both the precedents relied on by the petitioners.”*

(ii) Hon’ble National Company Law Appellate Tribunal, New Delhi in the matter of Mukesh Kumar Aggarwal Vs. Anurag Gupta & Anr NCLAT New Delhi, Company Appeal (AT) (Insolvency) No.1264 of 2019, has held that:

*“11. Thus, the above case law does not apply to the facts of the present case. In the instant case, the Respondent No.1 has advanced various sums to the Corporate Debtor B.K. Educational Society to ease its liquidity crunch, thereby improving its economic prospects and to save the allotments by making direct payment to the GNIDA for the plot allotted in the name of Corporate Debtor. The para 6 of the judgment in Shailesh Sangani (supra) of this Tribunal it is held that the monies advanced by a Director to improve the financial health of the Company would have the commercial effect of borrowing even if no interest is claimed on the same. Case Citation: [2020] ibclaw.in 130 NCLAT IBC Laws| www.ibclaw.in Company Appeal (AT) (Insolvency) No. 1264 of 2019.*

*12. Thus the amount deposited by the respondent No.1 in the account of GNIDA to save the corporate debtor on account of financial crunch to save the allotment made in the name of corporate debtor falls within the ambit of „financial debt“. Admittedly, the amount has not been paid back, and there is a default. Consequently, the adjudicating authority had admitted the petition filed under Section 7 of the Insolvency & Bankruptcy*



*Code, 2016. In the circumstance, as stated above, we do not find any justification for interfering with the impugned order. Therefore the Appeal is dismissed. No order as to costs.”*

(iii) Hon’ble Supreme Court in the matter of Orator Marketing Pvt Ltd Vs. Samtex Desinz Pvt Ltd 2021 SCC Online 513, has held that:

*“22. The NCLT and NCLAT have overlooked the words “if any” which could not have been intended to be otiose. ‘Financial debt’ means outstanding principal due in respect of a loan and would also include interest thereon, if any interest were payable thereon. If there is no interest payable on the loan, only the outstanding principal would qualify as a financial debt. Both NCLAT and NCLT have failed to notice 16 clause(f) of Section 5(8), in terms whereof ‘financial debt’ includes any amount raised under any other transaction, having the commercial effect of borrowing.”*

*“23. Furthermore, sub-clauses (a) to (i) of Sub-section 8 of Section 5 of the IBC are apparently illustrative and not exhaustive. Legislature has the power to define a word in a statute. Such definition may either be restrictive or be extensive. Where the word is defined to include something, the definition is prima facie extensive.”*

*“31. At the cost of repetition, it is reiterated that the trigger for initiation of the Corporate Insolvency Resolution Process by a Financial Creditor under Section 7 of the IBC is the occurrence of a default by the Corporate Debtor. ‘Default’ means non-payment of debt in whole or part when the debt has become due and payable and debt means a liability or obligation in respect of a claim which is due from any person and includes financial debt and operational debt. The definition of ‘debt’ is also expansive and the same includes inter alia financial debt. The definition of ‘Financial Debt’ in Section 5(8) of IBC does not expressly exclude an interest free loan. ‘Financial Debt’ would have to be construed to include interest free loans advanced to finance the business operations of a corporate body.”*



(iv) Hon'ble National Company Law Appellate Tribunal, New Delhi in the matter of Shailesh Sangani vs. Joel Cardoso and another in Company Appeal (AT) (Insolvency) No.616 of 2018, has been pleased to hold that:

