NATIONAL COMPANY LAW TRIBUNAL
MUMBAI BENCH COURT VI

Item No. P4.

C.P. (IB)/43(MB)2026

CORAM:

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING (HYBRID) DATED **18.08.2026**

NAME OF THE PARTIES: **BANK OF INDIA**

Vs

SHRI KARVIR NIVASINI MAHALAXMI ISPAT PRIVATE LIMITED

Under Section 7 of the IBC.

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)

//S.DUBEY//

IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH-VI

C.P. (IB)/43/MB/2026

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

Bank of India

[CIN No. U99999MH1906PLC000243]

Star House, C - 5, G - Block,

Bandra Kurla Complex, Bandra (E),

Mumbai 400051.

…Financial Creditor/Applicant

V/s

Shri Karvir Nivasini Mahalaxmi Ispat Private Limited

[CIN No. U27104PN1993PTC073651]

A-6, MIDC, Gokul Shirgoan,

Kolhapur, Maharashtra - 416234

...Corporate Debtor

Pronounced: 18.08.2026

CORAM:

HON'BLE SHRI NILESH SHARMA, MEMBER (JUDICIAL)

HON'BLE SHRI SAMEER KAKAR, MEMBER (TECHNICAL)

Appearances: Hybrid

For Applicant : Adv. Mr. Deepak Panpalia i/b Aqua Legal

For Respondent: Adv. Mr. Avinash Khanolkar a/w Adv. Mr. Mahesh Nulolu and Adv. Ms. Khushboo Bhanushali.

ORDER

[PER: CORAM]

1. BACKGROUND

1.1. C.P. (IB) No. 43/MB/2026 (Application) was filed on 13.01.2026 by **Bank of India**, the Financial Creditor (FC), having CIN No.: U99999MH1906PLC000243, under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiating Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP") in respect of **M/s. Shri Karvir Nivasini Mahalaxmi Ispat Private Limited** the Corporate Debtor having CIN No. U27104PN1993PTC073651.

1.2. This Application has been affirmed by one Mr. Umesh Dataram Mane, authorised signatory of the Applicant *vide* Authority Letter dated 31.12.2025.

1.3. As per Part IV of the Application, the amount claimed to be in default is Rs.23,66,42,307.14 /-.

1.4. The date of default is stated as 17.09.2024 and the date of NPA is stated as 15.12.2024.

1.5. Part V of the of the Application mentions the Securities held by the Applicant, which are as stated hereunder:

a. Land bearing Plot No. A-6, admeasuring 19783 sq. meters. lying and situated at MIDC, in village Gokul Shirgaon, Dist. Kolhapur. alongwith the factory constructed thereon. In the name of Corporate debtor (Estimated Value Rs. 18,18,00.000/-).

b. Equitable Mortgage of The Land bearing Plot No. A- 7/2, admeasuring 6712 sq. meters. lying and situated at MIDC. in village Gokul, Shirgaon, Dist. Kolhapu. along with the factory constructed thereon (estimated value Rs. 5,61,00,000/-).

c. A Twin Bungalow No. H/2, Situated within Casa Royal, CTS No.612.A/2. R.S No.114/1. 2 lying and situated at Village Panhala, taluka Panhala, District Kolhapur owned by Promotor/ guarantor (estimated value Rs. 93,00,000).

1.6. The Applicant has proposed the name of Mr. Purusottam Behera, an Insolvency Professional, having Registration No. IBBI/IPA-002/IP-N00940/2019-2020/12993, to act as the Interim Resolution Professional (IRP) (having valid Authorisation for Assignment up to 31.12.2026) (as per IBBI site), in case the Application is Admitted.

2. <u>CONTENTIONS OF APPLICANT (FC)</u>

2.1. The Financial Creditor states that the Corporate Debtor approached it from time to time for grant of various working capital and credit facilities. Pursuant thereto, the Financial Creditor sanctioned and renewed several credit facilities including a Cash Credit Facility and a Guaranteed Emergency Credit Line (GECL). Initially, a Cash Credit facility of Rs. 2,00,00,000/- was sanctioned in the year 2001, which was periodically reviewed and enhanced. Ultimately, the Cash Credit limit was renewed and enhanced from time to time and last sanctioned was on 17.06.2022, thus making total Cash Credit limit of Rs. 15,00,00,000/-, while a GECL facility of Rs. 1,50,00,000/- was sanctioned in the year 2021. The sanctioned facilities were thereafter renewed during the year 2023.

2.2. The Financial Creditor further submits that the Corporate Debtor acknowledged its outstanding liability from time to time. In particular, an Acknowledgement of Debt and Security for Cash Credit dated **29.08.2024** was executed by the Corporate Debtor whereby the subsisting liability and securities created in favour of the Financial Creditor were duly acknowledged.

2.3. According to the Financial Creditor, despite repeated opportunities and continued financial assistance, the Corporate Debtor failed to maintain financial discipline and committed default in repayment of the outstanding dues. The date of default has been stated as 17.09.2024. Owing to persistent irregularities, the loan account of the Corporate Debtor was classified as Non-Performing Asset (NPA) on 15.12.2024 in accordance with the applicable RBI guidelines.

2.4. The Financial Creditor further submits that as on **02.12.2025**, an amount of **Rs. 23,66,42,307.14/-** remained outstanding and payable by the Corporate Debtor towards the financial facilities, excluding the Bank

Guarantee amount, which had not been invoked. A detailed computation statement along with the account-wise outstanding dues and accrued interest has been placed on record in support of the claim.

	Karveer Niwasini Ispat Private Limited					
	Computation Table					
	Particulars of claim as on 02.12.2025					
Nature of facility	Account No	Ledger Balance (in Rs.) as on 17.09.2024 (date of default)	Ledger Balance (in Rs.) as on 15.12.2024 (NPA date)	Uncharged Interest (in Rs.) as on 02.12.2025	Number of days from the date of default to 02.12.2025	Total Dues (in Rs.)as on 02.12.2025
CC-	"090130100005263"	₹ 15,99,86,592.98	₹ 19,65,80,864.34	₹2,78,52,122.00	442	₹22,44,32,986.34
TL-	"090073410000547"	₹ 1,13,67,284.00	₹ 1,11,60,399.00	₹10,48,921.80	442	₹1,22,09,320.80
Total			₹20,77,41,263.34	₹2,89,01,043.80		₹23,66,42,307.14
BG (if forced and Invoked)	Gaurantee Id: 0900IPEBG230012		Rs. 2,00,000.00	Expiry Date	10.05.2026	
	Gaurantee Id: 0900IPEBG230013		₹1,00,000.00		31.10.2026	

2.5. The Financial Creditor further states that after classification of the account as NPA, it issued a Demand Notice dated 16.12.2024 under Section 13(2) of the SARFAESI Act, 2002 calling upon the Corporate Debtor to discharge the entire outstanding liability. However, despite receipt of the demand notice, the Corporate Debtor failed and neglected to regularise the account or repay the outstanding dues.

2.6. The Financial Creditor has also relied upon the Record of Default issued by the National E-Governance Services Limited (NeSL), the Information Utility recognised under the Code. The said Record of Default records the financial debt, the date of default as 17.09.2024, and confirms completion of authentication of the default, thereby evidencing the occurrence of default within the meaning of the Insolvency and Bankruptcy Code, 2016. The status of authentication of default is “Authenticated”.

