



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

Item No. P-2.

C.P. (IB)/154(MB)2025

CORAM

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

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

ORDER SHEET OF HEARING DATED **17.11.2025**

NAME OF THE PARTIES : **Canara Bank**

**Vs**

**Karanja Terminal & Logistics Private Limited**

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

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**ORDER**

The case is fixed for pronouncement of the order. The order is pronounced in the open court, vide separate order. Detailed order is being uploaded on the NCLT portal today.

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

//SKS//

**Sd/-**  
**NILESH SHARMA**  
**MEMBER (JUDICIAL)**



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

**CP (IB) No. 154/MB/2025**

*[Under Section 7 of the Insolvency and Bankruptcy Code, 2016  
r/w Rule 4(1) of the Insolvency and Bankruptcy (Application to  
Adjudicating Authority) Rules, 2016]*

***In the matter of M/s. Karanja Terminal & Logistics Pvt. Ltd.***

**CANARA BANK**

Having its Registered Office at:

112, JC Road, Bangalore, Karnataka-560002.

And Having its Branch Office at:

Stressed Asset Management Branch,  
Circle Office Building, 08<sup>th</sup> Floor, 'B' Wing,  
C-14, G-Block, Bandra-Kurla Complex,  
Bandra East, Mumbai-400 051.

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

Vs.

**KARANJA TERMINAL & LOGISTICS**

**PRIVATE LIMITED**

[CIN: U63090MH2010PTC203226]

**Registered Office located at:**

Office No. 705 & 706, 07<sup>th</sup> Floor, Shelton Cubix,  
Chilu Phawle Deore Marg, Sector 15, CBD Belapur,  
Navi Mumbai, District: Thane, Maharashtra-400614.

**...Respondent/Corporate Debtor**

**Pronounced On: 17.11.2025**

**CORAM:**

**SHRI NILESH SHARMA, MEMBER (JUDICIAL).**

**SHRI SAMEER KAKAR, MEMBER (TECHNICAL).**

***Mode of Hearing: Hybrid.***

**Appearances:**

**For the Financial Creditor:** Adv. Narpat Singh i/b India Law LLP.

**For the Corporate Debtor:** Adv. Aman Kacheria a/w Ms. Anisha Didwania,  
Ms. Mahima Shah and Mr. Zaki Ansari i/b  
Agarwal & Dhanuka Legal.

**ORDER**

***[PER: CORAM]***

1. This is an application filed by the **Applicant- Canara Bank** (hereinafter also referred to as “Financial Creditor” or “the Petitioner”), on 27.09.2024 against the **Respondent- Karanja Terminal & Logistics Private Limited** (hereinafter also referred to as “Corporate Debtor” or “company”), under Section 7 of the Insolvency & Bankruptcy Code 2016 (in short, ‘the Code’) r/w Rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, seeking commencement of the Corporate Insolvency Resolution Process (‘CIRP’) of the Corporate Debtor, appointment of Interim Resolution Professional (‘IRP’) and declaration of moratorium u/s 14 of the Code.
2. **The amount claimed to be in default is INR 330,40,24,498.23/-** (Rupees Three Hundred and Thirty Crores, Fourty Lakhs, Twenty-Four Thousand, Four Hundred and Ninety-Eight, and Twenty-Three paisa only) as on 30.08.2024. The date of default is stated as 11.06.2021 under the One-Time Restructuring (‘OTR’) on which date the loan accounts of the Corporate Debtor were classified as Non-Performing Asset (‘NPA’).



3. On perusal of Part-I of Form 1, it is seen that the person authorised to submit this application on behalf of the Financial Creditor is Mr. Anchu Chacko, the Chief Manager of the Applicant Bank, having an authority letter dated 03.07.2024 in his favour. It is further seen from the records that the affidavit-in-support of the application dated 25<sup>th</sup> September, 2024 is affirmed by the above-named person.
4. A perusal of Part II of the application in Form 1 reveals that the Respondent/Corporate Debtor i.e. **Karanja Terminal & Logistics Private Limited**, is a body corporate having its registered office at the address stated in the cause title above. The date of incorporation of the Corporate Debtor is 14<sup>th</sup> May, 2010. The Authorised Share Capital of the Corporate Debtor is INR 25,00,00,000/- and the Paid-Up Share Capital is INR 23,32,11,760/- as on 31.03.2023.
5. Part-III of Form 1 reveals that the Applicant has proposed the name of Mr. Vijay Pitambar Lulla to be appointed as the IRP of the Corporate Debtor if the petition is admitted. The Applicant has also obtained the Written Consent in Form 2 from the proposed IRP above-named along with Authorisation for Assignment ('AFA') and Certificate of Registration, the copies of which have been annexed as Exhibit 'C'-Colly to the application.
6. A perusal of Part IV of the application vide Form 1 reveals that the total amount of debt granted is INR 284,13,89,108/-, the amount claimed to be in default is INR 330,40,24,498.23/- and the date of default is 11.06.2021.
7. The facts of the case as pleaded by the Applicant in Part IV of the Application are briefly summarised hereinbelow:



- i. The Corporate Debtor had approached the Applicant and requested to grant Financial Facilities. The Respondent availed financial assistance from Rupee Lenders, on terms and conditions set out in common loan Agreement dated 28.02.2014. Axis Trustee Services Limited was appointed as the security trustee vide Security Trustee Agreement dated 28.02.2014 by the lender banks and the borrower.
- ii. The Corporate Debtor requested for One Time Restructuring (OTR) under Resolution Framework for COVID-19 related Stress announced by RBI vide its circular dated 06.08.2020 and the same was sanctioned by the Applicant Bank. However, the company failed to honour the debt obligations under OTR and Company defaulted towards repayment of Principal & Interest with the Applicant Bank which had fallen due for repayment on 31.03.2023.
- iii. OTR had been sanctioned on 11.06.2021 as per the extant OTR guidelines review period of 30 days was triggered and the company failed to regularize the dues despite the several reminders. Hence, credit facilities of the company have been marked as NPA w.e.f. 11.06.2021 as per the abovementioned guidelines.
- iv. The Corporate Debtor failed and neglected to observe financial discipline, the Applicant vide Recall Notice dated 05.08.2024 recalled the sanctioned facilities. The Applicant has submitted the details of default before the Information Utility (NeSL) with respect to the principal dues and the default submitted on 30.06.2024 was " AUTHENTICATED" in Colour Code: GREEN on 16.07.2024.



- v. The Corporate Debtor is liable for an amount Rs. 3,30,40,24,498.23/- (Rupees Three hundred Thirty Crores Forty Lakh Twenty-Four Thousand Four Hundred Ninety-Eight and Twenty-Three Paise Only) as on 31.08.2024 along with interest & other charges. Hence, the present company petition.

8. As stated in Part V of the Application, the Financial Creditor has relied upon the following documents which are attached to this application in order to prove the existence of financial debt and the amount in default:

- i. Copy of Common Loan Agreement dated 28.02.2014 is hereto annexed and marked as Exhibit LIP"
- ii. Copy of deed of Hypothecation dated 28.02.2014 is hereto annexed and marked as Exhibit LIQ"
- iii. Copy of Inter Creditor Agreement dated 28.02.2014 is hereto annexed and marked as Exhibit LIR"
- iv. Copy of Security Trustee Agreement dated 28.02.2024 is hereto annexed and marked as Exhibit LIS".
- v. Copy of Power of Attorney for Deed of Hypothecation dated 28.02.2014 is hereto annexed and marked as Exhibit LIT".
- vi. Copy of First Amendment to Common Loan Agreement dated 22.10.2019 is hereto annexed and marked as Exhibit LIU".
- vii. Copy of First Amendment to Inter Creditor Agreement dated 22.10.2019 is hereto annexed and marked as Exhibit IIV".
- viii. Copy of Confirmation letter to the Amendment ICA dated 22.10.2019 is hereto annexed and marked as Exhibit IIW".
- ix. Copy of Framework Agreement amongst the borrower, lender, Facility Agent and Security Trustee is hereto annexed and marked as Exhibit IIX"
- x. Copy of Supplemental share pledge Agreement dated 11.06.2021 is hereto annexed and marked as Exhibit IIY"
- xi. Copy of Security Trustee Agreement dated 30.03.2021 is hereto annexed and marked as Exhibit IIZ"