*“6. A plain look at the definition of 'financial debt' brings it to fore that the debt along with interest, if any, should have been disbursed against the consideration for the time value of money. Use of expression 'if any' as suffix to 'interest' leaves no room for doubt that the component of interest is not a sine qua non for bringing the debt within the fold of 'financial debt'. The amount disbursed as debt against the consideration for time value of money may or may not be interest bearing. What is material is that the disbursement of debt should be against consideration for the time value of money. Clauses (a) to (i) of [Section 5\(8\)](#) embody the nature of transactions which are included in the definition of 'financial debt'. It includes money borrowed against the payment of interest. Clause (f) of [Section 5\(8\)](#) specifically deals with amount raised under any other transaction having the commercial effect of a borrowing which also includes a forward sale or purchase agreement. It is manifestly clear that money advanced by a Promoter, Director or a Shareholder of the Corporate Debtor as a stakeholder to improve financial health of the Company and boost its economic prospects, would have the commercial effect of borrowing on the Company Appeal (AT) (Insolvency) No. 616 of 2018 part of Corporate Debtor notwithstanding the fact that no provision is made for interest thereon. Due to fluctuations in market and the risks to which it is exposed, a Company may at times feel the heat of resource crunch and the stakeholders like Promoter, Director or a Shareholder may, in order to protect their legitimate interests be called upon to respond to the crisis and in order to save the company they may infuse funds without claiming interest. In such situation such funds may be treated as long term borrowings. Once it is so, it cannot be said that the debt has not been disbursed against the consideration for the time value of the money. The interests of such stakeholders cannot be said to be in conflict with the interests of the Company. Enhancement of assets, increase in production and the growth in profits, share value or equity enures to the benefit of such*



*stakeholders and that is the time value of the money constituting the consideration for disbursement of such amount raised as debt with obligation on the part of Company to discharge the same. Viewed thus, it can be said without any amount of contradiction that in such cases the amount taken by the Company is in the nature of a 'financial debt'."*

*"3. Learned counsel for the Appellant submits that the learned Adjudicating Authority landed in error in holding that the amount claimed by Respondent No.1 for triggering Corporate Insolvency Resolution Process, in respect whereof default on the part of Corporate Debtor was alleged, was not a 'Financial Debt' as defined under Section 5(8) of the I&B Code despite the admitted position that there was no consideration for the time value of money in the transaction. It is further submitted that learned Adjudicating Authority failed to notice that no interest was ever claimed by the Respondent No.1 or paid by the Corporate Debtor to Respondent No.1, that no TDS amount was ever deducted in respect of the part payments made, that there was no tenure for the repayment of amounts granted by Respondent No.1 to Corporate Debtor and that there was no time value of money in the transaction and no consideration for the time value of the money was agreed between the parties at the time of disbursement of moneys by Respondent No.1."*

*"9. The balance sheet as on 31st March, 2017 at page 83 of the reply affidavit filed by Respondent No.1, inter alia, reflects a non-current liability of Rs.4,72,76,182/- treated as 'long term borrowings' and not treated as shareholder's funds. Same factual position is reflected in the communication made by the Company Auditor 'Ganesh Mehta', Partner 'Ganesh and Rajendra Associates' addressed to Respondent No.1 in his communication dated 5th December, 2017 forming Annexure D to the reply affidavit of Respondent no.1 which is reproduced hereinbelow:-*

*Company Appeal (AT) (Insolvency) No. 616 of 2018 This communication reflects total unsecured loan of Rs.4,72,76,182/- against the Corporate Debtor in the books of the Company as on 31st March, 2017, the breakup showing the loan amount of Rs.1,45,36,475/- in the name of Respondent No.1.*



*In the face of this documentary evidence it is abundantly clear that the amount disbursed by Respondent No.1 to the Corporate Debtor was in the nature of debt treated as long term loan and not as an investment in the nature of share capital or equity. Such disbursement cannot either be treated as largesse. We are convinced that the aforesaid amount outstanding as against Corporate Debtor, default whereof is not in issue, has all the trappings of a 'financial debt' and falls within the purview of Section 5(8)(f) of the I&B Code and Respondent No.1 is covered by the definition of 'Financial Creditor.' ”*

(v) Hon’ble NCLAT in the matter of M/s. BDH Industries Ltd Vs. Mars Remedies Pvt Ltd C.A (AT) (Insolvency) No.936 of 2020) has been pleased to hold that:

