



NATIONAL COMPANY LAW TRIBUNAL,
MUMBAI BENCH COURT VI

Item No. P-1.

C.P. (IB)/294(MB)2025

CORAM

SHRI SAMEER KAKAR
HON'BLE MEMBER (TECHNICAL)

SHRI NILESH SHARMA
HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF HEARING DATED **08.12.2025**

NAME OF THE PARTIES : **Punjab National Bank**

Vs

Damara Gold Private Limited

Under Section 7 of the IBC, 2016.

ORDER

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

Sd/-
SAMEER KAKAR
MEMBER (TECHNICAL)

//SKS//

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)



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

CP(IB)/294/MB/2025

*(An Application filed 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)*

*In the matter of **M/s. Dr. Damara Gold Private Limited***

M/s. Punjab National Bank

Having its Registered Office
At Plot No. 4, Sector-10, Dwarka,
New Delhi- 1100757

And Having Branch Office

At Jay Apartments, Linking Road,
Santacruz (West), Mumbai-400 054

Also at,

Zonal SASTRA, 1st Floor, PUB Pragati tower,
BKC Mumbai 400051.

... Applicant/Financial Creditor

VERSUS

M/s. DAMARA GOLD PRIVATE LIMITED

Having Its Registered
At 12, Ellora Co-operative Housing Society,
4th Road, Khar (West), Mumbai,
Maharashtra, India, 400052.

...Respondent/Corporate Debtor

Order pronounced on 08.12.2025

CORAM:

SH. NILESH SHARMA, HON'BLE MEMBER (JUDICIAL)

SH. SAMEER KAKAR, HON'BLE MEMBER (TECHNICAL)



APPEARANCE (Hybrid Mode):

For Financial Creditor: Adv. Adv. Mr. Rohit Gupta a/w Adv. Mr. Karunya
Rashunath Primacy Legal LLP.

For Corporate Debtor: Adv. Mr. Pulkit Sharma a/w Adv. Mr. Naman Jain
& Adv Mr. Rohan Vasa a/w Adv. Mr. Saurabh Nikalje

ORDER

PER: BENCH

1. This is an Application filed by the M/s. Punjab National Bank (hereinafter referred to as (“**Financial Creditor**”) against *Damara Gold Private Limited*. (hereinafter referred to as (“**Corporate Debtor**”) under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), seeking to initiate the Corporate Insolvency Resolution Process (‘CIRP’) against the Corporate Debtor, to appoint IRP and to initiate moratorium.
2. From Part I of the Form No. 1 of the Application it is seen that the Applicant was incorporated on 23.08.1973 and is having PAN No. AAACP0165G. The registered office of the Applicant is situated at Plot No. 4, Sector-10, Dwarka, New Delhi- 1100757 **Branch office:** Jay Apartments, Linking Road, Santacruz (West), Mumbai-400 054.
3. The Application is affirmed by one Mr. Swapnil Shashikant Kekare, acting as a Manager, who is Authorized officer of the Financial Creditor.
4. Perusal of Form 1 Part II of the Application reveals that the Corporate Debtor is one M/s. Damara Gold Private Limited having CIN No. U74990MH2009PTC193131. The Corporate Debtor was incorporated on 09.06.2009 and its Registered office address is 12, Ellora Co-operative



Housing Society, 4th Road, Khar (West), Mumbai, Maharashtra, India, 400052. The Applicant has attached the MCA Master data of the Corporate Debtor at page Nos. 73 and 74.

5. A perusal of Part III of the Application reveals that the Applicant has named Mr. Sumit Shukla, as IRP. The IRP's Registration number is IBBI/IPA-003/IP-N00064/2017-18/10550, who has issued Form-2 which is dated 29.11.2024 (Page No. 69) and his AFA is valid till 31.12.2025 (Page No. 72).
6. Perusal of the Part IV of the Application reveals that on being approached by the Corporate Debtor, the Financial Creditor sanctioned the Term Loan of Rs. 5,70,00,000/-, Fund Based Working Capital is not sanctioned and Bank Guarantees (Non-Fund Based) amounting to Rs. 21,50,00,000/- through its sanction letter dated 17.03.2011.
7. For availing the facilities, the Corporate Debtor executed the following documents:
 - i. Hypothecation of Assets to Secure Terms Loan dated 13.06.2011;
 - ii. Hypothecation Agreement dated 13.06.2011;
 - iii. Deed of Hypothecation of Goods and Book Debts to Secure All Credit Facilities dated 13.06.2011;
 - iv. General Counter Indemnity dated 13.06.2011.
8. It is stated that the Directors of the Corporate Debtor executed the Agreement of Guarantee dated 13.06.2011.
9. It is stated that the Financial Creditor obtained the mortgaged of the following properties as security by deposit of title deeds vide letter dated 13.06.2011.