- xii. Copy of the Supplemental Indenture of Mortgage dated 27.10.2021 IS hereto annexed and marked as Exhibit II AA"
- xiii. Copy of Amendment to Security Trustee Agreement dated 11.06.2021 is hereto annexed and marked as Exhibit IIBB"
- xiv. Copy of Deed of Hypothecation dated 30.03.2021 is hereto annexed and marked as Exhibit IICC"
- xv. Copy of One Time Restructuring (OTR) Proposal dated 10.06.2021 under RBI's Resolution Framework for COVID-19 related stress is marked as "Exhibit DD".
- xvi. Copy of Sanction letter - RP Plan (OTR) dated 14.07.2021 is hereto annexed and marked as "Exhibit "EE".
- xvii. Copy of the RBI Circular dated 06.08.2020 is annexed hereto and marked as Exhibit-"FF".
- xviii. Copy of Commercial Credit Information Report dated 25.06.2024 is annexed and marked as Exhibit " GG.
- xix. Statement of Accounts as on 31.08.2024 along with Certificate under the Bankers Book of Evidence Act, 1981 is annexed hereto and marked as Exhibit "HH colly.
- xx. Copies of the Recall Notice dated 05.08.2024 along with the Proof of Dispatch (PODs) and Track Reports downloaded from the website of Indian Postal Services is hereto marked as Exhibit "II" Colly.

9. **Reply by the Corporate Debtor:** The Respondent has filed its Affidavit-in-Reply dated 26.04.2025 through its director Mr. Jay Manoj Mehta. The contents of the said reply are briefly stated herein:

- i. The Corporate Debtor is a Special Purpose Vehicle ('SPV') of Karanja Infrastructure Private Limited ('KIPL') earmarked for development and operation of a multipurpose terminal and ship repairing facilities along with necessary infrastructure and other relevant facilities on "Build, Own, Operate and Transfer (BOOT)" basis at Karanja Creek, Village: Chhanje, Taluka: Uran, District: Raigad, State: Maharashtra.



- ii. By a deed of confirmation dated 28<sup>th</sup> September 2010 executed between Maharashtra Maritime Board (“MMB”), KIPL and KTPL, MMB transferred the rights, benefits and obligations of KIPL under the lease agreement dated 31<sup>st</sup> August, 2009 in favour of KTPL. At that juncture, the cost of the said Project was estimated to be Rs. 980,89,00,000/-.
- iii. The Corporate Debtor states that to implement and execute the said Project, KTPL approached various lenders including the Petitioner (Canara Bank), Syndicate Bank (merged with Petitioner), Vijaya Bank, Punjab and Sind Bank (collectively hereinafter referred to as the “Lenders”) for financial assistance to meet the part of the then estimated project cost. The said Lenders agreed to make available a principal sum of Rs. 480,00,00,000/- (Rupees Four Hundred and Eighty Crores). Accordingly, the Corporate Debtor entered into a Common Loan Agreement dated 28 February 2014 (“CLA”) with the Lenders for securing the loan amount of Rs. 480,00,00,000/-. The said facility was obtained by Corporate Debtor to facilitate the commencement of construction and development of the Project.
- iv. The Corporate Debtor states that pursuant to entering into the CLA, the following are the details of the loan sanctioned by the Lenders:

Date of Sanction	Name of the Lender Bank	Amount (Rs.) (in crores)
3 <sup>rd</sup> December 2013	Canara Bank (CB)	150
3 <sup>rd</sup> December 2013	Syndicate Bank (SB)	140
13 <sup>th</sup> December 2013	Punjab & Sind Bank (PSB)	95
17 <sup>th</sup> December, 2013	Vijaya Bank (VB)	95
	<b>Total</b>	<b>480</b>

- v. There was delay in disbursement of funds under the loan facilities. The details of such disbursements along with the delays in the disbursements are given in the table below:



IN THE NATIONAL COMPANY LAW TRIBUNAL, MUMBAI BENCH, COURT VI

Sr. No.	Date of Submission of Disbursement request letter	Amount Requested (in crores)	Date of issue of LCN	LCN issued after Disbursement Request (Days)	Disbursement made available to company		No. of Days of Delay in Disbursements
					Amount (Rupees in crores)	Date	
1.	21-05-2014	92.87	25-05-2014	4	92.87	02-07-2014	42
2.	02-07-2015	50	08-07-2015	6	50	13-07-2015	11
3.	22-09-2015	25	10-11-2015	49	25	24-11-2015	63
4.	12-01-2016	50	21-01-2016	9	50	28-01-2016	16
5.	18-03-2016	25	26-04-2016	39	25	29-04-2016	42
6.	08-06-2016	12	10-06-2016	2	12	15-06-2016	7
7.	04-07-2016	25	30-08-2016	57	14	02-09-2016	60
8.	02-02-2017	50	16-02-2017	14	29.58	20-12-2017	321
9.	23-04-2019	181	17-12-2019	238	88.03	13-02-2020	296
			<b>TOTAL</b>	<b>418</b>	<b>386.48</b>		<b>858</b>

- vi. During the period from March 2017 to April 2019, there were several requests made for release of disbursements — 26 October, 2017, 15 March, 2019, 7 May, 2018 (letter mailed to Managing Director & CEO, Canara Bank), 10 May, 2018, 27 July, 2018, 11 September, 2018 and 28 September, 2018 (letter mailed to Executive Director, Canara Bank, 29 October, 2018, 25 March, 2019, 23 April, 2019 and 7 May, 2019. However, the lenders did not heed to the request of the Corporate Debtor.
- vii. Further, the Corporate Debtor states that pursuant to entering into the CLA, the consortium provided the Corporate Debtor with preliminary disbursement of Rs.92,87,00,000/- out of which, Petitioner had provided Rs. 29,03,00,000/-. Subsequently, after the preliminary disbursement of funds, the Corporate Debtor

through multiple correspondence requested the Lenders for disbursement of the remaining amount of the said facility whereas the same was in vain.

- viii. There has been inordinate delay by the Petitioner in disbursing the loan facility. The Corporate Debtor states that the Petitioner along with the consortium of Lenders, deliberately delayed in releasing the funds under the said Facility, the said delay constrained the Corporate Debtor to request for calling for an urgent meeting with all the consortium of the Lenders. The Corporate Debtor further states that, pursuant to the said meeting held on 10<sup>th</sup> February, 2017 and in express recognition of the fact that the Corporate Debtor was entitled to timely disbursement of funds, the Corporate Debtor was only provided with mere funds of Rs. 29.58 Crore only. It is submitted that after the last disbursement under the said facility in February 2017, the Petitioner being the Lead Agent of the consortium along with the other lenders, did not disburse any amount under the said facility to the Corporate Debtor. Thus, the delays in disbursement of debt resulted in derailing the Project timelines and raising various complications of continuing of the construction.
- ix. The Corporate Debtor states that despite non-disbursement of funds for around 36 (thirty-six) months by the Lenders, the Corporate Debtor has diligently paid interest for the entire period amounting to around Rs. 122,03,17,709/-. The Corporate Debtor states that till date, the Corporate Debtor has repaid a sum of Rs.15.82 crores as principal repayment and a sum of Rs.361.82 crores towards interest payment. In addition, in January, 2025, the lender further recovered Rs.4.98 crores and adjusted against interest due on Term Loan.