*“22. Upon perusal of the above mentioned demand notices, it is clear that the BDH Industries as financial creditor had sought repayment of the full financial debt given to the Corporate Debtor Mars Remedies Private Limited (MRPL). The section 7 application submitted to the Adjudicating Authority (attached at pp. 115-129 of Appeal paper book Vol. I) clearly states the above mentioned demand notices. However, the amounts mentioned in the Demand Notices Part-IV of Section 7 application are different. We are not concerned with the exact amount of debt at the stage of admission of section 7 application. It would suffice for the purpose of admission of section 7 application, if the debt is above threshold value of Rs.1 lakh. Therefore, we find that the debt is in excess of Rs.1 lakh of threshold value and also in default. Hence the debt owed to the Financial Creditor by the Corporate Debtor is above the threshold value and payable in default and it satisfies the definition under section 3(12) of the IBC regarding default.”*



Thus, submitting the learned counsel for the Financial Creditor prayed for admission of the Corporate Debtor into Corporate Insolvency Resolution Process and for appointment of IRP.

**6(B).** Rulings relied on by the learned counsel for the Corporate Debtor:

(i) Hon'ble NCLAT in Mukesh Kumar Aggarwal Vs. Anurag Gupta & Anr Company Appeal (AT) (Insolvency) No.1264 of 2019.

*“3. .. .. that the amount claimed in default is not a “financial debt” within the meaning of Section 5(8) of the Code. The Adjudicating Authority erred in treating the amount claimed by the Petitioner as a “financial debt”, within the meaning of the Code. The Adjudicating Authority has further observed that the Petitioner has also placed on record the bank statements which show that the transactions have been done by him in favour of GNIDA, on behalf of the Company, in terms of the Resolution passed by the Board of Directors in its meeting dated 01st September 2015.”*

(ii) To drive home the contention that in the absence of documentary evidence or loan agreement the claim cannot lie, the Corporate Debtor relied on decision of the Hon'ble Supreme Court in Swiss Ribbons vs Union of India [Writ Petition (Civil) No. 99 of 2018], wherein it is held that:

*“37. The trigger for a financial creditor's application is non-payment of dues when they arise under loan agreements. It is for this reason that [Section 433\(e\)](#) of the Companies Act, 1956 has been repealed by the Code and a change in approach has been*



*brought about. Legislative policy now is to move away from the concept of —inability to pay debts to —determination of default. The said shift enables the financial creditor to prove, based upon solid documentary evidence, that there was an obligation to pay the debt and that the debtor has failed in such obligation. Four policy reasons have been stated by the learned Solicitor General for this shift in legislative policy. First is predictability and certainty. Secondly, the paramount interest to be safeguarded is that of the corporate debtor and admission into the insolvency resolution process does not prejudice such interest but, in fact, protects it. Thirdly, in a situation of financial stress, the cause of default is not relevant; protecting the economic interest of the corporate debtor is more relevant. Fourthly, the trigger that would lead to liquidation can only be upon failure of the resolution process.”*

7. That apart the initial order of the NCLT, viz. Order File No.25.02.2020-NCLT dated 12<sup>th</sup> May 2020 relied by the Corporate Debtor has been struck down by the Hon’ble High Court of Calcutta in Univalue Projects Private Limited Vs. The Union of India & others vide order dated 18.08.2020 in W.P. No.5595 (W) with C.A. No.3347 of 2020 and allied matters, whereunder it was held as follows:

*“66. The impugned order, if allowed to persist in terms of its current legality, would not only restrict the modes of evidence to showcase or adduce an existence of debt accrued to a financial creditor under the IBC, 2016, before the AA or NCLT, it would directly be in confrontation with the Sec. 7(3)(a) read with Regulation 8 of the CIRP, 2016, be inconsistent with the IBC, 2016 and thereby defeat the very purpose for which the IBC, 2016 had been enacted. And therefore, this impugned order dated May 12, 2020, warrants an interference under the writ jurisdiction of this Court. In conclusion thereof, this writ petition succeeds. The impugned order dated May 12, 2020 issued by the Principal Bench of the NCLT, New Delhi is*



*held to be ultra vires the IBC, 2016 and the Regulations thereunder, and is accordingly struck down.”*

8. In light of the contest as above, the point that emerges for consideration by this Tribunal is:

- Whether a financial debt of a sum over Rupees one crore *due and payable* by the Corporate Debtor to the applicant exists? If so, has the Corporate Debtor defaulted in repayment of the same?