- a) Flat No. 12, 1st Floor together with terrace attached, Ellora Co-operative Housing Society Ltd., 4th Road, Khar (W), Mumbai- 400 052; and
- b) Shop No. 7, Ground Floor, Ellora Co-operative Housing Society Ltd., 4th Road, Khar (W), Mumbai – 400 052.
10. The Said facilities were disbursed to the Corporate Debtor on various dates and were also renewed from time to time. The last such renewal was conveyed to the Corporate Debtor through the sanction letter of the Financial Creditor dated 17.03.2022. The said letter reveals that following are the credit facilities:

Nature of facilities	Amount Rs.
Bank Guarantee II	55 Crores
Cash credit limited	1 crore
Term Loan	2.52 crores

11. Sometimes in 2023, the Bank Guarantees issued by the Applicant were invoked by the beneficiaries thereunder for a total amount of Rs. 54,34,00,000/- and the Financial Creditor has duly charged the amount invoked under the said Guarantees to the Cash Credit Account of the Corporate Debtor.
12. The Corporate Debtor became irregular in making payments in respect to the cash credit Account and the Financial Creditor on multiple occasions, called the Corporate Debtor to regularize the Cash Credit Account. However, despite the attempts of the Financial Creditor, the Corporate Debtor failed to regularize its account and eventually on



30.06.2023 the account of the Corporate Debtor was classified as an NPA in terms of the extant RBI guidelines.

13. The Financial Creditor is claiming the following amounts in the Cash Credit Facility:

Cash Credit Facility (Rs.)	
Balance as on 31.07.2024	33,09,66,996
Add. Charges, subsequent to the date of NPA	50,042
Add: Interest from date of NPA till 31.07.2024	5,11,68,909
Add. Penal Interest from date of NPA till 31.07.2024	10,23,378.18
Total	38,32,09,325.18

14. The Financial Creditor is claiming the following amounts in the Term Loan Agreement:

Term Loan Agreement (Rs.)	
Balance as on 31.07.2024	74,92,628
Add. Charges, subsequent to the date of NPA	98,176
Add. Interest from date of NPA till 31.07.2024	11,29,793
Add. Penal Interest from date of NPA till 31.07.2024	22,595.86
Total	87,43,192.86



15. The total amount claimed in the Application is Rs. 39,19,52,518.04/-.
The date of default is mentioned as 30.06.2023.
16. It is stated that notice under Section 13(2) OF SARFAESI Act was issued by the Financial Creditor on 10.08.2023, however, the Corporate Debtor has failed and neglected to pay the dues.
17. It is stated that the Corporate Debtor has executed the balance and security confirmation letter, which is dated 27.05.2022, acknowledging its dues. The Applicant has attached/relied upon the following documents:
 - i. Copy of the Hypothecation of Assets to Secure Term Loans dated 13.06.2011 at Page No. 130 of the Application.
 - ii. Copy of the Hypothecation Agreement dated 13.06.2011 at Page No. 139 of the Application.
 - iii. Copy of the Deed of Hypothecation of Goods and Book Debts to Secure All Credit Facilities dated 13.06.2011 at Page No. 146 of the Application.
 - iv. Copy of the General Counter Indemnity dated 13.06.2011 at Page No. 158 of the Application.
 - v. Copy of the Agreement of Guarantee dated 13.06.2011 at Page No. 161 of the Application.
 - vi. Copy of the Letter dated 13.06.2011 evidencing the creation of an equitable mortgage by way of deposit of title deeds at Page No. 166 of the Application.
 - vii. Copy of the Bullion Loan Agreement dated 11.12.2012 at Page No. 178 of the Application.



