

# IN THE NATIONAL COMPANY LAW TRIBUNAL

## KOCHI BENCH

CP (IB)/29/KOB/2025

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

Date of Institution: 25.09.2025

Order delivered on: 02.12.2025

*In the matter of:*

**M/s. Immaculate Agro Spices Private Limited**

MEMO OF PARTIES:

**M/s. Tata Capital Limited**

Tower A, 1101 Peninsula Business Park,  
Ganpatrao Kadam Marg,  
Lower Parel,  
Mumbai 400 013

...Petitioner/Financial Creditor

-Vs-

**M/s. Immaculate Agro Spices Private Limited**

Kanjiravelil House Pazhamthottam (PO),  
Ernakulam, Kerala, India 683565.

...Respondent/Corporate Debtor

**Coram:**

**HON'BLE MEMBER (JUDICIAL): SHRI. VINAY GOEL**

**Appearances:**

For the Petitioner : Mr. Isaac Thomas, Advocate.  
Mr. Chandapillai Abraham, Advocate.

For the Respondent : None appeared (*Ex parte*)



**ORDER**

1. The present Petition has been filed by Tata Capital Limited under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as 'the Code'), read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, for initiating the Corporate Insolvency Resolution Process, declaring moratorium, and for appointment of Interim Resolution Professional, against the Corporate Debtor viz. M/s Immaculate Agro Spices Private Limited.
2. The total amount claimed to be in default as per Part-IV of the petition is Rs. 3,57,87,361.25/- (Rupees Three crore fifty-seven lakh eighty-seven thousand three hundred sixty-one rupees and twenty-five paise only) as on 21.07.2025. The Corporate Debtor was incorporated on 23.01.2017 with CIN: U01110KL2017PTC047863 under the Companies Act, 2013. Main objective of the Corporate Debtor is to engage in the cultivation, processing, and trading of agricultural and agro-food products, including activities related to dairy farming, horticulture, and floriculture. Its registered office is at Kanjiravelil House, Pazhamthottam (PO), Ernakulam, Kerala, India-683565. Therefore, this Bench has jurisdiction to deal with this petition.
3. The Petitioner issued a notice to the Corporate Debtor by post and by mail on 01.11.2025. In addition, the Registry issued notices to the Corporate Debtor via e-mail on 27.10.2025, under the directions of this Tribunal vide order dated 27.10.2025. Upon service of notice, the matter was listed before this Bench on multiple occasions for hearing. Despite giving many opportunities to the Corporate Debtor to appear,



none appeared on behalf of the Corporate Debtor in any of the hearings, and the Corporate Debtor was set *ex parte* vide order dated 18.11.2025.

**4. Facts of the Case and Submissions made by Ld. Counsel for the Petitioner**

- i. It is submitted that Corporate Debtor, M/s. Immaculate Agro Spices Private Limited had applied for Term Loan facilities from the Financial Creditor, Tata Capital Limited. Pursuant to the said request, the Financial Creditor sanctioned a Term Loan Facility vide Sanction Letter dated 23.11.2023 for an amount of Rs. 4,00,00,000/- (Rupees Four Crores Only).
- ii. As a condition for the sanction and prior to disbursement, the Corporate Debtor executed the Term Loan Agreement dated 27.11.2023 and the Memorandum of Deposit of Title Deeds dated 29.11.2023 with the intention to create mortgage.
- iii. The Corporate Debtor committed default in the repayment of the credit facilities, leading to the loan accounts becoming irregular. As per the guidelines issued by the Reserve Bank of India, the accounts were classified as Non-Performing Assets on 11.05.2025. Pursuant to this, the Petitioner issued a Loan Recall Notice dated 21.05.2025 and a demand notice under Section 13(2) of the SARFAESI Act, 2002 on 29.05.2025, calling upon the Corporate Debtor to pay the then outstanding dues of Rs. 3,50,19,621.90/- as on 16.05.2025.
- iv. Despite repeated opportunities, the Corporate Debtor has failed to repay its debts, prompting the Petitioner to file the present application under Section 7 of the Code, for initiation of the



Corporate Insolvency Resolution Process. The outstanding amount exceeds the threshold of Rs. 1 Crore prescribed for such applications under the Code.

- v. The present petition has been filed within the statutory period of limitation. The cause of action arose on 11.05.2025 when the account was classified as a Non-Performing Asset.
- vi. The Financial Creditor has proposed the name of one Mr. Jasin Jose, having Registration No. IBBI/IPA-001/IP-P00695/2017-2018/11225, as Interim Resolution Professional, and he had filed his written communication in the format prescribed under Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016.

**5. The Financial Creditor has primarily relied upon the following documents:**

- i. Sanction Letter Ref No. CF\TLIERN/15377 dated 23rd November 2023 annexed as Annexure A4.
- ii. Agreement for Term Loan dated 27th November 2023 annexed as Annexure A5.
- iii. Memorandum of Deposit Title Deeds 29th November 2023 annexed as Annexure A6.
- iv. Resolution Passed by the Board of Directors of M/s. Immaculate Agro Spices Private Limited, dated 27th November 2023, annexed as Annexure A7.
- v. Affidavits for Net worth dated 27.11.2023 annexed as Annexure A8.
- vi. Letter for Net Disbursal dated 27.11.2023 issued by Immaculate Agro Spices Pvt. Ltd annexed as Annexure A9.