9. We have heard *Shri M.S. Srinivasa Iyengar, Ld. Senior counsel, who is assisted by Shri Hirendernath & Shri T. Sudhakar, learned advocates* for the Financial Creditor and *Shri Chandrasen Reddy, learned senior counsel, assisted by Shri Rohan Aloor, learned advocate* for the Corporate Debtor. Perused the record and the Written Submissions.

Point.

Whether a financial debt of a sum over Rupees one crore *due and payable* by the Corporate Debtor to the applicant exists? If so, the Corporate Debtor defaulted in repayment of the same?

10. At the outset, it may be stated that the application under consideration, being one under Section 7 of the I&B Code, 2016, it is imperative for the applicant to establish existence of a financial debt of a sum of over Rupees one crore due and payable by the Corporate Debtor and that the Corporate Debtor has defaulted in repayment of the same.



However, in view of the judgement of Hon'ble Supreme Court of India *in re, Vidarbha Industries Power Limited Vs. Axis Bank Limited*, Civil Appeal No.4633 of 2021, whereunder it has been held that:

*“88. The Adjudicating Authority (NCLT) has to consider the grounds made out by the Corporate Debtor against admission, on its own merits. For example, when admission is opposed on the ground of existence of an award or a decree in favour of the Corporate Debtor, and the Awarded/decretal amount exceeds the amount of the debt, the Adjudicating Authority would have to exercise its discretion under Section 7(5)(a) of the IBC to keep the admission of the application of the Financial Creditor in abeyance, unless there is good reason not to do so. The Adjudicating Authority may, for example, admit the application of the Financial Creditor, notwithstanding any award or decree, if the Award/Decretal amount is incapable of realisation. The example is only illustrative.”*

*“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 of the IBC.”*

on a mere establishment of debt and its default by the Corporate Debtor, it is not mandatory on the part of the Adjudicating Authority to admit the application filed under Section & of IB Code, and it is *imperative* for the Adjudicating Authority to consider the grounds if any made out by the Corporate Debtor against admission of the application, on its own merits.



11. Therefore, in light of the above *legal frame* and on the basis of the *factual matrix* of this case, we proceed to decide the point as above.

12. According to *Shri M.S. Srinivasa Iyengar, Ld. Senior Counsel*, the Financial Creditor, who is also one of the shareholders/ directors of the Corporate Debtor herein, had advanced, in all, a sum of Rs.13,84,72,064/- (Rupees Thirteen Crores eighty four Lakhs Seventy Two Thousand and Sixty Four only) to the Corporate Debtor, in order to honour its commitment under the One Time Settlement (OTS) with the lender Bank, besides to improve the financial health of the Corporate Debtor, the said amounts were disbursed through various bank transactions as mentioned in Annexure-7. Ld Sr. Counsel would further contend that, that the said amount is repayable with interest at the rate of 14% *per annum*, from the respective dates of disbursal. In support of the plea of advancement of the aforesaid amount as debt to the Corporate Debtor, learned counsel placed reliance on the Bank statements of the Financial Creditor (Annexure-8) and the Bank statements of the Corporate Debtor lying with Secunderabad Co-operative Urban Bank Ltd and Union Bank. Learned Senior Counsel would further contend that the above loans were also shown in the audited Balance Sheet of the Corporate Debtor for the year ending 31.03.2021 as 'unsecured loans' and the Certificate dated



08.05.2022 issued by the Statutory Auditor of the Corporate Debtor confirming the said unsecured loan of a sum of Rs.13,84,72,064/-, has been advanced by the Financial Creditor, categorically establishes that a financial debt of a sum over Rupees one crore is due and payable by the corporate debtor to the applicant.