2.7. The Financial Creditor has further relied upon the certified copies of the loan account statements, certificates issued under the Bankers' Books Evidence Act, Commercial Credit Information Report, loan agreements, mortgage documents, hypothecation agreements, acknowledgements of debt, sanction letters and other contemporaneous records in support of the existence of the financial debt and the occurrence of default.

2.8. The Applicant has attached the following documents along with the Application and /or additional affidavit:

a. Copy of the Company Master Data of the Corporate Debtor.
b. Copies of Sanction Letters.
c. Copy of Supplementary Agreement for Hypothecation dated 05.12.2006.
d. Copy of Hypothecation Cum Loan Agreement dated 02.11.2021.
e. Copy of Deed of Guarantee dated 02.11.2021 and 28.06.2022.
f. Copy of Acknowledgment of Debt and Security for Cash Credit dated 29.08.2024.
g. Copy of SARFEASI 13(2) Notice dated 16.12.2024.
h. Copy of Record of Default NeSL (Form- D).
i. Copy of the written communication by proposed Interim Resolution Professional under Form 2.
j. Copy of Demand Promissory Note along with Pay Bearer Letter dated 05.12.2006.

k. Copy of Acknowledgment of Debt and Security for Cash Credit dated 29.08.2024.

l. Copy of certificate issued under the Banker's Book's Evidence Act.

m. Copy of statement of the CC /loan accounts of the Corporate Debtor.

n. A copy of Power of Attorney/ Board Resolution/ Letter of Authority issued by the Financial Creditor.

o. Copy of Recall Notice dated 07.08.2025.

3. REPLY BY CORPORATE DEBTOR

3.1. This Reply has been affirmed by one Mr. Abhishek Jitendra Gandhi, authorised signatory of the CD vide Board Resolution dated 28.02.2026.

3.2. The Corporate Debtor disputes the alleged financial debt of Rs. 23,66,42,307.14/-, the alleged date of default 17.09.2024, and the classification of its account as NPA with effect from 15.12.2024.

3.3. The Corporate Debtor raises the following preliminary objections:

a. No authority to initiate Insolvency against the Respondent;

b. No Default has occurred;

c. Alleged Date of Default of the Petition is Non -Est in Law;

d. Petitioner’s attempt to Initiate Insolvency is not with Bona-fide intentions;

e. Corporate Debtor is a Solvent Company;

f. Fair Chance of Revival is to be granted.

3.4. It is stated that the Financial Creditor has referred & relied over a purported Authority Letter dated 31.12.2025 through which the alleged

Authority to initiate the Petition has been granted to the Signatory. Interestingly, it can be seen that through the purported Letter of Authority nowhere the Petitioner has sanctioned any authority, of whatsoever nature, over the Signatory viz. Shri. Umesh Dattaram Mane to sign, execute and file the present Petition or any other Petition before Court of Law. However, on the other hand the said purported Authority Letter only provides an Authority to appear before the Court of Law and give evidence on behalf of the Petitioner. Further, it is submitted that the said Authority Letter has been issued by a person designated as 'Zonal Manager' however, there is no document on record to depict that whether or not such 'Zonal Manager' itself has such Powers, conferred by the Petitioner, which are sought to be further delegated. And hence, in respectful submissions of the Respondent, the said Authority Letter cannot be held to be valid document to grant an Authority over the Signatory of the Petition by the Petitioner.

3.5. The Corporate Debtor has liked to refer and rely over provision of section 113 of Companies Act, 2013 wherein it is specifically provided that the any Body Corporate / Company shall be represented by a Person only in a situation wherein such powers are conferred through a Resolution of the Board of Company and not otherwise. However, interestingly, the Authority Letter, which is being relied in the Petition, is nowhere supported by any Resolution passed by the Board of the Financial Creditor. In this regard the Corporate Debtor would like to rely over the Order passed by this Hon'ble Bench in CP (IB) 2161 / MB / 2019 in the matter of Rushabh

Civil Contractors Private Limited versus Centrio Lifespaces Limited wherein the co-ordinate Bench of this Hon'ble Tribunal has dismissed the Insolvency Petition on similar ground.

3.6. It is further contented that the Financial Creditor has averred in the Part IV of the Petition that the alleged debt is in default since 17.09.2024. However, this is totally incorrect statement made and Corporate Debtor would like to put the Petitioner to strict proof thereof. It is stated that the Repayment Terms of the Credit Facilities sanctioned by the Financial Creditor, are depicted in the Sanction Letter issued by the Financial Creditor dated 09.10.2023. Accordingly, it may be noted that the Corporate Debtor has been granted with two Facilities by the Financial Creditor viz. a Cash Credit Facility and Term Loan Facility. It is stated that the Clause of Repayment in the said Sanction Letter provides that the Cash Credit facility is repayable on Demand and only Interest is to be served by the Corporate Debtor as and when it is charged. In light of this it is more pertinent to note that there is nothing on record to show that the Financial Creditor has demanded the entire outstanding / availed Cash Credit facility from the Corporate Debtor and the Corporate Debtor has failed / defaulted in Repayment. Furthermore, it is not even case of the Petitioner that the Respondent has failed to serve the Interest as and when charged by the Petitioner.

3.7. In this regards the Corporate Debtor relying upon the letter dated 18.11.2024 issued by the Financial Creditor inter alia merely demanding an overdue amount of Rs. 3,63,38,377.34/-. The copy of said letter is annexed as Annexure 2. Accordingly, it may be noted that vide the said letter the Petitioner nowhere demanded the repayment of entire availed Cash Credit Facility and hence, in respectful submissions of the Respondent, the default qua repayment of Cash Credit facility has never happened. Further, it is stated that in Part IV of the Petition, the Petitioner has also alleged that the repayment qua Term Loan Facility amounting to Rs. 1,50,00,000/ is also in default. However, it is pertinent to note that the said claim is totally bogus, sham and untenable in the eyes of Law. In this regard the Corporate Debtor draw attention of this bench to the repayment terms of the said Term Loan facility which provides that the said facility is to be repaid in 36 EMIs starting from month of Nov. 2023.

3.8. Therafter, the Respondent is servicing the said repayment regularly. It is being stated and submitted that the said fact can be confirmed by the letter dated 18.11.2024. supra, as the Petitioner itself mentioned that till date of said letter only one EMI was overdue against the said Term Loan Facility. It is submitted that the Financial Creditor gets right to prefer the Petition even on a single Default committed by the Respondent then in such case if the default qua the repayment of Term Loan Facility is to be considered then such default does not meet the threshold limit provided by the provisions of S. 4 of the Code. And hence, on this count also the Petition deserves dismissal.

3.9. The Corporate Debtor submits that it was incorporated under the provisions of the Companies Act, 1956 and has been engaged in the business of manufacturing TMT steel bars since year 1993. It is stated that, over a period of nearly three decades, the Corporate Debtor established itself as a recognised industrial unit in the Kolhapur region and has been providing direct and indirect employment to more than 250 plus workforce. It is further submitted that the Corporate Debtor has maintained a continuous banking relationship with the Financial Creditor since the year 1994. During the subsistence of such relationship, the Financial Creditor sanctioned, renewed and enhanced various credit facilities from time to time, having regard to the satisfactory conduct of the accounts and the operational viability of the Corporate Debtor. According to the Corporate Debtor, from the year 1996 till the year 2023, it regularly serviced its financial obligations and its account remained standard for a considerable period. The continued renewal and enhancement of the credit facilities by the Financial Creditor is relied upon to contend that the business of the Corporate Debtor remained viable and its account conduct was found satisfactory over a substantial period.