- x. The Corporate Debtor further states that the Date of Commencement of Commercial Operations was obtained on 30 September 2019. In a span of 6 months from the commencement of its business operations, the entire nation was under lockdown due to the unprecedented circumstances that emerged due to the onset of the Covid-19 pandemic. Not only the Project, but in recognition of the fact that the lockdown was bound to adversely impact businesses, several steps and measures were put in place to ensure preservation of value created, including by the Reserve Bank of India.
- xi. Since, all the business activities had come to a standstill due to the lockdown, the Corporate Debtor addressed letters dated 11 March 2020 and 7 April 2020 requesting the Petitioner to release the balance fund of Rs. 93,53,00,000/- for the project operations to run smoothly and deferment of interest and extension of moratorium period. However, for the reasons best known to the Lenders including the Petitioners, they did not disburse the remaining amount to the Corporate Debtor under the said Facility, thereby not just breaching the contractual terms of the CLA but the said act also severely impacted Corporate Debtor's project operations during crashing business phase of pandemic.
- xii. Corporate Debtor in its letter dated 4 November 2020, requested the Lenders for restructuring the account due to the prevalent Covid-19 pandemic. Consequently, the Petitioner by its letter dated 10 June 2021, sanctioned the restructuring plan. The Corporate Debtor had communicated that the restructuring plan sanctioned by them was not viable and contrary to Corporate Debtor's request. Pursuant thereto, the Corporate Debtor by its letter dated 14 July 2021 submitted a counter



restructuring plan letter tabulating the discrepancies in the OTR sanctioned by Petitioner.

- xiii. The Corporate Debtor despite the above failures and non-compliances of the contractual obligations on the Petitioner's part under the said facility, has funded its Project development on a highly conservative debt to equity ratio of 0.6:1, with approximately Rs. 850,00,00,000/- of equity and Rs. 475,00,00,000/- of term debt from the consortium of Lenders, led by the Petitioners. Further, on 23 March 2021, the Corporate Debtor requested the Petitioner for an emergency facility of Rs. 10 crores under "GECL scheme" to meet the operational costs as the Corporate Debtor had signed contracts with various reputed clients and the Project was expected to scale up from end of April, 2021. Consequently, on 30 March 2021, Petitioner sanctioned the GECL scheme facility.
- xiv. It is respectfully submitted that the Corporate Debtor is a solvent, operationally sound, and financially viable entity with a reputable track record in the real estate sector. Since the disbursement of the loan in question, the Corporate Debtor has consistently endeavoured to meet its financial obligations in good faith and has made substantial repayments. The present application, however, is driven by a distorted depiction of default and a mala fide commercial agenda and is, therefore, a gross misuse of the insolvency mechanism. The same deserves to be dismissed outright.
- xv. In this regard, the Hon'ble Supreme Court's authoritative pronouncement in Vidarbha Industries Power Limited v. Axis Bank Limited [(2022) 8 SCC 352] assumes critical significance. The Hon'ble Court has categorically held that the Adjudicating Authority under the Code is not merely a rubber stamp for financial



creditors, but is empowered to exercise judicial discretion under Section 7(5)(a) of the Code. It must examine all relevant facts and circumstances—including the financial health, viability, and conduct of the Corporate Debtor—before deciding on admission of a Section 7 application.

- xvi. This Adjudicating Authority may be pleased to exercise its discretionary powers under Section 7(5)(a) of the Code and dismiss the present application as being premature, malafide, and filed in abuse of process. The Applicant has failed to come with clean hands, has deliberately suppressed critical facts, and is seeking to exploit the Code for recovery -a purpose wholly alien to the scheme of the IBC, 2016.
- xvii. The Petitioner has failed to provide any breakup or rationale for the amount claimed as “due.” The pleadings do not disclose how the amount of Rs. 324,00,55,837.61 has been arrived at, nor do they clarify whether pre- payments, interest waivers, or contractual obligations under the restructuring framework have been accounted for. The complete absence of a verifiable reconciliation or statement of accounts renders the petition defective. It is settled law that a financial debt must be “due and payable” and “not disputed,” failing which the petition is not maintainable.
- xviii. The Corporate Debtor has repaid a substantial portion of both principal and interest under the loan facility. Specifically, it has paid over Rs. 361.82 crores towards interest and Rs. 15.82 crores towards principal. These payments are supported by the record, but the Petitioner has failed to account for them while claiming a default. The deliberate suppression of such payments is not only misleading but also indicative of the mala fide intent behind the petition. A default cannot be manufactured by omission of admitted facts.



- xix. At no point has the Corporate Debtor been financially insolvent. Despite operational headwinds and lenders' misconduct, it has infused over Rs. 873 crores in equity and continued to repay its debts. The Project in question has achieved COD, and commercial contracts with reputed clients are ongoing. The Corporate Debtor has never previously been subjected to CIRP and has maintained a standard account status, which disqualifies it from being treated as a defaulting entity under the insolvency framework. Insolvency proceedings cannot be invoked against a fundamentally solvent company on the basis of disputed claims.
- xx. The IBC does not seek to penalize solvent companies for technical or disputed defaults. The Tribunal must assess whether admission of a CIRP application serves the objectives of the Code - namely, resolution and value maximization — or whether it is being weaponized for coercive recovery. In this case, where the debt is disputed, the financial health of the Corporate Debtor is stable, and the default is allegedly induced by the Petitioner's own contractual breach, no case for CIRP is made out. The Tribunal is empowered, under Section 7(5)(a), to reject such applications where facts and circumstances do not warrant admission.
- xxi. It is necessary for this Hon'ble Tribunal to be aware regarding the lapses of the Petitioner as the Petitioner, between December 2019 and February 2020 the Petitioner/Lenders made the last disbursement of Rs. 87 crores (part of the undisbursed amount). Out of the disbursed sum of Rs. 87 crores, Rs. 23 be crores was held back towards creating the DSRA reserve which could be unlocked and serviced for interest payment at the time of difficulties. The Corporate Debtor was once again short disbursed causing prejudice to the operations of the Project. The Corporate Debtor demonstrates its Bonafide as the Corporate Debtor had further



intimated the Petitioner that the Corporate Debtor has planned to IPO on Indian exchanges by the year 2021 and intends to use the IPO proceeds to reduce debt levels by over 50%.

- xxii. The Corporate Debtor has time and again requested the Lenders to disburse the amount of Rs. 93 crores out of the total term loan facility of Rs. 480 crores. This undisbursed amount could be utilized for servicing of interest due for the month of February 2020 amounting to approx. Rs. 4.6 crores or this interest due may be serviced through the DSRA reserve. However, the Lenders have paid no heed to the Corporate Debtor's request for disbursing the undisbursed amount of Rs. 93 crores which was a necessity for the Corporate Debtor to ramp up operations of the Project ultimately derailing the business plans and futures of the Corporate Debtor and creating financial burden on the business.
- xxiii. In light of the above averments, contentions and submissions it is humbly prayed by the Respondent, that the present Company Petition be dismissed, as the same is not maintainable in the eyes of law.

#### 10. Rejoinder:

- i. It is submitted that the Tribunal vide order dated 20.03.2025 had directed the Corporate Debtor to file their reply within 7 days. However, instead of filing their reply they had submitted a letter dated 24.03.2025 addressing to Applicant Bank for settling the dues under OTS. The Applicant analysed and found significant haircut in their legitimate claim and also no certainty of the source of such proposal with the only intention to delay the proceedings and accordingly responded vide letter dated 25.03.2025 stating that OTS proposal can only be entertained only



after depositing the upfront OTS amount in no lien account. Thereafter, despite directions of Hon'ble Tribunal, Corporate Debtor failed to file their reply on the next date of hearing i.e. till 09.04.2025. The Hon'ble Tribunal was pleased to allow them further time of 7 days, subject to cost.

- ii. The Corporate Debtor again failed to comply with the direction of Hon'ble Tribunal and deliberately submitted their affidavit in reply on 26.04.2025 (fourth Saturday of the month) which was a non-working day and only 1 working day i.e. 28.04.2025 was available with the Applicant Bank to respond them before the next date of hearing of 29.04.2025. It was a deliberate attempt of Corporate Debtor to delay the proceedings.
- iii. In the year 2014, the Corporate Debtor approached the Applicant Bank for availing credit facility/loan. After conducting due diligence in accordance with the RBI guidelines and other banking laws, the Applicant sanctioned the facility/loan to the Corporate Debtor on terms which were duly accepted by the Corporate Debtor by executing various documents, agreements and deeds. The credit facilities/loans granted to the Corporate Debtor were reviewed and monitored by the Applicant Bank from time to time. Further, on request of the Corporate Debtor, need based support was also given by the Applicant Bank from time to time by way of additional fund support, deferment of instalment etc during COVID-19. Accordingly, documents, agreements and deeds were executed by the Corporate Debtor in favour of the Applicant to secure the said facilities/loans. All the relevant documents such as Sanction Letters, Agreements and Deeds are annexed to the Company Petition. It is pertinent to mention that the Corporate Debtor till date has neither denied availing said credit facilities/loans from the Applicant nor produced



a single document to prove that the said loan is repaid fully. On the contrary they have acknowledged in their reply that till date they have paid only Rs. 15.82 crore towards Principal dues. The Corporate Debtor have also not disputed any document/s annexed to the Company Petition in the reply.