Insofar as the plea that the above alleged borrowing cannot be construed as 'financial debt' in terms of section 5(3) of the I&B Code, 2016 as there is no agreement for payment of interest on the said sum is concerned, Ld. Counsel states that the same is wholly unsustainable for the reason that the definition of *financial debt* under Section 5(8) of the I&B Code does not mandate payment of interest on the sum advanced for the purpose of categorisation of the said debt as financial debt. Nextly, Learned Senior Counsel it is submitted that acceptance of payment of interest at the rate of 14% per annum on the sum advance by the financial creditor by the corporate debtor is evident from the Auditor Certificate dated 08.05.2022, as such it is not open to the Corporate Debtor to contend contra. That apart, according to the learned senior counsel since the amount lent was to meet commercial purposes such as payment towards OTS amount to the SBI, to enhance the value of assets, increase in production besides for the growth for profit etc., it cannot be said that the sum advanced is not



financial debt. In support of the plea a ‘financial debt’ does not mandate payment of interest, the learned counsel relied on decision of the Hon’ble Supreme Court of India in Orator Marketing Private Limited Vs. Samtex Desinz Pvt Ltd., 2021 SCC OnLine SC 513, whereunder it was held that:

*“31. .. .. The definition of ‘debt’ is also expansive and the same includes inter alia financial debt. The definition of ‘Financial Debt’ in Section 5(8) of IBC does not expressly exclude an interest free loan. ‘Financial Debt’ would have to be construed to include interest free loans advanced to finance the business operations of a corporate body.”*

**13.** As regards the plea of the Corporate Debtor that the amount shown as long term borrowing, cannot be treated as a loan or a debt, since the Financial Creditor is a director and shareholder of the Corporate Debtor besides all the shareholders are directors and brother, so much so, even assuming that the sum claimed as debt has in fact been lent and due, the same would not have *commercial effect* of borrowing as such the same cannot become a *financial debt*, learned Sr. counsel submits that a director is entitled to fund the company in order to rescue the company from financial crisis and such lending even if long term can be categorised as a financial debt. In this regard the learned senior counsel placed reliance on the following rulings:



- Shailesh Sangani Vs. Joel Cardoso and another, CA (AT) (Insolvency) No.616 of 2018, judgement dated 30.01.2019, wherein it was held that:

*“6. A plain look at the definition of 'financial debt' brings it to fore that the debt along with interest, if any, should have been disbursed against the consideration for the time value of money. Use of expression 'if any' as suffix to 'interest' leaves no room for doubt that the component of interest is not a sine qua non for bringing the debt within the fold of 'financial debt'. The amount disbursed as debt against the consideration for time value of money may or may not be interest bearing. What is material is that the disbursement of debt should be against consideration for the time value of money. Clauses (a) to (i) of [Section 5\(8\)](#) embody the nature of transactions which are included in the definition of 'financial debt'. It includes money borrowed against the payment of interest. Clause (f) of [Section 5\(8\)](#) specifically deals with amount raised under any other transaction having the commercial effect of a borrowing which also includes a forward sale or purchase agreement. It is manifestly clear that money advanced by a Promoter, Director or a Shareholder of the Corporate Debtor as a stakeholder to improve financial health of the Company and boost its economic prospects, would have the commercial effect of borrowing on the Company Appeal (AT) (Insolvency) No. 616 of 2018 part of Corporate Debtor notwithstanding the fact that no provision is made for interest thereon. Due to fluctuations in market and the risks to which it is exposed, a Company may at times feel the heat of resource crunch and the stakeholders like Promoter, Director or a Shareholder may, in order to protect their legitimate interests be called upon to respond to the crisis and in order to save the company they may infuse funds without claiming interest. In such situation such funds may be treated as long term borrowings. Once it is so, it cannot be said that the debt has not been disbursed against the consideration for the time value of the money. The interests of such stakeholders cannot*



*be said to be in conflict with the interests of the Company. Enhancement of assets, increase in production and the growth in profits, share value or equity enures to the benefit of such stakeholders and that is the time value of the money constituting the consideration for disbursement of such amount raised as debt with obligation on the part of Company to discharge the same. Viewed thus, it can be said without any amount of contradiction that in such cases the amount taken by the Company is in the nature of a 'financial debt'."*