3.10. The Corporate Debtor submits that during the financial year 2022-23, it began facing financial stress due to a combination of factors including volatility in the steel market. working capital disruptions post the COVID – 19 Pandemic, increase in raw material and energy costs and restructuring within the promoter group. These circumstances affected the working capital cycle and production capacity of the Respondent, which was duly communicated to the Financial Creditor. The Corporate Debtor contends that despite being aware of the aforesaid circumstances, the Financial Creditor unilaterally classified its loan account as a Non-Performing Asset without adhering to the procedure prescribed by law. It is also alleged that no prior communication regarding the proposed classification of the account as NPA was issued before issuance of the demand notice under Section 13(2) of the SARFAESI Act, 2002. On this basis, the Corporate Debtor contends that the classification of its account as NPA is non - est in law.

3.11. In support of the aforesaid contention, the Corporate Debtor relies upon the Notification dated 29.05.2015 issued by the Ministry of Micro, Small and Medium Enterprises bearing no. S.O. (E) 1432 providing Framework for Revival and Rehabilitation of MSMEs. The copy of said Notification is annexed as Annexure 3. It is further submitted that the Reserve Bank in order to make the said Framework contained in the Notification dated 29.05.2015 compatible with the existing regulatory guidelines on "Income Recognition, Asset Classification and provisioning pertaining to Advances", had made certain changes in the said Framework, in consultation with the Central Government and issued revised Framework along with the operating Instructions vide the Communication dated 17.03.2016, addressed to all the Scheduled Commercial Banks. The copy of said Notification is annexed as Annexure 4.

3.12. Accordingly, vide Clause 4.8. of the said Notification the Reserve Bank of India has provided guidelines for revival & rehabilitation of the MSMESs. The salient features of the Framework are as under:

i. Before a loan account of an MSME turns into a Non Performing Asset (NPA), banks or creditors should identify incipient stress in the account by creating three subcategories under the Special Mention Account (SMA) category as given in the Framework.

ii. Any MSME borrower may also voluntarily initiate proceedings under this Framework.

iii. Committee approach to be adopted for deciding corrective action plan.

iv. Time lines have been fixed for taking various decisions under the Framework.

3.13. The Corporate Debtor alleges that the Financial Creditor did not follow any of the aforesaid mandatory steps before declaring its account as NPA. It is therefore contended that the directives issued by the Ministry of MSME and the Reserve Bank of India were completely disregarded. It is submitted that, notwithstanding the alleged non-compliance with the aforesaid statutory and regulatory framework, the Financial Creditor proceeded to classify the account of the Corporate Debtor as NPA on **15.12.2024**. According to the Corporate Debtor, such classification could not have lawfully been made and, therefore, the alleged date of default in the Petition is non - est in Law and hence, the Petition is not fit for admission.

3.14. In support the afore-mentioned contention, the Corporate Debtor reliance being placed upon a Judgement passed by the Hon'ble Supreme Court of India in the bunch of Civil Appeals viz. *M/s. Pro Knits Versus The Board of Directors of Canara Bank & Ors.* along with other Civil Appeal wherein the Hon'ble Apex Court has clearly held that the afore mentioned directives of the Ministry of MSMEs & of the Reserve Bank of India are not directory but mandatory before declaring the account of MSME entity as NPA. The relevant Para of the said Judgement is reproduced herein-below for ready reference of this Bench:

> *"In view of the above, it is absolutely clear that the Instructions for the Framework for Revival andRehabilitation of Micro, Small and Medium Enterprises as notified by the Central Government vide the Notification dated 29" May, 2015 in exercise of the powers conferred under Section 9 of the MSMED Act, as revised by the RBI Notification dated 17" March, 2016, and the Master Directions i.e. the Reserve Bank of India (Lending 10 Micro, Small and Medium Enterprises Sector) Directions, 2016, issued by the Reserve Bank of India in exercise of the powers conferred by Section 21 and 35(4) of the Banking Regulation Act, having statutory force, are binding to all Scheduled Commercial Banks, licensed to operate in India by the Reserve Bank of India, as stated in the said Directions. It cannot be gainsaid that the Banking Regulation Act 1949 basically seeks to regulate banking business and mandates a statutory comprehensive and formal structure of banking regulation and supervision in India. Section 21 and Section 354 of the said Act empower the Reserve Bank of India to frame the policy and give directions to the banking companies in relation to the advances to be followed by the banking companies. Such directions have got to be read as supplement to the provisions of the Banking Regulation Act and accordingly are required to be construed as having statutory force and mandatory."*

3.15. Further, assuming, whist denying, that while declaring the Account of the Respondent as NPA the Petitioner has followed the afore mentioned directives of the Reserve Bank of India however, while declaring the account of the Respondent as NPA the Petitioner has grossly violated the guidelines of the Reserve Bank of India in that regard and declared the alleged NPA regardless of the provisions of Law. In this regard the Respondent would like to refer and rely a Master Circular of the Reserve Bank of India on Income Recognition. Asset Classification, Provisioning and Other Related Matters dated 01.04.2025 which is annexed as Annexure 5. Accordingly, the Respondent would like to refer & rely over Clause 2.1.1. (iii) of the aforementioned Circular wherein, it is categorically provided that before declaring any loan account as NPA such loan account should be overdue for more than 90 days. However, in the present matter, it is Financial Creditor's case that the first default has occurred on 17.09.2024 whereas the Account of the Respondent got declared as NPA 15.12.2024 i.e. on 88th Day only. And accordingly, as stated supra, since the CC Account of the Respondent was repayable on Demand now the Petitioner claims that since the Account of the Respondent has become NPA the entire Cash Credit Facility becomes due & payable. However, in respectful submissions of the Respondent. as stated supra, as declaration of Respondent's Account as NPA is itself an action which is non - Est in law; the claim of the Financial Creditor in Part IV of the Petition is also non - Est in law.

3.16. It is stated that the Financials Creditor has not even adhered to the RBI guidelines for Restructuring of Loan / Credit Facilities granted to a MSME Entity hence, in respectful submissions of the Respondent, the present Petition cannot survive in the eyes of Law and be dismissed forthwith.

3.17. The Corporate Debtor submits that, in order to overcome the temporary financial stress and regularise its account, it approached the Financial Creditor in September 2023 seeking enhancement and restructuring of the existing credit facilities. Meetings were thereafter held with the officials of the Financial Creditor, including representatives of its Zonal Office, wherein the Corporate Debtor explained its business revival plan and sought restructuring of the credit facilities. It is further submitted that, as part of the restructuring proposal, the Corporate Debtor offered to strengthen the security available to the Financial Creditor by substituting an existing residential property valued at approximately Rs.1 Crore with another residential property belonging to the promoter family valued at approximately Rs.7 Crores. The proposal was communicated to the Financial Creditor by letter dated 03.01.2024 as annexed at annexure 6**.** The Corporate Debtor also proposed monetisation of a portion of its unused factory land so as to generate funds to the extent of approximately Rs. 3 Crores, which would have been utilized towards working capital and reduction of outstanding liabilities. The copy of communication dated 04.03.2024 addressed to the Financial Creditor in this regard is annexed as Annexure 7. Pursuant to the aforesaid proposal, the Financial Creditor initiated various internal processes including stock audit, financial review and technical due diligence of the Respondent Company during the period December 2023 to February 2024. Officials of the Financial Creditor visited the factory premises and interacted with the management of the Corporate Debtor to assess the operational and financial position of the Company. At the said time the Corporate Debtor and its Officers / Directors / Promotors fully cooperated with the Financial Creditor and submitted all documents and clarifications sought by the Financial Creditor including financial statements, GST returns, production details and statutory records.