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- vii. NESL Certificate annexed as Annexure 10.
  - viii. Loan Recall Notice Issued on behalf of Tata Capital Limited dated 21.05.2025, annexed as Annexure -A11.
  - ix. Demand Notice under 13(2) of SARFAESI 2002 dated 29.05.2025 issued to Immaculate Agro Spices Pvt. Ltd annexed as Annexure A12.
  - x. Statement of Accounts of the Corporate Debtor annexed as Annexure A13.

**FINDINGS AND ANALYSIS: -**

6. This present Petition has been filed by the Petitioner under section 7 of IBC for initiation Insolvency Process against the Corporate Debtor, alleging default of Rs. 3,57,87,361.25/- (Rupees Three crore fifty-seven lakh eighty-seven thousand three hundred sixty-one rupees and twenty-five paise only) as on 21.07.2025. Notice of Petition was sent to the Respondent apart from the intimation sent by the Petitioner to the Respondent. Despite notice, Respondent has failed to put its appearance and contest the matter. As such respondent facilitated *ex parte* proceedings. Though the Respondent is *ex parte*, yet this Adjudicating Authority is to see whether the Petitioner is entitled to the relief sought or not. At this juncture, it would be appropriate to reproduce section 7 of IBC, which is read as under.

***7. Initiation of corporate insolvency resolution process by financial creditor.***

*(1) A financial creditor either by itself or jointly with 'other financial creditors, or any other person on behalf of the financial creditor, as may be notified by the Central Government] may file an application for initiating corporate insolvency resolution process against a corporate debtor before the Adjudicating Authority when a default has occurred.*

*[Provided that for the financial creditors, referred to in clauses (a) and (b) of sub-section (64) of section 21, an application for initiation corporate*



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*insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such creditors in the same class or not less than ten per cent. of the total number of such creditors in the same class, whichever is less:*

*Provided further that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent. of the total number of such allottees under the same real estate project, whichever is less:*

*Provided also that where an application for initiating the corporate insolvency resolution process against a corporate debtor has been filed by a financial creditor referred to in the first or second provisos and has not been admitted by the Adjudicating Authority before the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2020, such application shall be modified to comply with the requirements of the first or second provisos as the case may be within thirty days of the commencement of the said Act, failing which the application shall be deemed to be withdrawn before its admission.]*

*Explanation. For the purposes of this sub-section, a default includes a default in respect of a financial debt owed not only to the Petitioner financial creditor but to any other financial creditor of the corporate debtor.*

*(2) The financial creditor shall make an application under sub-section (1) in such form and manner and accompanied with such fee as may be prescribed.*

*(3) The financial creditor shall, along with the application furnish -*

*(a) record of the default recorded with the information utility or such other record or evidence of default as may be specified;*

*(b) the name of the resolution professional proposed to act as an interim resolution professional; and*

*(c) any other information as may be specified by the Board.*

*(4) The Adjudicating Authority shall, within fourteen days of the receipt of the application under sub-section (2), ascertain the existence of a default from the records of an information utility or on the basis of other evidence furnished by the financial creditor under sub-section (3):*

*Provided that if the Adjudicating Authority has not ascertained the existence of default and passed an order under sub-section (5) within such time, it shall record its reasons in writing for the same.]*

*(5) Where the Adjudicating Authority is satisfied that -*

*(a) a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application; or*

*(b) default has not occurred or the application under sub-section (2) is incomplete or any disciplinary proceeding is pending against the proposed resolution professional, it may, by order, reject such application:*

*Provided that the Adjudicating Authority shall, before rejecting the application under clause (b) of sub-section (5), give a notice to the Petitioner to rectify the defect in his application within seven days of receipt of such notice from the Adjudicating Authority.*

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

*(7) The Adjudicating Authority shall communicate-*



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*(a) the order under clause (a) of sub-section (5) to the financial creditor and the corporate debtor;*  
*(b) the order under clause (b) of sub-section (5) to the financial creditor, within seven days of admission or rejection of such application, as the case may be.*

7. Proceedings for insolvency under Section 7 can be initiated if there exist debt and default of more than Rupees 1 crore, and before passing any order, it is to be seen that the cause of action should be within time.

- In this case, the Petitioner has claimed Rs. 3,36,88,923/- as principal, Rs. 19,10,005.29/- as interest, and Rs. 1,88,432.93/- on account of other charges. So, the amount claimed is more than Rupees 1 crore, which is the threshold as per section 4 of IBC.
- This loan was sanctioned vide sanction letter dated 23.11.2023, and the loan documents were executed on 27.11.2023 constitutes a financial debt within the meaning of Section 5(8) of the Code, being disbursal against consideration for the time value of money. And as per the NeSL certificate, the date of default is 11.05.2025.