- BDH Industries Ltd. Vs. Mars Remedies Pvt Ltd., CA (AT)

(Insolvency) No.936 of 2020, wherein it was held that:

*"20. All the above documents go to show that there was a financial assistance requested vide letter dated 27.11.2011 regarding which there were delays in repayment and extensions sought by MRPL vide letter dated 28th March 2014. The documents also show that interest @ 15% per year has been calculated and communicated by the Corporate Debtor to the financial creditor. All these documents go to show that the amount provided by BDH Industries to MRPL was in the nature of loan, which was adequately secured and there was a repayment with a certain interest rate. In such a situation, it is amply clear that even though there is no explicit loan agreement between the Corporate Debtor, MRPL and financial creditor BDH Industries yet these documents establish quite convincingly the existence of a loan provided by BDH Industries to MRPL and steps taken in repayment along with repayment of interest. Thus we are convinced that the Appellant is a 'financial creditor' as defined in Section 5(7) and the debt owed to him is a 'financial debt' as defined under section 5(8) of the IBC."*

14. Therefore, according to the learned Sr. counsel existence of *financial debt* of a sum over rupees One Crore due and payable by the corporate debtor has been established in unequivocal and categorical



terms by the Financial Creditor and as there is no evidence of discharge of the said financial debt by the Corporate Debtor, its *default* also stands established, hence it is a fit case for ordering initiation of CIRP, against the Corporate Debtor and prayed the Tribunal to accordingly allow the application.

**15.** *Per contra*, the learned Senior counsel for the Corporate Debtor Shri S. Chandrasen Reddy, at the outset contended that there is no financial debt as claimed by the Financial Creditor due and payable by the Corporate Debtor, as such the question of committing default in repayment of the same does not even arise. According to the learned senior counsel, mere transfer of amount to the account of the Corporate Debtor by the Financial Creditor does not create a debt much less a financial debt as envisaged under section 5(3) of the I&B Code. The learned Sr. counsel for the Corporate Debtor further submits that the Financial Creditor is one of three shareholders/ Directors of the Corporate Debtor and all the directors are brothers, thus, the Corporate Debtor is a closely held company. Therefore, even assuming that the sum as claimed by the applicant has been transferred to the account of the Corporate Debtor, the same by itself does not create a transaction of 'debt' since it



is common in any Company of this nature, for the family members to contribute money, without having any commercial interest or claiming any interest on the said amount. Insofar as the Balance Sheet of the Corporate Debtor for the year ending 31.03.2021 is concerned, learned senior counsel would submit that mere mention of “long term borrowing” in balance sheet by itself cannot establish that the said borrowing was from the applicant. Learned Senior Counsel also contended that in the absence of the *record of default* recorded with the ‘Information Utility’ being filed by the applicant, the application is liable to be rejected in view of the circular dated 12-05-2020 *supra*. Thus, submitting the learned Sr. counsel prayed the Tribunal to reject this application.

**16.** We have given our thoughtful consideration to the aforesaid submissions made by the learned counsels, perused the record and the case law relied on by both the sides.

**17.** At the outset it may be stated that, the plea that the financial creditor having failed to file the ‘Record of Default’ from Information Utility, in terms of the circular dated 12-05-2020, the present application is liable to be *rejected*, in our considered view is unsustainable, in as much as Section 7(3) (a) of the IB code, itself states that the Financial Creditor is required to furnish the record of default recorded with the information utility or



*such other record or evidence of default.* That apart, the very initial order of the NCLT, viz. Order File No.25.02.2020-NCLT dated 12<sup>th</sup> May 2020 as relied by the Corporate Debtor has been struck down by the Hon'ble High Court of Calcutta in Univalue Projects Private Limited Vs. The Union of India & others vide order dated 18.08.2020 in W.P. No.5595 (W) with C.A. No.3347 of 2020 and allied matters, as discussed hereinabove. As such the above plea is of no avail to the Corporate debtor.