- iv. Due to difficulty in repaying the amount of facilities/loans interest and other monies, the Corporate Debtor requested the Applicant for renewal and restructuring of the said facilities/loans. Pursuant to the said request, the Applicant vide Sanction Letter dated 10.06.2021, granted certain reliefs and concessions by way of re-schedulement of amount of the facilities/loans funding of interest etc subject to terms and conditions contained therein and accordingly, the Corporate Debtor executed documents/agreements/deeds in favour of the Applicant in that regard.
- v. As per the sanctioned terms of OTR, on account of default towards non- Payment of principal & Interest to the Applicant bank, the said accounts of the Corporate Debtor were downgraded to SMA - 2 category with effect from on 11.05.2021 and on account of continuous default for 30 days from the said date, the account was classified as NPA w.e.f. 11.06.2021.
- vi. Under RBI guidelines on Resolution Framework for Covid- 19 related stress dated 06.08.2020 & 07.09.2020, if the borrower is in default with any of the signatories to the ICA (Inter Creditor Agreement) at the end of review period, the asset classification of the borrower with institutions, including those who did not sign the ICA, shall be downgraded to NPA from date of implementation of Resolution Plan or the date from which the borrower has been classified as NPA before implementation of the Plan, whichever is earlier. Since OTR has failed on the



account, the actual date of NPA was ascertained at 11.06.2021. Further, as the OTR has failed in the account, all the concession pertaining to the OTR sanction have been withdrawn and dues have been calculated manually as the sanction prior to the implementation of OTR. That OTR has been sanctioned on 11.06.2021 as per the extent OTR guidelines, review period of 30 days was triggered and the company failed to regularize the dues despite several reminders.

- vii. Consequent to the continuous default in repayment of the amounts of the facilities/loan, interest and other monies due, the account of the Corporate Debtor was classified as Non-Performing Assets (NPA) with effective date of 11.06.2021 in accordance with the directions/extant guidelines issued by the Reserve Bank of India from time to time. Thereafter the Applicant issued recall notice dated 05.08.2024 to the Corporate Debtor demanding outstanding dues of Rs. 307,77,23,420.87 as on 31.07.2024 together with further interest and other charges from 31.07.2024 payable till date when overdue will be cleared.
- viii. The contention raised by Corporate Debtor that Petitioner delayed in releasing the funds and violated the terms of the Common Loan Agreement are baseless and misleading. This is merely an afterthought of the Corporate Debtor. In the JLF meeting held on 24.01.2015, it was discussed that at the time of inspection, the project implementation was found to be behind schedule and it was felt that serious efforts should be made by the Corporate Debtor to expedite the project execution. The Corporate Debtor is not able to run satisfactorily and incapable of generating sufficient cash flow to meet their various obligations. in the Joint Lenders Meeting held on 10.08.2017 Mr. Jay Mehta, CEO of Corporate Debtor



informed that project progress is lagging behind schedule after mid-May and June 2018 due to monsoon and there no much work progress.

- ix. The Corporate Debtor, vide letter dated 04.11.2020, requested the Applicant & Lenders for restructuring the account. The Applicant, vide sanction letter dated 10.06.2021, permitted Resolution of the account under OTR framework of RBI on the terms and condition mentioned in sanction letter which was duly executed and accepted by the Corporate Debtor. The Corporate Debtor requested the Applicant for an emergency facility of Rs. 10 Crore under GECL scheme to meet the operational cost which was granted. The Applicant has duly followed the RBI guidelines and there was no delay in granting benefit under Covid- 19 Period.
- x. The contention raised by Corporate Debtor that corporate Debtor is a solvent company and willing to honour its repayment obligation is false and illusionary. The Corporate Debtor approached the Applicant with One Time Settlement ('OTS') vide letter dated 24.03.2025 offering to pay settlement amount of INR 430 crores for consortium wherein the Applicant's share would be around INR 260 crores as against the claim amount of INR 330.40 crores as on 31.08.2024. The Applicant analysed and found significant haircut in their legitimate claim and no certainty of the source of such proposal and accordingly responded vide letter dated 25.03.2025 stating that OTS proposal can only be entertained only after depositing the upfront OTS amount in no lien account. The Corporate failed to deposit any amount in no lien account which is showing their incapability of sourcing or generating the funds. It is also submitted that Corporate Debtor in their Affidavit in Reply categorically admitted that it has defaulted in its payment obligation to the



Applicant due to problems arising out of the development of the project. The Applicant cannot be made to suffer for problems faced by the Corporate Debtor.

**11. Additional Affidavit dated by the Petitioner dated 01<sup>st</sup> August, 2025:**

- i. The instant Additional Affidavit has been filed by the Applicant pursuant to the Order dated 14.07.2025 passed by this Tribunal to bring on record Letter dated 13.06.2025, Letter dated 07.07.2025, and any other related correspondences thereto.
- ii. The Applicant issued Letter dated 13.06.2025 to the Corporate Debtor wherein the Applicant accepted the OTS offer of INR 430 crores to the consortium lenders, out of which the Applicant's share was INR 263.50 crores. Subsequently, the Applicant conducted the Swiss Challenge Process and vide letter dated 03.07.2025, the Applicant requested the Corporate Debtor to exercise the Right of First Refusal ("ROFR") being the anchor bidder in relation to the bid amount offered by the H1 bidder.
- iii. The Corporate Debtor, vide Letter dated 05.07.2025, stated that the Corporate Debtor is exercising the right of first refusal and thereby improved the H1 bid and offered final bid amount of Rs.472.10 Crores. The Applicant thereafter issued Letter dated 07.07.2025 to the Corporate Debtor declaring the Corporate Debtor as the Successful Bidder in terms of the E-Auction conducted on 03.07.2025 through the Swiss Challenge Method. As per the terms of the said Letter dated 07.07.2025, the aforesaid offer of Rs.472.10 crores shall be subject to the final approval from the other consortium lenders which the Corporate Debtor has duly accepted.



- iv. The Applicant addressed emails dated 22.07.2025 , 25.07.2025 and 29.07.2025, calling upon the Corporate Debtor to deposit the amount of Rs.18 crores, as per the terms of the OTS sanction immediately and further apprised the Corporate Debtor that, upon failure to make the balance payment, **approval from other consortium lenders to the OTS** will not be sanctioned and OTS would not be implemented.

**12. Additional Affidavit by the Respondent dated 08<sup>th</sup> August, 2025:**

- i. On 23 May 2025, the Corporate Debtor submitted a proposal for One Time Settlement (OTS) ("Settlement Letter") for a total consideration of Rs. 430 Crores ("Settlement Amount") to Canara Bank, i.e., the Petitioner and being the lead bank of the Consortium of Lenders, which includes the Petitioner, Punjab and Sind Bank ("PSB"), Syndicate Bank (merged with the Petitioner i.e. Canara Bank), Vijaya Bank (hereinafter collectively referred to as the 'Lenders') towards the total outstanding dues and obligations of the Corporate Debtor, without prejudice to its rights and contentions thereof.
- ii. Pursuant thereto, the Petitioner addressed a letter dated 13 June, 2025 ("OTS Sanction Letter") thereby sanctioning the OTS proposed by the Corporate Debtor. In terms of this OTS Sanction Letter, the Swiss Challenge Mechanism came to be launched. Further, a Bid Process Document dated 13 June 2025 ("Bid Process Document") came to be floated by one BOB Capital Markets Limited on instructions of the said Lenders of the Corporate Debtor for transfer/sale of Stressed Loan Exposure of the Corporate Debtor.