- viii. Copy of the Hypothecation Agreement dated 11.12.2012 at Page No. 183 of the Application.
- ix. Copy of the Deed of Hypothecation of Goods and Book Debts to Secure All Credit Facilities dated 11.12.2012 at Page No. 189 of the Application.
- x. Copy of the General Counter Indemnity dated 11.12.2012 at Page 200 of the Application.
- xi. Copy of the Agreement of Guarantee dated 11.12.2012 at page No. 204 of the Application.
- xii. Copy of the Letter of Continuity dated 11.12.2012 at Page No. 211 of the Application.
- xiii. Copy of the Working Capital Agreement dated 28.01.2016 at Page No. 226 of the Application.
- xiv. Copy of the Deed of Hypothecation dated 28.01.2016 at Page No. 257 of the Application.
- xv. Copy of the Packing Credit Agreement (Hypothecation) dated 28.01.2016 at Page No. 290 of the Application.
- xvi. Copy of the General Counter Indemnity dated 28.01.2016 at Page No. 309 of the Application.
- xvii. Copy of the Agreement of Guarantee dated 28.01.2016 between Mr. Jagdish Pahuja, Monil Pahuja and the Financial Creditor at Page No. 316 of the Application.
- xviii. Copy of the Letter of Continuity dated 28.01.2016 at Page No. 334 of the Application.



- xix. Copy of the Term Loan Agreement dated 12.07.2017 at Page No. 341 of the Application.
- xx. Copy of the Deed of Hypothecation dated 27.07.2017 at Page No. 364 of the Application
- xxi. Copy of the Counter Indemnity to Secure Bank Guarantee dated 27.07.2017 at Page No. 404 of the Application.
- xxii. Copy of the Agreement of Guarantee dated 27.01.2017 between Mr. Jagdish Pahuja and Monil Pahuja and the Financial Creditor at Page No. 412 of the Application.
- xxiii. Copy of the Agreement of Guarantee dated 30.01.2018 between Rajil Pahuja and the Financial Creditor at Page No. 425 of the Application.
- xxiv. Copy of the Memorandum of deposit of Title Deds dated 27.07.2017 evidencing the creation of an equitable mortgage at Page No. 437 of the Application.
- xxv. Print out of the Index of charges from the website of the Ministry of Corporate Affairs showing the charge in favour of the Financial Creditor at Page No. 453 of the Application.
- xxvi. Copy of the letter of the Financial Creditor dated 06.07.2021 at Page No. 449 of the Application.
- xxvii. Copy of the Deed of Hypothecation of goods and book debt to Secure Cash Credit Facility dated 27.07.2021 at Page No. 452 of the Application.
- xxviii. Copy of the Sanction Letter dated 17.03.2022 at Page No. 454 of the Application.



- xxix. Copies of the letters of invocation issued by the beneficiaries of Bank Guarantee – II at Page No. 505 of the Application.
- xxx. Copy of the Balance and Security Confirmation Letter dated 27.05.2022 at Page No. 510 of the Application.
- xxxi. Copy of the recall/demand letter dated 31.07.2023 at Page No. 521 of the Application.
- xxxii. Copy of the Notice dated 10.08.2023 issued under Section 13(2) of the SARFAESI Act at Page No. 524 of the Application.
- xxxiii. Copy of the possession Notice dated 04.11.2023 at Page No. 526 of the Application.
- xxxiv. Copies of the Sale Notice issued by the Applicant dated 21.02.2024, 19.04.2024, 13.05.2024, 02.07.2024 and 09.08.2024 at Page No. 538 of the Application.
- xxxv. Statement of the Cash Credit Account of Corporate Debtor (Account No. (8046008700000029) as on 19.08.2024 at Page No. 473 of the Application.
- xxxvi. Statement of the Term Loan Account of Corporate Debtor (Account No. 1281001CO0000253) as on 19.08.2024 at Page No. 486 of the Application.
- xxxvii. Certificates as per Section 2-A of the Bankers' Books Evidence Act, 1891 at Page No. 496 of the Application.
- xxxviii. Copy of letter of the Corporate Debtor dated 02.09.2024 (in rejoinder)