3.18. The Corporate Debtor contends that despite extending complete cooperation and repeatedly complying with every requirement of the Financial Creditor, no decision was taken on the restructuring proposal. It is submitted that several follow-up emails dated 20.05.2024, 31.05.2024 and 07.06.2024 were addressed requesting the Financial Creditor to process the restructuring proposal and provide clarification regarding the enhancement of facilities. Copies of the said E-Mails are, collectively, annexed as Annexure 8.

3.19. It is further submitted that, during the said period other financial institutions viz. ICICI Bank and HDFC Bank had expressed interest in taking over the exposure of the Respondent along with granting additional credit facilities. However, relying upon the assurances provided by the officials of the Petitioner and considering the longstanding relationship between the parties, the Respondent did not proceed with the said takeover proposals. The copies of communication received by the Corporate Debtor from said Financial Institutions are, collectively annexed at Annexure 9.

3.20. The Corporate Debtor further submits that while reviewing its financial records, it discovered that the Financial Creditor had incorrectly reported its credit exposure to CIBIL. The CIBIL report dated 11.08.2024 reflected financial exposure exceeding Rs. 100 Crores whereas the actual exposure of the Corporate Debtor with the Financial Creditor is still approximately Rs. 22 - 24 Crores. The report also contained references to persons who were not connected with the credit facilities of the Corporate Debtor. The copy of the CIBIL report dated 11.08.2024 is annexed as Annexure 10. In this regard the Corporate Debtor immediately informed the Financial Creditor and raised a dispute with the credit bureau through an E-mail dated 26.04.2024 requesting rectification of the incorrect reporting. The copy of the said email is annexed as Annexure 11. However, despite repeated follow-ups by the Respondent, through several E-Mails, the incorrect reporting remained unresolved which severely prejudiced the Respondent and adversely impacted its ability to obtain alternative financing.

3.21. The Corporate Debtor had also identified a prospective investor who was willing to invest in the Company for expansion of the manufacturing unit including installation of additional furnace capacity, subject to stabilization of working capital arrangements with the Petitioner. However, owing to the uncertainty surrounding the restructuring proposal and the incorrect credit reporting, the said investor eventually withdrew its interest.

3.22. It is further submitted that the Corporate Debtor made sincere efforts to regularise the loan account by identifying a prospective purchaser for its property situated at Plot No. A-7/2, MIDC, Kolhapur for approximately Rs. 4.50 Crores. By communication dated 03.12.2024, the Corporate Debtor sought approval from the Financial Creditor to sell the said property so that the sale proceeds could be utilised towards reduction of the outstanding dues and regularisation of the account. The copies of the said communications are, collectively, annexed as Annexure 12. Immediately thereafter, the Financial Creditor issued a demand notice dated 16.12.2024 under Section 13 (2) of the SARFAESI Act calling upon the Respondent to repay an amount of Rs. 21,60,41,263.34/- along with interest.

3.23. The Corporate Debtor, through its advocate, summitted details objections dated 14.02.2025 to the said notice explaining the circumstances leading to financial stress and reiterating the willingness of the Corporate Debtor to regularize the account through restructuring and asset monetization. The Financial Creditor issued a reply dated 21.02.2025 rejecting the objections raised by the Corporate Debtor. The copies of said correspondences between the parties are collectively annexed as Annexure 13. It is stated that, on 24.02.2025 the Financial Creditor proceeded to take symbolic possession of the secured assets under the provisions of the SARFAESI Act by affixing possession notices on the properties of the Respondent. The Copies of the possession notices are annexed as Annexure 14.

3.24. The Corporate Debtor submits that after the Financial Creditor bank proceeded with measures under the SARFAESI act including symbolic possession of the secured assets, the Respondent Company was constrained to initiate appropriate legal proceedings to safeguard its rights and interests in the secured properties. Accordingly, the Respondent Company filed a Securitization Application in 1876/2025 on 05.04.2025 before the Debt Recovery Tribunal, Pune challenging the actions initiated by the Applicant Bank and seeking appropriate reliefs in relation to the enforcement measures undertaken by the Bank. The said Application was filed bona fide with the intention of addressing the irregularities in the enforcement process and protecting the assets of the Respondent Company which are essential for continuation of its business operations.

3.25. It is submitted that despite the pendency of the aforesaid proceedings and despite the objections raised by the Corporate Debtor, the Financial Creditor proceeded to issue auction / sale notices dated 31.05.2025 proposing to sell the secured assets of the Corporate Debtor on 09.07.2025. The Corporate Debtor submits that the said action was undertaken without properly considering the representations made by the Corporate Debtor and without ensuring that the secured assets would fetch fair market value. The proposed auction includes valuable immovable properties and plant and machinery forming part of the manufacturing unit of the Corporate Debtor and therefore any sale of the said assets at an undervalued price would cause serious and irreparable loss to the Respondent. The copy of the auction/sale notice dated 31.05.2025 is annexed as Annexure 15. In response to the said auction notice, the Corporate Debtor through its Advocate, issued a detailed legal notice dated 03.06.2025 addressed to the Authorized Officer of the Financial Creditor pointing out serious irregularities in the proposed sale process. In the said notice, the Corporate Debtor specifically highlighted that the reserve price fixed by the Financial Creditor was substantially lower than the prevailing market value of the properties and was not in consonance with the valuation considered by the Financial Creditor at the time of sanction of the loan facilities. The Corporate Debtor also averred that such fixation of reserve price would result in sale of the secured assets at a throwaway price causing grave financial prejudice to the Corporate Debtor. And accordingly, the Corporate Debtor therefore called upon the Financial Creditor to withdraw the said sale notice and to take appropriate steps in accordance with law. However, the Financial Creditor through its Advocate, vide a Reply dated 13.06.2025 denied the contents of the Corporate Debtor and reiterated its stand. The copies of these correspondences between the parties are annexed as Annexure 16.

3.26. The Corporate Debtor further submits that in view of the apprehension that the secured assets were being disposed of at an undervalued price and in a manner contrary to settled legal principles, the Corporate Debtor also issued a caution notice in respect of the said properties and was constrained to file an Interim Application before the Hon’ble Debts Recovery Tribunal, Pune seeking appropriate directions in relation to the fixation of reserve price and the auction proceedings initiated by the Financial Creditor. Accordingly, it is being stated and submitted that, afore-mentioned facts clearly demonstrate that the haste in act of the Financial Creditor and also demonstrates disputes relating to the enforcement proceedings and valuation of the secured assets. The issues so raised are already pending before the competent forum for necessary adjudication however, the same are material developments which, in respectful submissions of the Corporate Debtor, should be considered in the present proceedings.