- iii. The Corporate Debtor had deposited the first instalment of Rs. 25 Crores, as an upfront payment to the Lenders. Subsequently, by and under a letter dated 7 July 2025, the Petitioner being the Lead Bank declared the Corporate Debtor as the Successful Bidder for the above, for an offer of Rs. 472.10 crores. And the same was informed to this Tribunal at the time of hearing of the captioned Company Petition before this Tribunal on 14 July, 2025.
- iv. Subsequently, on 4 August 2025, the Corporate Debtor informed this Hon'ble Tribunal that the Corporate Debtor was awaiting grant of sanction from all the Lenders, nonetheless, the second instalment of Rs. 18 Crores in pursuance of the OTS Sanction Letter shall be made by the Corporate Debtor to the Lenders within 7 (seven) days. Accordingly, this Tribunal directed the Corporate Debtor to specify and provide a certain timeline within which the Corporate Debtor shall pay the second instalment of Rs. 18 Crores to the Lenders in pursuance of the OTS Sanction Letter, by way of an Affidavit before this Hon'ble Tribunal.
- v. In compliance of the direction issued by this Tribunal on 04 August 2025, the Corporate Debtor affirms and confirms that the second instalment of Rs. 18 Crores in pursuance of the OTS Sanction Letter shall be made within a period of 7 (seven) days by or before 12 August 2025. The Corporate Debtor subsequently deposited the said amount of Rs. 18 Crores also.

### **ANALYSIS AND FINDINGS**

13. We have heard the Learned Counsel for the Petitioner and the Learned Counsel for the Respondent and have perused the documents available on record.



14. We find that this is a case of consortium lending wherein the Corporate Debtor had executed a Common Loan Agreement and an Inter-Creditor Agreement, both, dated 28.02.2014 with Canara Bank, Syndicate Bank, Punjab & Sind Bank and Vijaya Bank ('Lenders'). It was agreed between the parties to the aforesaid agreements that Canara Bank (i.e. the Petitioner herein) shall act as Lenders' Agent. In pursuance of the aforesaid agreements, the Lenders had committed to sanction a sum of INR 480 crores in the following ratio:

Name of Lender	Amount of Commitment of Each Lender (in crores)
Canara Bank	150
Syndicate Bank	140
Punjab & Sind Bank	95
Vijaya Bank	95
<b>TOTAL</b>	<b>480</b>

15. However, the Respondent's main grievances are that a) the sanctioned facilities were never fully disbursed by the Lenders and b) there were delays in disbursing the debt by the Lenders. Due to the above two reasons, the project for which the loan facilities were sanctioned was derailed thereby impeding the revenue and the cash flows from the project and thus, no blame or fault can be attributed to the Respondent for defaulting in repayment of loan. We shall deal with the objections of the Respondent in the later part of this order.

16. The Respondent has given the details of delays in disbursing the debt by the Lenders in a table contained in Para 8.7 of the Affidavit in Reply reproduced above.

17. Thus, on perusal of the aforesaid table, it is seen that the Respondent has admitted the disbursements of debt by the Lenders to the tune of INR 386.48 crores. Even under the Framework Agreement dated 11.06.2021 executed by the Corporate Debtor, it is



stated on the very first page of the said Agreement that the Borrower (i.e. the Corporate Debtor) has availed financial assistances to the tune of INR 413.00 crores from the Lenders as on 01<sup>st</sup> September, 2020. As per the One Time Restructuring Proposal/Resolution Plan, which was proposed by the Respondent and approved by the Lenders vide the Sanction Letter dated 10.06.2021, out of the total loan facilities amounting to INR 413 crores availed by the Respondent from the Lenders, the share of the Applicant Bank is INR 249.52 crores, which is 60.42% of the total consortium lending. In other words, the Respondent has availed a sum of INR 249.52 crores of loan facilities from the Applicant Bank as a part of consortium lending. Accordingly, we are of the considered view that the existence of debt and the factum of disbursal of debt by the Lenders (including the Petitioner) stand proven on record.

18. We shall now adjudicate upon the factum of default committed by the Corporate Debtor.

19. It is an undisputed fact that due to the financial stress induced by the Covid-19 pandemic, the Corporate Debtor had applied to the Lenders for restructuring of the loan facilities under the 'Resolution Framework for COVID-19 related stress' framed by the Reserve Bank of India ('RBI') vide Notification dated 06<sup>th</sup> August, 2020. Accordingly, the Framework Agreement dated 11.06.2021 came to be executed between the Corporate Debtor and the Lenders along with the Security Trustee i.e. Axis Trustee Services Limited. It is stated under the said Agreement that the Lenders have considered and sanctioned their approval for implementation of a resolution plan submitted by the Borrower (i.e. the Corporate Debtor), pursuant to which the existing loan facilities shall be restructured in the manner provided under the said agreement.



20. As per the Sanction Letter dated 10.06.2021 issued by the Applicant Bank, there was an interest moratorium from 01.09.2020 to 28.02.2022. Further, there was a moratorium on the repayment of loan facilities until the quarter ending on 30.09.2022 and accordingly, the repayment commencement date under the approved OTR would begin from 31.12.2022 for 28 Quarters from 03<sup>rd</sup> Quarter of FY 2022-23 till the 02<sup>nd</sup> Quarter of FY 2029-30. As per the aforesaid Sanction Letter, the instalments payable from the repayment commencement date till the completion of loan tenor in FY 2029-30 amounted to INR 245.58 crores approximately. In pursuance of the aforesaid sanction letter, the Loan Agreement dated 11<sup>th</sup> June, 2021 was executed between the Corporate Debtor, the Lenders and the Security Trustee (viz. Axis Trustee Services Ltd). Thus, it is seen that the OTR was approved by the Consortium of Lenders. However, despite restructuring the debt in June 2021, it is seen from the records that the Corporate Debtor defaulted towards repayment of principal & interest to the Applicant bank which had fallen due on 31.03.2023. As the Corporate Debtor failed to repay the loan as per the scheduled repayment structure under the sanctioned OTR, all the loan facilities were recalled vide Notice dated 05.08.2024 ('Loan Recall Notice').

21. As per the Loan Recall Notice, the Corporate Debtor was called upon to repay entire overdue of INR 307,11,23,420.87/- as on 31.07.2024 with further interest within 10 days from the date of the notice. Since the default on the part of the Corporate Debtor persisted even after recalling the loan facilities, the Applicant Bank as a member of the consortium as well as in its capacity as the Lenders' Agent has filed this petition for initiating the CIRP of the Corporate Debtor. The Applicant has annexed the Postal Receipt as well as the Postal Track Report to the application as a proof of delivery of the Loan Recall Notice. The postal track report shows that the item was delivered to



the Corporate Debtor on 09.08.2024. The Corporate Debtor has not denied or disputed the delivery/receipt of the Loan Recall Notice in its pleadings.

22. As per Condition No. 48 of the Resolution Framework for COVID-19-related Stress, If the borrower is in default with any of the signatories to the Inter-Creditor Agreement (ICA) at the end of the Review Period, the asset classification of the borrower with all lending institutions, including those who did not sign the ICA, shall be downgraded to NPA from the date of implementation of the resolution plan or the date from which the borrower had been classified as NPA before implementation of the plan, whichever is earlier. As per the OTR Sanction Letter dated 10.06.2021, the proposed implementation date is 11.06.2021. As discussed earlier, since the Corporate Debtor failed in repaying the loan as per the repayment tenor and schedule fixed by the OTR Sanction Letter dated 10.06.2021, the Applicant in accordance with Condition No. 48 of the Resolution Framework for COVID-19-related Stress (supra), classified the loan accounts of the Corporate Debtor as Non-Performing Asset ('NPA') with effect from 11.06.2021. The Applicant has therefore taken 11.06.2021 as the date of default in Part IV of the application.

23. The Applicant has annexed the NeSL Report in Form 'D' at Exhibit 'O' to the application. The date of default stated in the said NeSL report is 11.06.2021. The above report from the Information Utility shows the status of authentication of default as "AUTHENTICATED" with Colour Code: GREEN. Thus, it is clear that the Corporate Debtor has admitted the default.