**18.** As regards the plea of the corporate debtor that as there was no agreement for payment of interest on the sum said to have been advanced to the corporate debtor by the Financial Creditor, no *financial debt* of any sum much less a sum over Rupees One Crore due and payable by the Corporate debtor cannot even exist in favour of the financial creditor under law is concerned, we state that the definition of *financial debt* as contained in 7(8) of IBC Code itself does not mandate payment of interest. Hon'ble Supreme Court of India, in Orator Marketing Private Limited Vs. Samtex Desinz Pvt Ltd., 2021 SCC Online SC 513, held that:

*“31. .. .. The definition of ‘debt’ is also expansive and the same includes inter alia financial debt. The definition of ‘Financial Debt’ in Section 5(8) of IBC does not expressly exclude an interest free loan. ‘Financial Debt’ would have to be construed to include interest free loans advanced to finance the business operations of a corporate body.”*



**19.** That apart, admittedly, the Corporate Debtor was under immense financial pressure from the Lenders for non-payment of the debt due to the lenders. In this backdrop, on 25-01-2021 the Financial Creditor advanced a sum of Rs.3,97,85,000/- to the Corporate Debtor, which is evident from Annexures 5-11 and the said amount was utilized by the Corporate Debtor to repay the loans taken by the Company from SBI (erstwhile SBH), under the One-Time Settlement (OTS) offered by SBI, and thus prevented the likely coercive action for recovery by the Lender.

**20.** Hon'ble NCLAT in Mukesh Kumar Aggarwal Vs. Anurag Gupta & Anr Company Appeal (AT) (Insolvency) No.1264 of 2019. In paras 11 & 12 held as follows.

*“11.. In the instant case, the Respondent No.1 has advanced various sums to the Corporate Debtor B.K. Educational Society to ease its liquidity crunch, thereby improving its economic prospects and to save the allotments by making direct payment to the GNIDA for the plot allotted in the name of Corporate Debtor. The para 6 of the judgment in Shailesh Sanganiv (supra) of this Tribunal it is held that the monies advanced by a Director to improve the financial health of the Company would have the commercial effect of borrowing even if no interest is claimed on the same.*

*12. Thus the amount deposited by the respondent No.1 in the account of GNIDA to save the corporate debtor on account of financial crunch to save the allotment made in the name of corporate debtor falls within the ambit of „financial debt“. Admittedly, the amount has not been paid back, and there is a default. Consequently, the adjudicating authority had admitted the*



*petition filed under Section 7 of the Insolvency & Bankruptcy Code, 2016. In the circumstance, as stated above, we do not find any justification for interfering with the impugned order. Therefore, the Appeal is dismissed. No order as to costs.”*

**21.** We find that the ratio of above judgement squarely applies to the facts of the present case.

**22.** That apart, a bare perusal of the undisputed the Audited Balance Sheet of the corporate debtor for the year ending 31st March 2021 discloses an unsecured loan of Rs.13,84,72,064.00. The *undisputed* certificate dated 08/05/22 issued by the Auditor of the corporate debtor clearly states that the unsecured loan shown in the balance sheet of the corporate debtor as on 31/03/2021 was advanced by the applicant herein. It is pertinent to note that the balance sheet of the corporate debtor for the year ending 2021 discloses as long-term borrowing. The note below the said entry note stating that the “Company is not expecting” to pay an amount in the next financial year, as rightly submitted by the Ld. Counsel for the Financial Creditor, the same only indicates that the corporate debtor does not expect the amounts to be paid in the next financial year which is only an assumption and cannot bind the Financial Creditor who is not a signatory to the said balance sheet as admittedly the said balance sheet was signed only by the other two Directors of the Corporate Debtor,



namely, Mr. Mahmood Alam Khan and Mr. Mustafa Alam Khan. That apart, the Financial creditor vide letter dated 17.11.2021 (Annexure 9), demanded the Corporate Debtor to pay the amounts now claimed as due and payable, with interest at 12%. The said letter was received by the corporate debtor, however neither the amount was discharged nor the contents were denied by the corporate debtor.