3.27. It is stated that the Financial Creditor has also tried to avail route of S. 14 of the SARFAESI Act, 2002 for seeking Magistrate’s Order for Physical

Possession. However, while doing so the Petitioner had come to know that the necessary notice U/s. 13 (2) of the SARFAESI Act, 2002 was initially not issued to owner of Security Interest and hence, fresh 13 (2) notice was to be issued. This fact also depicts the haste in the manner of the Petitioners acts against the Corporate Debtor. And accordingly, the Respondent submits that the present Petition is liable to be rejected as the Petitioner has suppressed material facts relating to restructuring discussions, proposals submitted by the Respondent, and the efforts undertaken by the Respondent to regularize the account through asset sale and investor participation as enumerated supra.

3.28. It is submitted that the Financial Creditor, though have filed bulky Petition, has deliberately omitted to disclose the various correspondences exchanged between the parties between September 2023 and November 2024 wherein the Respondent had repeatedly sought restructuring and enhancement of facilities. The Corporate Debtor further submits that the past conduct of the Financial Creditor demonstrates that the financial position of the Corporate Debtor was under active consideration for restructuring and revival even shortly prior to the alleged classification of the account as NPA. The Petitioner had itself undertaken stock audits, technical due diligence and financial review of the Respondent which clearly indicates that the account was being considered for restructuring. Having participated in such discussions and having encouraged the Respondent to submit detailed proposals. in respectful submissions of the Respondent. the Petitioner cannot now seek to invoke the provisions of the Code without disclosing the said facts. In this regard the Respondent would like to refer & rely an e-mail communication dated 28.06.2024 sent by the Financial Creditor to the Corporate Debtor and the same is annexed at Annexure 17. However, in respectful submissions of the Corporate Debtor, the present proceedings under the provisions of S. 7 of the appears to have been initiated as a recovery mechanism rather than as a Bonafide insolvency proceeding. Further, it is submitted that, this Bench shall take serious cognizance of the same and the Financial Creditor be punished with the maximum punishment provided U/s. 65 of the Code.

3.29. It is further stated the that provisions of Code are intended for resolution of genuine cases of Insolvency and not to be used as a substitute for recovery proceedings as is being done in the present case. The Respondent is a MSME entity which is a manufacturing unit with substantial assets and operational capacity and had presented viable proposals for revival and repayment of dues.

3.30. It is stated that the Corporate Debtor must get a fair chance for revival.

3.31. The Corporate debtor has relied on the following:

a. M/s. Pro Knits Versus The Board of Directors of Canara Bank & Ors.
b. M/s. Vidarbha Industries Power Limited v Axis Bank {(2022) 8 SCC 352}.
c. Transfer Appeal (AT) 227 / 2021 (Company Appeal (AT) (Ins) No. 326 / 2020.
d. Puneet Resutra v Janu & Kashmir Bank Limited, Company Appeal (AT) (Ins.) No. 752 of 2023.

4. REJOINDER FILED BY APPLICANT

4.1. The Financial Creditor submitted that the Corporate Debtor has not disputed the availing of the financial facilities, execution of loan documents and the outstanding liability of Rs. 23.66 crores.

4.2. It is further stated that the it is well settled that while considering an application under section 7 of the Code, this Bench is only required to examine the existence of financial debt and occurrence of default. It is contended that all other objection sought to be raised by the Corporate Debtor regarding technical in nature, misconceived in law and intended to delay admission of the Petition. Reliance is placed upon the judgment of the Hon'ble Supreme Court in Innoventive Industries Ltd. v. ICICI Bank.

4.3. The Financial Creditor denies the contention that the present Petition has been instituted without proper authorisation. It is submitted that the Petition has been filed by a duly authorised officer of the Financial Creditor in the ordinary course of banking business and in discharge of official duties.

4.4. According to the Financial Creditor, the Authority Letter relied upon by the Bank cannot be read in isolation or in a restrictive manner. The said authority has been issued by a competent officer in exercise of validly delegated powers and authorises the concerned officer to institute and prosecute legal proceedings on behalf of the Bank. It is further submitted that the doctrine *delegatus non potest delegare* has no application in the present case as the power of delegation is expressly traceable to the Bank's internal authorisation framework. The Financial Creditor is placing in record the Power of Attorney and relevant authorization documents to demonstrate that the signatory is fully empowered not only to represent but also to initiate and prosecute proceedings on behalf of the Financial Creditor, including signing and filing of the present Petition. It is submitted that any defect, if at all, in authorization is a curable irregularity and does not go to the root of maintainability of the Petition. The subsequent production of authorization amounts to valid ratification and relates back to the date of filing of the Petition.

4.5. It is submitted that the objection raised by the Respondent is contrary to the settled position under the Insolvency and Bankruptcy Code, 2016. The Hon'ble National Company Law Appellate Tribunal in *Palogix Infrastructure Pvt. Ltd. v. ICICI Bank Ltd. (2017)* has categorically held that issues relating to authorization must be viewed pragmatically and not in a hyper-technical manner so as to defeat the object of the Code. It has been further held that where the proceedings are instituted by a financial creditor through its officers, the authorization cannot be scrutinized with undue technical rigidity, particularly when the authority is otherwise traceable to valid internal delegation. It is also submitted that the Hon'ble Supreme Court in *Macquarie Bank Ltd. v. Shilpi Cable Technologies Ltd. (2018) 2 SCC 674* has emphasized that procedural requirements under the Code are to be interpreted in a purposive and pragmatic manner and not in a hyper-technical way that would defeat substantive rights. The Hon'ble Court has held that the provisions of the Code must be construed to advance the object of insolvency resolution and not to frustrate proceedings on mere technicalities. It is further submitted that a document such as a Power of

Attorney must be read as a whole and in a purposive manner. Reliance is placed on *J.K. Industries Ltd. v. Chief Inspector of Factories (1996) 6 SCC 665*, wherein it has been held that where authority is conferred, all incidental and ancillary powers necessary to effectuate such authority are implied. Further, in *United Bank of India v. Naresh Kumar (1996) 6 SCC 660*, the Hon'ble Supreme Court has held that technical objections as to authorization should not defeat substantive proceedings and are curable in nature. Accordingly, the objection raised by the Corporate Debtor is purely technical, devoid of merits and liable to be rejected.

4.6. The Financial Creditor submits that the financial debt is evidenced by the sanction letters, loan agreements, security documents and the Acknowledgement of Debt dated 29.08.2024 executed by the Corporate Debtor. According to the Financial Creditor, these documents conclusively establish the financial relationship between the parties and the subsisting liability of the Corporate Debtor. It is further submitted that the Corporate Debtor has nowhere disputed either the execution of the loan documents or the outstanding financial liability.

4.7. The Financial Creditor submits that the contention of the Corporate Debtor that no default has occurred in the Cash Credit Facility is wholly misconceived and contrary to the banking records. It is submitted that the Statement of Account clearly demonstrates that the Cash Credit account remained continuously in debit, with an outstanding balance of approximately Rs.15,99,86,592.98/- as on 17.09.2024, and the account was never regularised thereafter. There were no sufficient and sustained credits to liquidate the outstanding dues or service interest. The entries in the Statement of Account show that the Corporate Debtor failed to bring the account within permissible limits or clear overdue amounts.

4.8. The Financial Creditor further submits that, in terms of the applicable RBI prudential norms, a Cash Credit account is treated as "out of order" where the outstanding balance remains continuously beyond the sanctioned limit or where the credits in the account are insufficient to cover the interest debited over a continuous period. According to the Financial Creditor, the account of the Corporate Debtor satisfied the said criteria and, therefore, default had occurred independently of the subsequent classification of the account as Non-Performing Asset.