- xxxix. Copy of Permission Letter dated 09.09.2024 along with the Resolution No A-29 of the Head Office Credit Approval Committee Level I Meeting No 38/2024 dated 02.09.2024 (in rejoinder)
 - xl. Copy of notice of the EOW dated 13.08.2024 (Marathi Original and English translation) (in rejoinder)
 - xli. Notice dated 15.11.2024 (in rejoinder)
 - xlii. Copy of relevant extract of the audit report along with the copy of the Circular of the Reserve Bank of India dated 01.07.2013 (in rejoinder)
 - xliii. Copy of trail of emails between the Financial Creditor and the Corporate Debtor. (in rejoinder)
 - xliv. Financial results for the quarter ended 30.06.2023 (in additional rejoinder)
18. Notice was issued by this tribunal on 11.03.2025, pursuant to which the Corporate Debtor/Respondent has filed a reply through an affidavit dated 14.04.2025, which is affirmed by one Mr. Jagdish Pahuja, being authorized representative of the Corporate Debtor/Respondent.
19. The summary of the various objections raised in reply are as under:
- i. There is no record of default attached with the Application.
 - ii. The Applicant is claiming an amount of Rs. 38,32,09,325.18/- as due and payable in the alleged cash credit account. However, Applicant has failed to disclose a validly executed cash credit agreement between the parties.



- iii. The Applicant has failed to produce the documentary evidence to demonstrate that disbursement took place under the cash credit agreement.
 - iv. The Applicant has never given or consented to any drawal in the cash credit account of more than Rs. One crore. It is further submitted any unilateral adjustment or notional debt beyond the sanctioned limit, without authorization, is unauthorized and not binding on the Corporate Debtor.
 - v. The Applicant has failed to annex any valid board resolution or power of attorney authorizing the Applicant to initiate Insolvency Proceedings on behalf of the Financial Creditor.
 - vi. The Applicant has failed to place on record any conclusive documentation identifying;
 - a. Which specific bank(s) invoked the said guarantees;
 - b. The underlying transaction or purpose for which each guarantee was invoked; and
 - c. The Contractual obligation of the Applicant to honor such invocations.
20. The only documents placed on record in support of this claim appear at Annexure 38 to the Application, which consist of certain invocation letters allegedly issued by the respective beneficiary banks.
21. It is stated that these invocation letters have been issued by multiple banks, ostensibly in connection with loan facilities granted by them directly to the Corporate Debtor. However, the Applicant has not



produced any tripartite agreement or inter-creditor arrangement executed between:

- a. The said lending banks (beneficiaries of the guarantees),
- b. The Applicant (as the issuing bank), and
- c. The Corporate Debtor (as the principal obligor),

to establish that the Applicant was legally bound to honor these guarantees. It is stated that without prejudice to the forgoing, the total amount of such invoked guarantees is not exceeding Rs. 41,65,00,000/-

22. The Applicant has since liquidated Fixed Deposit of the Corporate Debtor, amounting to Rs. 19,24,75,137/- towards the obligation of the Corporate Debtor. It is stated that the Key Managerial Personnel (KMPs), independently deposited a sum of Rs. 2,47,47,085.9/- from his/her own resources towards such obligation.
23. It is stated that the Applicant is claiming a sum of Rs. 87,43,192.86/- under the Term Loan facilities, which is below threshold limit prescribed under Section 4 of the IBC and, the Corporate Debtor thereafter has pleaded non-disbursement of the various Term Loans, higher EMI and interest amounts regarding the Terms.
24. The Corporate Debtor is disputing the levying of various charges, processing fee and commissions and it is stated that the same are in excess of the prescribed charges by Reserve Bank of India through its circular dated 01.07.2014. It is stated that the Applicant has unauthorizedly frozen the current account of the Corporate Debtor, which has resulted into severe hardship to the Corporate Debtor.