24. As discussed hereinbefore, the OTR Proposal was sanctioned by the Consortium of Lenders vide Applicant Bank's Letter dated 10.06.2021, pursuant to which the Framework Agreement dated 11.06.2021, executed between the Corporate Debtor

and the Consortium Lenders in accordance with the RBI Notification dated 06.08.2020 issued under “The Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019, dated June 7, 2019”. As per the aforesaid Sanction Letter dated 10.06.2021, there was a moratorium on the repayment of loan facilities until the quarter ending on 30.09.2022 and accordingly, the repayment commencement date under the approved OTR would begin from 31.12.2022 for 28 Quarters from 03<sup>rd</sup> Quarter of FY 2022-23 till the 02<sup>nd</sup> Quarter of FY 2029-30. However, since the Corporate Debtor failed to adhere to the Repayment Schedule even under the OTR proposal referred-to-above, the loan facilities were ultimately recalled on 05.08.2024. Thus, it is seen that the default committed by the Corporate Debtor under the Framework Agreement dated 11.06.2021 gave cause of action to the Applicant to initiate the CIRP of the Corporate Debtor. As there was a loan moratorium until 30.09.2022, the default was committed by the Corporate Debtor subsequent thereto i.e. as on 31.03.2023. However, as per condition 48 of the Resolution Framework for Covid-19 related stress the loan account was classified as NPA with effect from the original date of default as the restructuring made had failed due to the further default committed by the Corporate Debtor on 31.03.2023.. Hence, we are of the opinion that even though the loan accounts were classified as NPA on 11.06.2021, the instant application is not barred by Section 10-A of the Code. Further we are of the view that the factum of first default leading to restructuring of debts and subsequent default and loan recall vide letter dated 05.08.2024 are established by the applicant.

25. Though, factually, the default under the sanctioned OTR proposal was committed by the Corporate Debtor on 31.03.2023, as stated above the loan accounts were classified as NPA with effect from 11.06.2021, which was the date of the



implementation of resolution plan, in accordance with Condition No. 48 of the Resolution Framework for COVID-19-related Stress (supra). Therefore, even if we take 11.06.2021 as the date of default, the petition u/s 7 of the Code ought to have been filed within 3 years from the aforesaid date of default, which is actually filed on 27.09.2024. It is evident from records that a revival letter dated 16.06.2023, a copy of which is annexed to the application at Exhibit 'E', was issued by the Corporate Debtor in favour of the Applicant Bank for the purpose of acknowledgement of debt u/s 18 of the Limitation Act, 1963. Since the aforesaid acknowledgement of debt was issued by the Corporate Debtor in writing to the Applicant Bank vide revival letter dated 16.06.2023, which is again within 3 years from 11.06.2021, a fresh period of limitation would be computed from 16.06.2023 u/s 18 of the Limitation Act, 1963. As the present petition was filed on 27.09.2024, which is well within 3 years from 16.06.2023, we conclude that the instant application is not barred by limitation.

26. We shall now deal with the objections of the Corporate Debtor.

27. Counsel for the Corporate Debtor submits that the sanctioned loan of INR 480 crores was not fully disbursed and that there was a delay in disbursements of debt by the Consortium Lenders, which caused financial hardships to the Corporate Debtor and also adversely affected the cargo terminal project for which the loan facilities were sanctioned by the Lenders.

28. The Hon'ble NCLAT in **SBI v. N.S. Engineering Projects Pvt. Ltd. [(2023) ibclaw.in 79 NCLAT]** has held that Section 7 application cannot be rejected on the ground that certain portion of sanction amount of financial facilities could not be disbursed by the Financial Creditors. The extracts of the relevant paragraphs from the aforesaid judgment are reproduced hereinbelow:



“17. From the judgment of the Adjudicating Authority as noticed above in State Bank of India’s case, it is clear that Adjudicating Authority has based its decision of rejecting Section 7 Application on the ground that the default committed by the Corporate Debtor in restructuring its debt, there is contributory negligence by the State Bank of India as well as Punjab National Bank. The fact that certain portion of sanction amount of financial facilities could not be disbursed by the Financial Creditors can be ground for rejecting Section 7 Application has already been answered by the Hon’ble Supreme Court in its judgment in **Innoventive Industries Limited** (supra).  
.....

21. The Clause (u) of the Restructuring Agreement entered between the parties is in the identical words as Clause 20(t), which was noticed by the Hon’ble Supreme Court in Innoventive Industries Ltd. The Hon’ble Supreme Court in Innoventive Industries Ltd. having held that **“The Obligation of the corporate debtor was, therefore, unconditional and did not depend upon infusing of funds by the creditors into the appellant company”** is a declaration of law in reference to an Application under Section 7. The view taken by the Adjudicating Authority in the impugned order dated 28.06.2022 is clearly not in consonance with the law declared by the Hon’ble Supreme Court in Innoventive Industries Ltd. (supra). This alone is sufficient to set aside the impugned order passed by the Adjudicating Authority.

24. Under the Scheme of IBC, when a Corporate Debtor is unable to pay its debt, which becomes payable, it is a warning signal for Corporate Debtor and when an Application is filed by a Financial Creditor to initiate CIRP under Section 7 and there are ample material that Corporate Debtor is unable to pay its debt and has committed default, the Adjudicating Authority is not required to go into the reasons of default and ignore the real status of the Corporate Debtor and close its eyes to the fact that the Corporate Debtor needs insolvency resolution. Red signal having been flagged by the Applicant, ignoring the precarious financial situation and status of the Corporate Debtor and not taking remedial action to bring back the Corporate Debtor on its track by adopting resolution process as per IBC and reject the Application on the reasons of default, is clearly contrary to the whole Scheme of the IBC. There being sufficient material before the Adjudicating Authority that consistent defaults have been committed by the Corporate Debtor and it is unable to pay its debt, **rejection of Section 7 Application on the ground that for default committed by the Corporate Debtor, the Financial Creditors have also to be blamed is closing the eyes to the Scheme of the insolvency resolution.**” (Emphasis Supplied)

29. Therefore, in view of the ratio of the judgment of Hon’ble NCLAT in SBI v. N.S. Engineering Projects Pvt. Ltd. (supra), the objection of the Respondent to this petition on the ground that the sanctioned loan facilities were not fully disbursed and/or on the ground that there was a delay in disbursement of loan facilities, cannot be sustained. Accordingly, we reject the aforesaid contentions of the Respondent.

30. The Respondent has strongly relied upon the judgment of Hon’ble Supreme Court in **Vidarbha Industries Power Limited v. Axis Bank Limited (Neutral Citation: 2022 INSC 710)** contending before the Adjudicating Authority to exercise its discretion u/s



7(5)(a) of the Code in the facts and circumstances of this case so as to refuse the admission of the Corporate Debtor into the CIRP. However, we wish to observe that the judgment of the Hon'ble Supreme Court in Vidarbha Industries Power Ltd (supra) was reviewed by the Apex Court vide Order dated 22.09.2022 in Review Petition (Civil) No. 1043 of 2022, it was observed as follows:

*“The elucidation in paragraph 90 and other paragraphs 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.*

*To interpret words and provisions of a statute, it may become necessary for the Judges to embark upon lengthy discussions. The words of Judges interpreting statutes are not to be interpreted as statutes.*

*There are no grounds for review of the judgment and order. The Review Petition is, accordingly, disposed of.”*

31. Thus, from the Review Order dated 22.09.2022 itself it was made clear that the judgment of the Hon'ble Supreme Court in Vidarbha Industries was rendered in the setting of the facts and circumstances of that case and the same need not be read as a provision of the statute.

32. Thereafter, in **M. Suresh Kumar Reddy v. Canara Bank & Ors. (2023 INSC 521)**, the Hon'ble Supreme Court had opportunity to consider the application of its ruling in Vidarbha Industries case. While deciding the case of M. Suresh Kumar Reddy (supra), the Hon'ble Supreme Court observed as follows:

*“10. Thus, once NCLT is satisfied that the default has occurred, there is hardly a discretion left with NCLT to refuse admission of the application under Section 7. .... Thus, even the non-payment of a part of debt when it becomes due and payable will amount to default on the part of a Corporate Debtor. In such a case, an order of admission u/s 7 of the IB Code must follow. If the NCLT finds that there is a debt, but it has not become due and payable, the*



***application under Section 7 can be rejected. Otherwise, there is no ground available to reject the application.***

11. Reliance is placed on the decision of this Court in the case of Vidarbha Industries<sup>1</sup> and in particular, what is held therein in paragraph nos. 86 to 89 which reads thus: - .....