4.9. The Financial Creditor denies the contention that default under a Cash Credit Facility can arise only upon issuance of a recall notice. It is submitted that a Cash Credit account becomes irregular immediately upon failure of the borrower to maintain the account within the sanctioned terms and RBI norms. As held by the Hon'ble Supreme Court in catena of judgment that, in a Cash Credit facility, default arises the moment the account becomes irregular or out of order, and issuance of a recall notice is not a prerequisite for establishing default under Section 7 of the IBC.

4.10. Without prejudice to the aforesaid submissions, the Financial Creditor submits that a Recall Notice dated 07.08.2025 was duly issued to the Respondent prior to filing of the Petition. The same has been placed on record only to rebut the Corporate Debtor incorrect contention that no such notice was issued. The production of the said notice does not introduce any new fact or cause of action. In any event, default is independently established.

4.11. It is stated that the Corporate Debtor relies on RBI guidelines and M/s Pro Knits v Canara Bank, the said judgment pertains to challenge to NPA classification and is not applicable to Section 7 proceedings. The Financial Creditor is stated that the Corporate Debtor's reliance on RBI guidelines is misplaced. As held by the Hon'ble Supreme Court in Principal *Commissioner of Income Tax v. Monnet Ispat,* the Insolvency Code has an overriding effect under Section 238, and any inconsistency with RBI guidelines or other statutes must yield to the IBC. RBI guidelines do not extinguish debt or default and RBI guidelines do not extinguish debt or default.

4.12. It is stated that the Corporate Debtor has, for the first time in present reply, sought to challenge the classification of the account as NPA on the ground od alleged non-compliance with 90-day period. It is submitted that the Respondent had earlier responded to the demand notice issued under Section 13(2) of the SARFAESI Act by filing detailed objections under Section 13(3-A) of SARFAESI Act, as reflected at pages 167-178 of the Petition. A perusal of the said objections clearly shows that the Respondent did not raise any contention whatsoever regarding:

a. Incorrect computation of NPA date;
b. Alleged violation of 90-day criteria;
c. Any illegality in asset classification.

4.13. It is contended that the Corporate Debtor, having had full knowledge of the account status and having availed the statutory opportunity under Section 13(3-A), consciously chose not to dispute the NP A classification at that stage. The present contention regarding alleged invalid NPA is therefore:

a. An afterthought;
b. Raised for the first time in the present proceedings;
c. Intended only to delay and defeat the insolvency process.

It is submitted that a party cannot be permitted to raise new and inconsistent objections at a later stage after having failed to do so at the earliest opportunity. The conduct of the Corporate Debtor clearly demonstrates that the defence raised is not bona fide and deserves to be rejected.

4.14. The Financial Creditor submits that it has placed on record the ROD issued by the NeSL. According to the Financial Creditor, the authenticated Information Utility record conclusively establishes the existence of the financial debt and the occurrence of default.

4.15. The Financial Creditor denies the contention that the pendency of proceedings under the SARFAESI Act or before the Debts Recovery Tribunal renders the present petition not maintainable. It is submitted that remedies available under the SARFAESI Act, the Recovery of Debts and Bankruptcy Act and the Insolvency and Bankruptcy Code are independent and concurrent.

4.16. The financial creditor stated that the petition is based on default and not recovery purpose. The Corporate Debtor itself admits financial stress and inability to regularise. It is further stated that the Corporate Debtor's assertions regarding solvency, restructuring proposals and future revival are wholly irrelevant once the existence of financial debt and occurrence of default stand established. Accordingly, the Financial Creditor prays that the Reply filed by the Corporate Debtor be rejected and the present Company Petition be admitted by initiating the Corporate Insolvency Resolution Process against the Corporate Debtor.

5. WRITTEN SUBMISSIONS BY APPLICANT

5.1. The Applicant has also filed brief synopsis/ written statement of its arguments, which has been considered while passing this order.

6. WRITTEN SUBMISSIONS BY CORPORATE DEBTOR

6.1. The Corporate Debtor has also filed brief synopsis/ written statement of its arguments, which has been considered while passing this order.

7. ANALYSIS AND FINDINGS

7.1. We have heard the Ld. Counsels for the Financial Creditor and the Corporate Debtor and have perused the documents as placed before us. Our findings in the matter are as under: -

7.2. On perusal of the documents it is observed that the Financial Creditor, Bank of India, granted various banking and financial facilities to the Corporate Debtor, Shri Karvir Nivasini Mahalaxmi Ispat Private Limited. The Corporate Debtor had initially been granted a Cash Credit Facility of Rs.2 Crores in the year 2001, which was enhanced from time to time. The Cash Credit limit was ultimately enhanced to Rs.15 Crores, the last enhancement of Rs. 3 Crores having been sanctioned on 17.06.2022. The Financial Creditor also sanctioned a GECL Term Loan of Rs. 1.50 Crores on 02.11.2021, which was disbursed on 03.11.2021. A Bank Guarantee facility of Rs. 3 Lakhs is also reflected in Part IV of the Petition. The aggregate facilities stated in Part IV of the Petition amount to Rs. 16,53,00,000/-, comprising the Cash Credit Facility of Rs. 15 Crores, GECL Term Loan of ₹1.50 Crores and Bank Guarantee facility of Rs. 3 Lakhs. The Bank Guarantee component has not been included in the amount claimed in default, as it was stated to be uninvoked as on the computation date. The credit facilities were renewed and reviewed from time to time, including under the Sanction Letter dated 09.10.2023.

7.3. The Corporate Debtor accepted the sanction letters and executed Loan-cum-Hypothecation Agreements, mortgage documents, demand promissory notes and other security documents in favour of the Financial Creditor. The record further reveals that the Corporate Debtor issued an Acknowledgement of Debt dated 29.08.2024 acknowledging its outstanding liability. The Financial Creditor has also produced certified Statements of Account, the computation of outstanding dues, the NeSL Record of Default, SARFAESI demand notice dated 16.12.2024, Recall Notice dated 07.08.2025, and other contemporaneous documents. As per Part IV of the Petition, the date of default is 17.09.2024, and the amount in default as on 02.12.2025 is Rs. 23,66,42,307.14/-. The date of default pleaded in respect of the Cash Credit Facility is 17.09.2024, whereas the NPA date is 15.12.2024.

7.4. The Corporate Debtor has not denied availing the financial facilities or execution of the loan and security documents. However, it has opposed admission of the Petition mainly on the following grounds:

i. The officer who signed and instituted the Petition lacked specific authority to initiate proceedings;
ii. the Cash Credit Facility had not been recalled prior to filing of the Petition and, therefore, no default had occurred.
iii. the account was wrongly classified as NPA in violation of RBI Prudential Norms and the MSME Rehabilitation Framework;
iv. the Financial Creditor failed to consider restructuring proposals and additional securities offered by the Corporate Debtor.
v. the Corporate Debtor is a solvent and operational MSME and deserves an opportunity for revival; and
vi. the present Petition has been initiated merely as a recovery proceeding and is liable to be rejected in view of the judgments relied upon by the Corporate Debtor.