25. The Applicant disputes the NeSL record of default by stating that one of the guarantors stated therein i.e. Ms. Tejashri Rajil Pahuja is a minor and incompetent to contract.
26. The Corporate Debtor is disputing the date of default and states that the Applicant cannot rely on the date of default as mention in the Form-D issued by NeSL.
27. The Corporate Debtor has challenged the NPA classification and states that such classification was not correct and that no restructuring under the COVID-19 package or otherwise was extended to the Corporate Debtor.
28. It is further stated that this is in violation to the RBI circular dated 06.08.2020. It is further stated that coercive measures were used with respect to the various mortgaged properties by the Bank officials, which resulted into additional infusion of Rs. 7,50,00,000/- by promoters of the Corporate Debtor.
29. It is stated that the Corporate Debtor herein is an MSME, and the Applicant has not given the COVID-19 package relief to the Respondent.
30. The Applicant is using the present forum for the purpose of recovery.
 - a. The Corporate Debtor has made repeated efforts to rectify discrepancies;
 - b. Pay dues under protest, communicate disputes and seek reconciliation;
 - c. Challenge the arbitrary charges and account freezes.The Communications, letters, and emails reflect a bonafide debtor, and not a willful defaulter



31. The Applicant may be relegated to file a civil suit instead of preferring the present Application. In light of the above, the Corporate Debtorsought dismissal of the present Application.
32. Rejoinder was filed by the Applicant through an affidavit dated 02.05.2025. The salient points in the rejoinder are as under:
- i. As regards the objection regarding the threshold, it is stated that the amount outstanding has to be seen consolidating the outstanding in the Term Loan account as well as cash credit account of the Respondent. The aggregate outstanding of the two accounts is nearly Rs. 38,32,09,325.18/- which exceeds the threshold of Rs. One Crore as prescribed under IBC, 2016
 - ii. It is stated that the NeSL record of default is appended at page Nos. 599 to 601 and 621 to 623 of the Application. The Corporate Debtor has authenticated and confirmed the default on multiple occasions, thus proving beyond a shred of doubt the default by the Corporate Debtor in repayment of the facilities advanced by the Financial Creditor.
 - iii. It is stated that the Sanction Letter dated 17.03.2022 (page No. 473-483 of the Application) renewing the limit for the Bank Guarantee as well as Cash Credit facility, with a set of terms and conditions applicable to the Respondent, has been issued to the Corporate Debtor and each page has been signed by the Corporate Debtor as their acceptance of the terms therein. The Financial Creditor relies on a recent decision in *Mrs. Madhubala Chauhan Suspended Director of Karni Developers&*



Construction Company Pvt. Ltd v Phoenix Arc. Pvt. Ltd. & Anr. [Company Appeal (AT) (Insolvency) No. 604/2024 decided on 18.03.2025] passed by the Hon'ble National Company Law Appellate Tribunal, wherein at Paragraph 26, the Hon'ble Appellate Tribunal has cogently stated that *"The Corporate Debtor having signed the TL-2 dated 07.02.2014, the terms of the same have become binding. Having signed the TL-2 and adhered thereto without challenging the same, the Corporate Debtor cannot now raise the issue of legality or validity of the Term Loan Agreement. Moreover, when the TL-2 was executed voluntarily and was never challenged at any stage and the Corporate Debtor had even voluntarily made interest payment at the agreed rate of interest, we do not find much force in the contention of the Appellant..."* Similarly, in the present scenario, where the Corporate Debtor/Respondent has signed the Sanction Letter on every page and have acted upon the terms mentioned therein and enjoyed the facilities disbursed in line with the same, now the Corporate Debtor cannot be permitted to backtrack and stipulate that they did not accept the terms and conditions.

- iv. It is stated that the Statement of Accounts for the Term Loan as well as the Cash Credit Accounts showing disbursement/withdrawal are attached to the Application [Annexure 35 for Cash Credit Account, Page 486-495, and Annexure 36 for Term Loan, Page 496-504 of the Company Petition and the Term Loan Agreement



as Annexure 24, Page 341-360, and, as previously averred, Annexure 34 as for the Cash Credit and Bank Guarantee facilities].