12. A Review Petition was filed by the Axis Bank Limited seeking a review of the decision of Vidarbha Industries<sup>1</sup> on the ground that the attention of the Court was not invited to the case of E.S. Krishnamurthy<sup>2</sup>. While disposing of Review Petition by Order dated 22<sup>nd</sup> September 2022, this Court held thus: - .....

13. Thus, it was clarified by the order in review that the decision in the case of Vidarbha Industries<sup>1</sup> was in the setting of facts of the case before this Court. Hence, the decision in the case of Vidarbha Industries<sup>1</sup> cannot be read and understood as taking a view which is contrary to the view taken in the cases of Innoventive Industries<sup>3</sup> and E.S. Krishnamurthy<sup>2</sup>. **The view taken in the cases of Innoventive Industries<sup>3</sup> still holds good.**” (Emphasis Supplied)

33. Thus, from the ratio as culled out by the Hon’ble Supreme Court in M. Suresh Kumar Reddy v. Canara Bank (supra), it is evident that the precedent laid down in the Vidarbha Industries case (supra) cannot be read contrary to the decisions of the Apex Court in Innoventive Industries case. In other words, once the Applicant establishes that the debt which is due and payable by the Corporate Debtor has been defaulted, there is no discretion vested upon the Adjudicating Authority to either defer or to reject the admission of the Corporate Debtor into the CIRP. Thus, in our considered view, the ratio of the judgment in the Vidarbha Industries case (supra) has been side-stepped, if not over-ruled, by the Hon’ble Supreme Court of India in its subsequent decisions. Accordingly, we hold that the reliance upon the ratio of the judgment in Vidarbha Industries case by the Respondent is misplaced, and in view of the decision of Hon’ble Apex Court in M. Suresh Kumar Reddy (supra), we cannot exercise our



discretion to dismiss this application u/s 7(5)(a) of the Code as the Applicant has satisfactorily established that the financial debt which is due and payable by the Corporate Debtor has been defaulted.

34. Without prejudice to the above, we are of the view that the Corporate Debtor has failed to establish that it is a solvent and viable company. The Corporate Debtor has failed to regularize its account since 11.06.2021, when the said account was declared as NPA in spite of the fact that it was allowed a restructuring on 11.06.2021 by the lenders. It failed to honour its obligations under the restructuring and has been defaulting continuously since then and, therefore, we do not have any doubt about the insolvency situation of the Corporate Debtor. For the said reason also, the Corporate Debtor cannot claim the benefit of Vidarbha Industries judgments.
35. In the Additional Affidavit dated 01.08.2025 filed by the Applicant, we find that, vide Letter dated 13.06.2025, the Applicant had sanctioned the OTS proposal of the Respondent for a sum of INR 430 crores, out of which the Applicant's share was of INR 263.50 crores. It is further stated in the aforesaid letter that the Corporate Debtor had already deposited INR 25 crores in a 'no lien' account and that the next instalment of INR 18 crores was required to be deposited immediately upon the sanction of OTS (which was also subsequently deposited). However, the said OTS proposal was subject to Swiss Challenge Method. Accordingly, after considering the highest bid of INR 465.50 crores, the Respondent, being the anchor bidder, was given the Right of First Refusal ('ROFR') by the Applicant Bank vide Letter dated 03.07.2025. On 05.07.2025, the Corporate Debtor addressed a letter to the Applicant stating that the Corporate Debtor is exercising its ROFR and pursuant thereto, the Corporate Debtor offered a final bid of INR 472.10 crores. The Applicant thereafter



issued a Letter dated 07.07.2025 to the Corporate Debtor declaring the Corporate Debtor as the Successful Bidder in terms of the E-Auction conducted on 03.07.2025 through Swiss challenge method. That as per the terms contained in Paragraph 7 of the said Letter dated 07.07.2025, the aforesaid offer of Rs.472.10 crores shall be subject to the final approval from the other consortium lenders. Paragraph 7 of the aforesaid Letter dated 07.07.2025 issued by the Financial Creditor to the Corporate Debtor is reproduced verbatim hereinbelow:

*“7. Please note that this letter is not an agreement or an undertaking, and the Lenders does not undertake any liability arising in this regard. **Your offer is subject to final approval from all the consortium lenders.** Further, by countersigning this Letter, you acknowledge and agree that this letter does not create any binding obligations on Lenders or its representatives.” (Emphasis Supplied)*

36. During the course of oral arguments, Ld. Counsel for the Petitioner stated that the settlement via OTR/OTS proposal hasn't fructified as the same was not unanimously approved by all the Lenders of the Consortium. Hence, the Applicant is pressing for this application. Per contra, the Ld. Counsel for the Corporate Debtor submits on instructions, that they have already paid INR 25 crores to the Applicant Bank upfront and are ready to deposit such further money with the Applicant Bank as this Tribunal may direct. The Corporate Debtor also deposited a further amount of Rs. 18 Crores thereafter, However, in our considered view, this Tribunal has no jurisdiction to settle the loan disputes between the Applicant and the Respondent by directing the latter to deposit some amount with the former, as this is not a debt recovery forum.

37. Even otherwise, the recent judgment of the Hon'ble Supreme Court of India in **Assistant General Manager, State Bank of India v. Tanya Energy Enterprises** [**Neutral Citation: 2025 INSC 1119**] reaffirms the established and settled position in law that the benefit of the OTS cannot be claimed as an absolute right and that no



mandamus can be issued compelling an authority to exercise discretion in a particular manner. In the instant case, the Applicant has stated in the rejoinder affidavit at Para 19 that the Corporate Debtor offered to settle the outstanding loans at INR 430 crores, wherein the Applicant's share would be around INR 260 crores as against its claim amount of INR 330.40 crores. The Applicant has further stated that the Applicant analysed and found significant haircut in their legitimate claim and also no certainty of the source of such proposal and accordingly responded vide letter dated 25.03.2025 stating that OTS proposal can only be entertained only after depositing the upfront OTS amount in no lien account. According to the Applicant's rejoinder, the Corporate Debtor failed to deposit any amount in no lien account which is showing their incapability of sourcing or generating the funds. As per the Additional Affidavit of the Petitioner and the documents annexed thereto, a sum of INR 25 crores was paid by the Respondent before sanction, however, a further sum of INR 18 crores, which was payable upon sanction of the OTS proposal, has not been paid. Even in the Order dated 04.08.2025 passed by this Tribunal in this matter, it is recorded that the amount of INR 18 crores was not deposited by the Corporate Debtor until then, through the same was deposited subsequently. Therefore, in our considered view, availing the Bank's One Time Settlement ("OTS") scheme is not a borrower's right, particularly where there is a failure on its part to comply with mandatory preconditions such as making the required upfront payment in a timely manner or for any other reason. When the Writ Courts established under the Constitution of India cannot issue a mandamus compelling an authority to exercise its discretion in a particular manner, this Adjudicating Authority being a creature of statute having limited powers and jurisdiction under the IB Code, cannot compel the



Applicant Bank or other lenders of the Consortium to accept the OTS proposal given by the Respondent.

38. At present there are three members in the consortium viz. Canara Bank (i.e. the Petitioner and Syndicate Bank merged with Canara Bank), Bank of Baroda (since Vijaya Bank merged with Bank of Baroda) and Punjab & Sind Bank. It is recorded in the Order dated 04.08.2025 passed by this Bench that out of the three members of the consortium, Bank of Baroda has not given its consent to the OTS proposal of the Respondent, whereas the other two members of the consortium have given their consents.