7.5. The scope of enquiry under Section 7 of the Insolvency and Bankruptcy Code is limited to examining whether a financial debt exists and whether default has occurred. This principle stands settled by the Hon'ble Supreme Court in *Innoventive Industries Ltd. v/s ICICI Bank Ltd. in CIVIL APPEAL Nos. 8337-8338 Of 2017*. Therefore, the objections raised by the Corporate Debtor are required to be examined only to the extent they affect the existence of debt or occurrence of default. The relevant abstract of the said Judgment is reproduced below: -

***"28.** When it comes to a financial creditor triggering the process, Section 7 becomes relevant. Under the explanation to Section 7(1), a default is in respect of a financial debt owed to any financial creditor of the corporate debtor – it need not be a debt owed to the applicant financial creditor. Under Section 7(2), an application is to be made under sub-section (1) in such form and manner as is prescribed, which takes us to the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. Under Rule 4, the application is made 44 by a financial creditor in Form 1 accompanied by documents and records required therein. Form 1 is a detailed form in 5 parts, which requires particulars of the applicant in Part I, particulars of the corporate debtor in Part II, particulars of the proposed interim resolution professional in part III, particulars of the financial debt in part IV and documents, records and evidence of default in part V. Under Rule 4(3), the applicant is to dispatch a copy of the application filed with the adjudicating authority by registered post or speed post to the registered office of the corporate debtor. The speed, within which the adjudicating authority is to ascertain the existence of a default from the records of the information utility or on the basis of evidence furnished by the financial creditor, is important. This it must do within 14 days of the receipt of the application. It is at the stage of Section 7(5), where the adjudicating authority is to be satisfied that a default has* *occurred, that the corporate debtor is entitled to point out that a default has not occurred in the sense that the "debt", which may also include a disputed claim, is not due. A debt may not be due if it is not payable in law or in fact. The moment the adjudicating authority is 45 satisfied that a default has occurred, the application must be admitted unless it is incomplete, in which case it may give notice to the applicant to rectify the defect within 7 days of receipt of a notice from the adjudicating authority. Under subsection (7), the adjudicating authority shall then communicate the order passed to the financial creditor and corporate debtor within 7 days of admission or rejection of such application, as the case may be.*

29. *The scheme of Section 7 stands in contrast with the scheme under Section 8 where an operational creditor is, on the occurrence of a default, to first deliver a demand notice of the unpaid debt to the operational debtor in the manner provided in Section 8(1) of the Code. Under Section 8(2), the corporate debtor can, within a period of 10 days of receipt of the demand notice or copy of the invoice mentioned in subsection (1), bring to the notice of the operational creditor the existence of a dispute or the record of the pendency of a suit or arbitration proceedings, which is pre-existing – i.e. before such notice or invoice was received by the corporate debtor. The 46 moment there is* *existence of such a dispute, the operational creditor gets out of the clutches of the Code.*

30. *On the other hand, as we have seen, 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.*"

7.6. From the sanction letters, loan agreements, mortgage documents, certified Statements of Account and the Acknowledgement of Debt dated 29.08.2024, this Tribunal is satisfied that a financial debt, within the meaning of Section 5(8) of the Code, stands clearly established. The Corporate Debtor has not produced any documentary material showing discharge or repayment of the outstanding dues. On the contrary, the acknowledgements and banking records establish a continuing liability.

7.7. The objection regarding lack of authority to institute the Petition does not merit acceptance. During the course of proceedings, the Financial Creditor has produced the Power of Attorney and internal delegation documents specifically authorising the concerned officer to institute and prosecute proceedings under the Code.

7.8. In this regard, this Bench has relied on the judgment of Hon'ble NCLAT in ***Palogix Infrastructure Pvt. Ltd. v. ICICI Bank Ltd.*** **in Company Appeal (AT)(Ins) No. 30 of 2017**. The relevant abstract of the Judgment is reproduced below:-

> ***"36.*** *In so far as, the present case is concerned, the 'Financial Creditor'-Bank has pleaded that by Board's Resolutions dated 30th May, 2002 and 30th October, 2009, the Bank authorised its officers to do needful in the legal proceedings by and against the Bank. If general authorisation is made by any 'Financial Creditor' or 'Operational Creditor' or 'Corporate Applicant' in favour of its officers to do needful in legal proceedings by and against the 'Financial Creditor' / 'Operational Creditor'! 'Corporate Applicant', mere use of word 'Power of. Attorney' while delegating such power will not take away the authority of such officer and 'for all purposes it is to be treated as an 'authorization' by the 'Financial Creditor'/ 'Operational Creditor'/ 'Corporate Applicant' in favour of its officer, which can be delegated even by designation. In such case, officer delegated with power can claim to be the 'Authorized Representative' for the purpose of filing any application under section 7 or Section 9 or Section 10 of 'I&B Code'.*
>
> *…………………………..*

> ***39.*** *If a plea is taken by the authorised officer that he was authorised to sanction loan and had done so, the application under section 7 cannot be rejected on the ground that no separate specific authorization letter has been issued by the 'Financial Creditor' in favour of such officer designate.*
>
> ***40.*** *In view of reasons as recorded above, while we hold that a 'Power of Attorney Holder' is not empowered to file application under section 7 of the 'I&B Code', we further hold that an authorised person has power to do so.***"**

The ratio laid down in *Palogix Infrastructure Pvt. Ltd. v. ICICI Bank Ltd.* makes it clear that procedural objections relating to authorisation cannot defeat a proceeding where the institution has duly ratified the action. The decision relied upon by the Corporate Debtor in Rushabh Civil Contractors Pvt. Ltd. is distinguishable on facts, as in the present case the Financial Creditor has placed complete authorisation documents on record.

7.9. The Corporate Debtor has contended that the Financial Creditor failed to comply with the RBI Prudential Norms, the MSME Revival and Rehabilitation Framework and the RBI Directions before classifying its account as NPA on 15.12.2024, and that the alleged date of default, i.e., 17.09.2024, is legally unsustainable. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in M/s Pro Knits v. Board of Directors, Canara Bank & Ors.

7.10. This Tribunal is of the considered view that there can be no dispute regarding the binding nature of the RBI Directions and the MSME

Framework upon banks. However, the limited jurisdiction of this Adjudicating Authority under Section 7 of the Insolvency and Bankruptcy Code is to ascertain whether a financial debt exists and whether a default, as defined under Section 3(12) of the Code, has occurred. In terms of Sections 7(3), 7(4) and 7(5), the existence of default is to be determined from the Information Utility records or other documentary evidence placed on record and not solely on the basis of the date of NPA classification. In the present case, apart from the NPA classification, the Financial Creditor has produced the loan and security documents, the Acknowledgement of Debt dated 29.08.2024, certified Statements of Account, the communication dated 18.11.2024 recording overdue amounts of Rs. 3,63,38,377.34/-, the Recall Notice dated 07.08.2025, and the authenticated NeSL Record of Default reflecting the default dated 17.09.2024. These documents independently establish the occurrence of default.

7.11. The NPA classification is essentially a regulatory and system-driven exercise undertaken for asset classification and provisioning under the RBI norms. Even assuming that there was any procedural irregularity in the process of NPA classification or compliance with the MSME Framework, the same would not extinguish the admitted financial debt or the independently established default under the Code. The Corporate Debtor has also failed to place on record any approved restructuring package or binding Corrective Action Plan altering its repayment obligations. Further, by virtue of Section 238 of the Insolvency and Bankruptcy Code, the provisions of the Code have an overriding effect over any inconsistent law or instrument. Therefore, once the Financial Creditor establishes the existence of financial debt and default in accordance with the requirements of the Code, the alleged procedural non-compliance with the RBI guidelines or MSME Framework, by itself, cannot defeat a petition under Section 7. The ratio laid down in Pro Knits is distinguishable on facts and does not create an absolute bar to initiation of CIRP where debt and default otherwise stand proved. Accordingly, this Tribunal finds no merit in the aforesaid objection raised by the Corporate Debtor, and the same is liable to be rejected.