- v. It is stated that the Corporate Debtor has approached the Financial Creditor vide letter dated 02.09.2024 (Annexure 'A' to this rejoinder) for restructuring of working capital limits, being the cash credit facility and to convert the same to a Working Capital Term Loan. In the said letter, at para 3, the Corporate Debtor acknowledges that the bank guarantees issued by the Financial Creditor were encashed on account of the invocation of bank guarantees and non-payment by the Respondent, thus, the Corporate Debtor was aware of the invocation but did not raise even a whisper of any issue with such invocation of the Bank Guarantee issued by the Financial Creditor.
- vi. It is stated that the signatory to the Company Petition has proper authorization for filing the present Company Petition. The Applicant has attached along with the rejoinder, a copy of the Resolution No. A-29 of the Head Office Credit Approval Committee Level I, Meeting No. 38/2024 dated 02/09/2024, pursuant to which the Head Office authorized the Zonal Office through Permission Letter dated 09th September 2024, which in turn forms the basis for the General Manager, Zonal Sastra office of the Financial Creditor to authorize the present Signatory.
- vii. As regards the contention of the Corporate Debtor that unauthorized charges were levied by the Applicant, it is stated



that the same were as per the terms and conditions of the sanction letter and the Loan Agreement. The Applicant thereafter has relied upon the Judgment of Hon'ble Appellate Authority in *Mrs. Madhubala (Supra)* in which it is held that “*It is well settled that while dealing with a Section 7 application neither the Adjudicating Authority nor the Appellate Authority is expected to interfere with the terms of the contract entered into between the concerned parties. All that is required to be seen is whether the debt and default is proved without adjudicating on whether the rate of interest was unreasonable or inflated.”*

- viii. As regard the averment in para 38 to 42 of the Reply the Applicant states as under:
- a. The Letter by the Respondent, who by their own hand, have stated that the Financial Creditor had to freeze the account of the Corporate Debtor on account of a directive by the Inspector of Police, Economic Offences Wing (hereinafter referred to as “EOW”). They themselves have accepted this fact and are now appearing before this Hon'ble Tribunal creating this farce and false narrative that the Financial Creditor of its own volition froze the bank account of the Respondent, which could not be further from the truth and which fact the Corporate Debtor has very blatantly tried to hide so as to completely misguide this Hon'ble Tribunal.
 - b. The Notice of the EOW dated 13th August 2024 (Marathi Original and English translation adduced as Annexure ‘C’),



Notice dated 15th November 2024 (Annexure 'D') to defreeze the bank account of the Corporate Debtor, which was frozen under the directions of the EOW, are attached with the Rejoinder. Thus, there has been no act by the Financial Creditor to freeze the account of the Corporate Debtor on its own volition and such an act, under the directions of the EOW, was not unauthorized, and thus, is not in violation of any guidelines or circulars issued by the Reserve Bank of India.

- ix. The Applicant states that there was clerical inadvertent error for inclusion of the name of Tejashri Rajil Pahuja while the relevant name was Rajil Jagdish Pahuja. It is further submitted that the emails from NeSL were addressed to Mr. Rajil Jagdish Pahuja at the email ID pahuja.rajil@gmail.com, which is evident from pages 621 to 624 of the Application.
- x. It is stated by the Applicant that the statutory auditor on verification of the accounts of the Corporate Debtor, marked the accounts of the Corporate Debtor as Non-Performing Asset, on the basis that the accounts suffered from inherent weakness. The relevant extract of the audit report has been adduced as Annexure 'E'. The Applicant thereafter relied upon the circular of the Reserve Bank of India dated 01.07.2013, more particularly paragraph 4.2.6, for classification of account as NPA based upon the data available and the credits in the account.



- xi. The Applicant also relied upon paragraph 4.2.7 of the above referred RBI circular that categorization of NPA is to be undertaken borrower wise and not facilities-wise and, all the accounts of the Respondents were to be classified as NPA.
 - xii. It is the contention of the Applicant relying upon the judgment of the Supreme Court in the case of *Laxmi Pat Surana v Union of India [2021]2S.C.R.924*, the date of NPA may be considered as the date of default for the purpose of filing a company petition under section 7 of the Code. It is the contention of the Applicant that accounts were clarified as NPA based upon the recommendation of this statutory auditor.
 - xiii. It is stated that as regards allegation of violation no documentary evidence has been placed and the allegations are unsubstantiated.
 - xiv. The Applicant states that the Corporate Debtor has not cooperated for stock audit and the other allegations cannot be raised in section 7 Application.
33. The Applicant has filed IA 3009 (MB) of 2025 seeking besides other prayers to place on record amended Form – 1. Vide order dated 13.08.2025 prayers in IA were allowed and amended Form-1 was taken on record and Corporate Debtor was to be served the amended Form-1.
34. The Applicant thereafter amended the Company Petition and opportunity was given to the Corporate Debtor to file his reply to amended petition vide order dated 12.09.2025.