8. Petitioner has placed on record a recall notice dated 21.05.2025 and notice issued under section 13(2) of the SARFAESI Act, 2002 dated 29.05.2025. The claim is within the limitation period calculated from the date of execution of the loan documents and commission of default, and the respondent has failed to respond to the date of default as reported to NeSL. The financial debt exceeds the threshold limit of Rupees 1 Crore. Accordingly, this Adjudicating Authority is satisfied that a financial debt exists, and the Corporate Debtor has committed



default in repayment, and finds no legal impediment to initiate the process under section 7 of IBC against the respondent on the default reported by the Petitioner against the respondent on the basis of material available on record.

9. In light of the above facts and circumstances, it is hereby ordered as follows: -

- i. The Petition bearing **CP(IB)/29/KOB/2025** filed by M/s. Tata Capital Limited, the Petitioner/Financial Creditor, under section 7 of the Code read with Rule 4(1) of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 for initiating Corporate Insolvency Resolution Process against **M/s. Immaculate Agro Spices Private Limited**, the Respondent/ Corporate Debtor, is hereby **admitted**.
- ii. There will be a moratorium under section 14 of the Code.
- iii. The moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until the Adjudicating Authority approves the resolution plan under sub-section (1) of section 31 of the Code or passes an order for liquidation of Corporate Debtor under Section 33 of the Code, as the case may be.
- iv. Public announcement of the Corporate Insolvency Resolution Process shall be made immediately as specified under Section 13 of the Code, read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations 2016.



- v. The Financial Creditor has proposed the name of one Mr Jasin Jose, Reg No: IBBI/IPA-001/IP-P00695/2017-2018/1125, as Interim Resolution Professional, and he had filed his written communication in the format prescribed under Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016. However, it is observed that Mr. Jasin Jose is already handling multiple ongoing assignments before this Bench. In view of Regulation 22 of the IBBI (Insolvency Professionals) Regulations, 2016, which restricts an Insolvency Professional from taking on excessive assignments to ensure timely and effective resolution, this Tribunal considers it appropriate to appoint another Insolvency Professional as the Interim Resolution Professional in the present matter, so that adequate time and attention may be devoted to this case. Accordingly, from the panel prepared in accordance with the “Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2025” issued by the Insolvency and Bankruptcy Board of India, **Ms Celine P Thomas**, having **Registration No. IBBI/IPA-001/IP-P-02358/2021-2022/13612**, **Residing at: 4b, Tulip, Skyline River Dale Apartments, Petta, Tripunithura ,Near Petta Bridge ,Ernakulam, Kerala - 682301, Email ID: celinerejy@gmail.com**, is hereby appointed as the Interim Resolution Professional of the Respondent/Corporate Debtor. She is directed to submit



her written consent to act as the Interim Resolution Professional within three days from the date of receipt of this order.

- vi. The Interim Resolution Professional shall carry out his functions as contemplated by Sections 15 to 21 of the Code.
- vii. During the Corporate Insolvency Resolution Process period, the management of the affairs of the Corporate Debtor shall vest with the Interim Resolution Professional or, as the case may be, the Resolution Professional in terms of section 17 of the Code. The officers and managers of the Corporate Debtor shall provide all documents in their possession and furnish all information within their knowledge to the Interim Resolution Professional within one week from the date of receipt of this order, in default of which coercive steps will follow.
- viii. The Interim Resolution Professional/ Resolution Professional shall submit to this Adjudicating Authority periodical reports concerning the progress of the Corporate Insolvency Resolution Process in respect of the Corporate Debtor.
- ix. The Petitioner/ Financial Creditor shall deposit a sum of **Rs. 2,00,000/- (Rupees Two Lakhs only)** with the Interim Resolution Professional to meet the expenses arising out of issuing public notice and inviting claims. These expenses are subject to the approval of the Committee of Creditors.
- x. In terms of Section 7 (7) of the Code, the Registry is hereby directed to communicate a copy of this Order to the Financial



Creditor, the Corporate Debtor and Interim Resolution Professional by Speed Post & e-mail immediately, and in any case, not later than two days from the date of this order.

- xi. The Financial Creditor shall serve a copy of this Order on the Interim Resolution Professional and the Registrar of Companies, Kerala, by all available means for updating the Master Data of the Corporate Debtor. The Registrar of Companies shall send a compliance report in this regard to the Registry of this Tribunal within seven days from the date of receipt of a copy of this order.
  - xii. The Registry is further directed to send a copy of this order to the Insolvency and Bankruptcy Board of India for their record.
10. The Registry is directed to send e-mail copies of this order forthwith to all the parties and their Learned Counsel for information and for taking necessary steps.
11. Let the Certified Copy of this order be issued, if applied for, upon compliance with all requisite formalities.
12. File be consigned to records.

Sd/-  
**VINAY GOEL**  
**(MEMBER JUDICIAL)**

Signed on this the 2<sup>nd</sup> day of December, 2025.

Dhanya

*Certified to be True Copy-*

*Deputy Registrar*  
*National Company Law Tribunal*  
*Kochi Bench*