7.12. This Tribunal also refers to Section 238 of the IBC 2016, which is reproduced herein below:

> ***"238. Provisions of this Code to override other laws–*** *The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of law."*

7.13. As regards the Corporate Debtor's contention concerning alleged incorrect reporting of its credit exposure to CIBIL, we find that such grievance does not affect or negate the existence of financial debt or occurrence of default under Section 7 of the code. The Corporate Debtor may pursue its remedy in respect of alleged incorrect reporting before the appropriate forum; however, the same cannot constitute a ground for rejection of the present Petition.

7.14. The allegation that this application is filed for effecting a recovery rather than resolution of the Corporate Debtor is not accepted as post admission of the

Application, a process for resolution of the Corporate Debtor will be run through the IRP/RP to be appointed under the supervision of the COC and this Adjudicating Authority.

7.15. 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. The Code prescribes whenever a corporate debtor defaults on a debt that is due and payable, an insolvency process may be initiated. Section 3(12) defines "default" as non payment of a debt which has become due and payable, and includes default in respect of a part or instalment thereof. Such insolvency process may be initiated either by the corporate debtor itself, or by its creditors who are classified as financial creditor or operational creditor. "Financial creditor" is defined as any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned.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. In a similar vein, the Adjudicating Authority is not required to go into the inability of a corporate debtor to pay its debt. This is a clear departure from the scheme of winding up envisaged under Section 433(e) of the erstwhile Companies Act, 1956 which required the Adjudicating Authority to come to a finding with regard to the inability of the company to pay the debt and thereby arrive at a requisite satisfaction whether it is just and equitable to wind up the company.

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

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.

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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)

7.16. 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.

7.17. Upon a cumulative consideration of the pleadings, documentary evidence and the law laid down by the Hon'ble Supreme Court and the Hon'ble NCLAT, this Bench is satisfied that:

i. the Financial Creditor has established the existence of a financial debt within the meaning of Section 5(8) of the Code;

ii. the Corporate Debtor committed default on 17.09.2024, and the outstanding amount of Rs. 23,66,42,307.14/- as on 02.12.2025 stands duly supported by the loan documents, certified Statements of Account, the Acknowledgement of Debt and the authenticated NeSL Information Utility Record;

iii. the objections regarding authority, NPA classification, RBI Guidelines, MSME Framework, restructuring proposals, solvency, pending SARFAESI proceedings and alleged misuse of the Code do not displace the documentary evidence establishing debt and default;

iv. the judgments relied upon by the Corporate Debtor are distinguishable on facts and do not create any legal bar to admission of the present Petition; and

v. the Petition is complete in all material particulars, is within the prescribed period of limitation and satisfies all the requirements of Section 7 of the Insolvency and Bankruptcy Code, 2016

7.18. In view of the above, the Applicant has successfully demonstrated the existence of a financial debt, as the transaction involves money borrowed against the payment of interest under section 5(8)(a) of IBC 2016, the occurrence of default which is way above the threshold as stipulated under Section 4 of the Code, and continuing nature of such default supported by clear documentary evidence.

7.19. Financial Creditor has also proposed the name of an Insolvency Professional (IP) i.e. Mr. Purusottam Behera, having Registration No. IBBI/IPA-002/IP-N00940/2019-2020/12993 and Authorization for Assignment (AFA) which is valid upto 31.12.2026 as per IBBI portal, as the proposed IRP and as per the Form 2 attached along with the Application, no disciplinary proceedings are going on against the said IP. Further, this Application is complete as all the required documents have been attached along with the Application. Accordingly, the present Application is fit for admission under Section 7 of the IBC, 2016.

7.20. We make it clear that at this stage we have not crystallised the amount as claimed in this Application; the same is left to be collated by the IRP.

ORDER

In view of the aforesaid findings, this Application bearing C.P. (IB)43/MB/2026 filed under Section 7 of IBC, 2016, by Bank of India, the Applicant (FC), for initiating CIRP in respect of Shri Karvir Nivasini Mahalaxmi Ispat Private Limited, the Corporate Debtor, is **Admitted.**

We further declare a moratorium under Section 14 of IBC, 2016 with consequential directions as mentioned below:

I. We prohibit:

a) the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor, including the execution of any judgment, decree, or order in any court of law, tribunal, arbitration panel, or other authority;

b) transferring, encumbering, alienating, or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;

c) any action to foreclose, recover, or enforce any security interest created by the Corporate Debtor in respect of its property, including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and;

d) the recovery of any property by an owner or lessor where such property is occupied by or in possession of the Corporate Debtor.

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

III. That the order of moratorium shall have effect from the date of this order till the completion of the CIRP or until this Tribunal approves the resolution plan under Section 31(1) of the IBC or passes an order for the liquidation of the Corporate Debtor under Section 33 thereof, as the case may be.

IV. That the public announcement of the CIRP shall be made immediately as specified under Section 13 of the IBC read with Regulation 6 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and other Rules and Regulations made thereunder.

V. That this Bench hereby appoints**,** Mr. Purusottam Behera, having Registration No. **IBBI/IPA-002/IP-N00940/2019-2020/12993** and **e-mail**

address: purusosbbj@yahoo.com having valid Authorisation for Assignment up to 31.12.2026 (as per IBBI site) as the IRP to carry out the functions under the IBC.

VI. That the fee payable to IRP/RP shall be in accordance with such Regulations/Circulars/ Directions as may be issued by the IBBI.

VII. That during the CIRP Period, the management of the Corporate Debtor shall vest in the IRP or, as the case may be, the RP in terms of Section 17 or Section 25, as the case may be, of the IBC. The officers and managers of the Corporate Debtor are directed to provide all assistance to the IRP as and when he takes charge of the assets and management of the Corporate Debtor. Coercive steps will follow against them under the provisions of the IBC read with Rule 11 of the NCLT Rules for any violation of law.

VIII. That the IRP/IP shall submit to this Tribunal monthly reports with regard to the progress of the CIRP in respect of the Corporate Debtor.

IX. In exercise of the powers under Rule 11 of the NCLT Rules, 2016, the Financial Creditor is directed to deposit a sum of Rs.**3,00,000/-** (Three Lakh Rupees) with the IRP to meet the initial CIRP cost arising out of issuing public notice and inviting claims, etc. The amount so deposited shall be interim finance and paid back to the Financial Creditor on priority upon the funds becoming available with IRP/RP from the Committee of Creditors (CoC). The expenses incurred by IRP out of this fund are subject to approval by the CoC.

X. A copy of this Order be sent to the Registrar of Companies, Mumbai for updating the Master Data of the Corporate Debtor.

XI. The IRP is directed to issue notice of Admission upon all the statutory authorities of Corporate Debtor without Fail.

XII. A copy of the Order shall also be forwarded to the IBBI for record and dissemination on their website.

XIII. The Registry is directed to immediately communicate this Order to the Financial Creditor, the Corporate Debtor and the IRP by way of Speed Post, e-mail and WhatsApp.

XIV. **Compliance report of the order by Designated Registrar is to be submitted today.**

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)

Sd/-
SAMEER KAKAR
MEMBER(TECHNICAL)

//S.Dubey//