35. Some inconsistencies in the date of default were pointed out by the Corporate Debtor during hearing on 18.09.2025 and at the request of the counsel for the applicant matter was relisted on 22.09.2025.
36. During the hearing held on 22.09.2025, Counsel for the Applicant again sought permission to amend Form-1. For the reasons recorded in the order dated 22.09.2025 this Bench permitted the Applicant to modify the Form-1 one last time subject to deposit of cost of Rs. 50,000/- in the Prime Minister National Relief Fund within a period of 7 days from the date of the order with further directions to serve the amended Form-1 on the Corporate Debtor giving liberty to the Corporate Debtor to file his say on the amended Form-1 within a period of 7 days from the date of receipt of the amended Form-1.
37. Order dated 13.10.2025 records the compliance regarding the cost and that additional affidavit in reply was filed by the respondent.
38. Written submissions have been filed by both the sides and the same have been considered by us.
39. We have since heard both the sides and have perused the documents as were placed before us.

ANALYSIS AND FINDINGS

40. Applicant has placed before us necessary documents to prove that on the request of the applicant they have sanctioned and disbursed various credit facilities.
41. Corporate Debtor has not denied obtaining the credit facilities from the Applicant.



42. Applicant has placed before us the various loan documents, security documents and account statements to prove the credit facilities, disbursements etc.
43. Applicant has also placed before us the record of default issued by NeSL which is under “authenticated” status.
44. A major chunk of the amount outstanding as per the applicant is consisting of the bank guarantee which were invoked and paid by the applicant. These bank guarantees according to the applicant were issued by them at the request of the Corporate Debtor with beneficiaries nominated by the respondent.
45. Upon invocation of the bank guarantees the applicant has debited the amounts paid to the cash credit account of the respondent.
46. Corporate Debtor has challenged such debit to cash credit account stating that the debits were not authorized by them and exceeds the limit of cash credit. It is the contention of the applicant that cash credit account was the operating account of the Corporate Debtor and as such applicant has debited the same to the operating account. We are of the view that objections in this regard as raised by the Corporate Debtor cannot be sustained. In view of the explanation given by the Applicant.
47. Another objection by the Corporate Debtor pertains to the charges and interest levied by the applicant. Applicant has relied on the judgment by Hon’ble NCLAT in Mrs. Madhubala (supra) wherein it was held that the Adjudicating Authority is required to see whether the debt and default are proved without adjudicating on whether the rate of interest



was unreasonable or inflated. We agree with the contentions of the applicant.

48. The applicant in the rejoinder has placed the authority letter of the person who has affirmed the present petition and we are satisfied with the same that application was affirmed with proper authorization.
49. It is seen that the Corporate Debtor had approached the applicant with a letter dated 02.09.2024 (rejoinder annexure-A) for restructuring of working capital limit being the cash credit facility and convert the same to a working capital term loan. In the said letter Corporate Debtor has acknowledged the invocation of bank guarantees and non payment by the respondent.
50. The letter dated 02.09.2024 proves beyond doubt that their existed a debt which was in default and that the debt was for more than Rs. 1 Crores being the minimum threshold as prescribed under IBC, 2016.
51. In our view the other objections raised by the respondents are moon shine and the same cannot sustain considering the explanation offered by the Applicant in its rejoinder.
52. In view of the above discussions, we are of the view that: -
 - a. Applicant has proved that they have sanctioned and disbursed financial debit.
 - b. The debt is in default.
 - c. Amount of default exceeds Rs. 1 Crores
 - d. The application is within limitation.
 - e. The application is complete.



53. 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)

54. 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 order:

ORDER

- i. The Corporate Debtor, namely, **DAMARA GOLD PRIVATE LIMITED** [CIN: U74990MH2009PTC193131], 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. Sumit Shukla**, an Insolvency Professional having (**Email: sumit_shukla@rediffmail.com**) **registration no.**



IBBI/IPA-003/IP-N00064/2017-18/10550, 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. 3,00,000/-** (Rupees Three 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 monthly 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 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.
55. **Accordingly, CP (IB)/294(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)

//Sunil//

Sd/-
NILESH SHARMA
MEMBER (JUDICIAL)