39. Even during the course of hearing, the Learned Counsel for the Petitioner tendered certain loose papers in court to show that the OTS proposal of the Respondent was terminated by the members of Consortium. On perusal of those loose papers, it is seen that the Applicant Bank vide Letter dated 02.09.2025, had annulled the OTS proposal of the Respondent. The relevant extract of the said Letter is reproduced verbatim as follows:

*“Notwithstanding the conditional sanctions already issued by Canara Bank (13 June 2025) and P&SB (29 July 2025), no approval has been received to date from BoB. In the absence of unanimous consent, the OTS proposal has not become effective or binding on the lenders.*

*As approval from all Lenders has not been received, the lenders have decided to annul the OTS process and withdraw all previous communications relating to the OTS proposal. Accordingly, the OTS proposal is no longer under consideration and all communications previously in this regard by the Lenders stand withdrawn.*

.....

*In accordance with the above decision, the upfront amounts placed by you in the no-lien account with Canara Bank shall be returned, net of applicable charges, without interest.”*

40. It is further seen from those loose papers that even Punjab & Sind Bank had communicated the withdrawal of OTS Sanction Letter dated 29.07.2025 issued by



it to the Respondent, vide Letter dated 03.09.2025. The relevant extract of the said letter is reproduced verbatim as follows:

*“This has reference to our letter dated 29.07.2025 regarding the Sanction of One Time Settlement (OTS) proposal of ₹472.10 Crores submitted by Karanja Terminal & Logistics Pvt. Ltd. (KTPL) to the entire consortium.*

*In view of the JLM held on 29.08.2025 wherein the lenders have decided to annul the OTS process and withdraw all previous communications relating to the OTS proposal, we also withdraw our OTS Sanction Letter dated 29.07.2025 issued by our bank and the same stands cancelled.”*

41. The Ld. Counsel for the Petitioner has also tendered a copy of the Letter dated 05.09.2025, which was issued by the Applicant to the Respondent. In the aforesaid letter, the Applicant Bank had said as follows:

*“This has reference to our earlier letter dated September 02, 2025, wherein Bank has informed you regarding annulment of OTS process.*

*It was also informed to you that in accordance with the above decision, the upfront amounts placed by you in the no-lien account with Canara Bank would be returned.*

*In view of the above, we request you to kindly provide us the account details by duly mentioning the IFSC, so that we can remit back the upfront amount.”*

42. We also observed that during the course of hearing, the Ld. Counsel for the Respondent has not denied the existence of the aforesaid letters. Since the OTS proposal given by the Respondent is not unanimously approved by the members of the Consortium, it is not binding on the consortium. Moreover, another member of the Lenders' Consortium viz. Punjab & Sind Bank has filed an application u/s 7 of the Code against the Corporate Debtor vide CP(IB) No. 552/MB/2025. Therefore, in view of the above findings, it is crystal clear that the OTS proposal given by the Respondent to the Lenders' Consortium in the year 2025 has failed. Accordingly, we cannot entertain any grievance of the Respondent qua the OTS Proposal.



43. The Hon'ble Supreme Court in M/s. **Innoventive Industries Ltd. v. ICICI Bank & Anr.** (vide Judgment dated August 31, 2017 in Civil Appeal Nos. 8337-8338 of 2017) has *inter-alia*, held as follows:

*“28. When it comes to a financial creditor triggering the process, Section 7 becomes relevant. ....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 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 sub-section (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.*

*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.* (Emphasis Supplied)

44. In view of the foregoing findings, analysis and discussions, we conclude that the Corporate Debtor has committed a default in repaying the financial debt to the Financial Creditor for a sum well beyond rupees one crores. Thus, the present petition satisfies the minimum threshold of default of INR 1 crore prescribed u/s 4 of the Code for initiating the CIRP of the Corporate Debtor. It is trite to say that the Adjudicating Authority need not ascertain the exact amount of default committed by the Corporate Debtor for the purpose of admitting the application u/s 7 of the Code, as the same is the duty of the IRP/RP while verifying and collating the claim of the Applicant during the course of the CIRP of the Corporate Debtor. We are further



satisfied that the application filed under Section 7 of the Code is complete in all respects and based on the undertaking of the IRP, we believe that there are no disciplinary proceedings pending against the proposed Interim Resolution Professional. Hence, in light of the law laid down by the Hon'ble Supreme Court in *Innoventive Industries Ltd. v. ICICI Bank* (supra), the present application is bound to be admitted under Section 7(5)(a) of the Code. Accordingly, we pass the following orders:

**ORDER**

- i. The Corporate Debtor, namely, **KARANJA TERMINAL & LOGISTICS PRIVATE LIMITED** [CIN: U63090MH2010PTC203226], is hereby **admitted** into the Corporate Insolvency Resolution Process under Section 7(5)(a) of the Code.
- ii. As a consequence thereof, moratorium under Section 14 of Insolvency and Bankruptcy Code, 2016 is declared for prohibiting all of the following in terms of Section 14(1) of the Code:
  - a. The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
  - b. transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
  - c. any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;



- d. the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the Corporate Debtor;
- e. The provisions of sub-section (1) shall however, not apply to such transactions, agreements as may be notified by the Central Government in consultation with any financial sector regulator and to a surety in a contract of guarantee to the Corporate Debtor.
- iii. 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 Adjudicating Authority approves the Resolution Plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33 of the IBC, 2016, as the case may be.
- iv. It is further directed that the supply of essential goods/services to the Corporate Debtor, if continuing, shall not be terminated or suspended or interrupted during the moratorium period as per provisions of sub-sections (2) and (2A) of Section 14 of IBC, 2016.
- v. We hereby appoint **Mr. Vijay Pitambar Lulla**, an Insolvency Professional having (Email: [vijayplulla@rediffmail.com](mailto:vijayplulla@rediffmail.com)) registration no. IBBI/IPA-001/IP-P00323/2017-18/10593, nominated by the applicant herein, as the Interim Resolution Professional ('IRP') of the Corporate Debtor.
- vi. The Financial Creditor is directed to pay an advance of **Rs. 5,00,000/-** (Rupees Five Lakhs Only) to the above-named IRP within a period of 7 days from the date of this order **to meet the cost of CIRP** arising out of issuing public notice and inviting claims etc. till the CoC decides about his fees/expenses.



- vii. The IRP shall perform all his functions as contemplated, inter-alia, under Sections 17, 18, 20 & 21 of the IBC, 2016. It is further made clear that all personnel connected with the Corporate Debtor, its Promoters or any other person associated with the management of the Corporate Debtor are under legal obligation under section 19 of the IBC, 2016 for extending assistance and co-operation to the IRP. Where any personnel of the Corporate Debtor, its Promoter or any other person required to assist or co-operate with IRP, do not assist or co-operate, the IRP is at liberty to make appropriate application to this Adjudicating Authority with a prayer for passing an appropriate order.
- viii. This Adjudicating Authority directs the IRP to make a public announcement for the initiation of CIRP and call for the submission of claims under Section 15, as required by section 13(1)(b) of the IBC, 2016.
- ix. The IRP is expected to take full charge of the Corporate Debtor's assets, and documents without any delay whatsoever.
- x. The IRP or the RP, as the case may be, shall submit to this Adjudicating Authority periodical reports with regard to the progress of the CIRP in respect of the Corporate Debtor.
- xi. The IRP shall be under duty to protect and preserve the value of the property of the Corporate Debtor and manage the operations of the Corporate Debtor as a going concern, to the extent possible, as a part of obligation imposed by Section 20 of the IBC, 2016.
- xii. The Registry is directed to communicate a copy of this order to the Financial Creditor, Corporate Debtor and to the IRP and the concerned Registrar of



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

Companies, after completion of necessary formalities, on the same day and upload the same on the NCLT portal immediately after the pronouncement of the order. The Registrar of Companies shall update its website by updating the Master Data of the Corporate Debtor in MCA portal specifically mentioning regarding admission of this Application and shall forward the compliance report to the Registrar, NCLT.

- xiii. The commencement of the Corporate Insolvency Resolution Process shall be effective from the date of this order.
- xiv. **Accordingly, CP (IB)/154(MB)2025 stands admitted.** A certified copy of this order may be issued, if applied for, upon compliance with all requisite formalities.

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

//SS & AS//

**Sd/-**  
**NILESH SHARMA**  
**MEMBER (JUDICIAL)**