**23.** As already stated, there cannot be any denial of the fact that the Financial Creditor, had advanced, in all a sum of Rs.13,84,72,064/- (Rupees Thirteen Crores eighty four Lakhs Seventy Two Thousand and Sixty Four only) to the Corporate Debtor, in order to improve the financial health of the Corporate Debtor. That apart, on 25.01.2021, the applicant advanced a sum of Rs.3,97,85,000/- to the corporate debtor to honour One Time Settlement (OTS) offered to the Corporate Debtor by the lender/ State Bank of India. The disbursal of the said amount through various bank transactions has been established vide Annexures-5-11. No Due Certificate issued by the lender/ State Bank of India dated 30.01.2021 also has been filed. Thus, the above financial records of the Corporate Debtor as well as that of the applicant establish existence of a financial debt of a sum of over Rupees one crore due and payable by the Corporate Debtor to the applicant.



Hon'ble Supreme Court of India, *in re*, Asset Reconstruction Company (India) Limited Vs. Tulip Star Hotels Limited & Ors. in CIVIL APPEAL NOS. 84-85 OF 2020, relied on by the applicant, held as follows:

*“43. In our view, the NCLAT erred in law in holding that the Books of Account of a company could not be treated as acknowledgement of liability in respect of debt payable to a financial creditor.”*

**24.** Thus, a financial debt of a sum over Rupees one crore due and payable by the corporate debtor herein stands acknowledged by the corporate debtor. As the said Debt, which we have categorically held to be a financial debt, since not discharged by the corporate debtor, the default starts at the corporate debtor.

**25.** Therefore, in the light of our discussions as above we are fully *satisfied* that the applicant has established existence of Financial Debt of a sum over Rupees One Crore due and payable, besides its default by the corporate debtor. We are also satisfied that the present application is complete and that there is no disciplinary proceedings pending against the proposed IRP.

**26.** Hence, we hereby, admit this Company Petition under Section 7 of IBC, 2016, and declare moratorium under Section 14 of the Code, and pass the *following directions:-*



(A) Corporate Debtor, M/s Golconda Textiles Private Limited is admitted in Corporate Insolvency Resolution Process under section 7 of the Insolvency & Bankruptcy Code, 2016.

(B) The Bench hereby prohibits 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; transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

(C) That the supply of essential goods or services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during moratorium period.

(D) Notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government,



State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concessions, clearances or a similar grant or right during the moratorium period.

(E) That the provisions of sub-section (1) of Section 14 shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.

(F) That the order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.

(G) That the public announcement of the initiation of Corporate Insolvency Resolution Process shall be made immediately as prescribed under section 13 of Insolvency and Bankruptcy Code, 2016.



(H) That this Bench hereby appoints **Shri Prasanna Shenoy**, having Registration No.IBBI/ IPA-001/IPP-02065/2021-2022/13596 as Interim Resolution Professional, whose contact details are:

e-mail ID: prasannashenoy1963[at]gmail[dot]com

Address: 102, Sai Ameya Arc-1, Bejai Kapikad Road  
Mangaluru – 575006.

as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

(I) Proposed IRP filed Form-2 dated 21.02.2022. His Authorisation for Assignment is valid till 11.09.2023. This information is also available in IBBI Website. Thus, there is compliance of Regulation 7A of IBBI (Insolvency Professionals) Regulations, 2016, as amended. Therefore, the proposed IRP is fit to be appointed as IRP since the relevant provision is complied with.

**27.** The Registry is directed to furnish certified copy of this order to the parties as per Rule 50 of the NCLT Rules, 2016.

**28.** The petitioner is directed to communicate this order to the proposed Interim Resolution Professional.

**29.** Registry of this Tribunal is directed to send a copy of this order to the Registrar of Companies, Hyderabad for marking appropriate remarks



against the Corporate Debtor on website of Ministry of Corporate Affairs  
as being under CIRP.

**30.** Accordingly, this Petition is admitted.

**SATYA RANJAN PRASAD  
MEMBER (TECHNICAL)**

**DR. N.V. RAMAKRISHNA BADARINATH  
MEMBER (JUDICIAL)**

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