NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH

PRESENT: HON'BLE SHRI RATAKONDA MURALI– MEMBER JUDICIAL
HON'BLE SHRI NARENDER KUMAR BHOLA– MEMBER TECHNICAL

ATTENDANCE-CUM-ORDER SHEET OF THE HEARING HELD ON 04.02.2020 AT 10.30 AM

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	CP(IB) No.241/9/HDB/2019
NAME OF THE COMPANY	MN Bio-Technology Pvt Ltd
NAME OF THE PETITIONER(S)	Cerestra Advisors Pvt Ltd
NAME OF THE RESPONDENT(S)	MN Bio-Technology Pvt Ltd
UNDER SECTION	9 of IBC

Counsel for Petitioner(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
Rajiv Ratna on behalf of Naresh Kumar Sangam	Adv	9000666072	

Counsel for Respondent(s):

Name of the Counsel(s)	Designation	E-mail & Telephone No.	Signature
D. Narendar Naik	Adv	9849387366	
Vikram C. Puttappa	Adv	9160876539	

ORDER

Matter is listed today for orders.

Orders passed vide separate sheets.

Member (T)

Member (J)

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NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH: AT HYDERABAD

CP (IB). No. 241/9/HDB/2019

Petition under Section 9 of Insolvency & Bankruptcy Code, 2016

(Under Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016)

In the matter of

Messrs Cerestra Advisors Private Limited

N-226, Lower Ground Floor, Greater Kailash-I

New Delhi, South Delhi

India - 110048

.. Petitioner/

Operational Creditor

VERSUS

M/s MN Bio-Technology Private Limited

Building-450, Genome Valley

Turkapally (V)

Shamirpet Mandal

Hyderabad – 500078

.. Respondent/

Corporate Debtor

Date of order: 04.02.2020

Coram:

Hon'ble Shri Ratakonda Murali, Member (Judicial)

Hon'ble Shri Narender Kumar Bhola, Member (Technical)

Appearance:

For Petitioner: Shri S. Ravi, Senior Advocate assisted by Shri Naresh Kumar Sangam, Advocate

For Respondent: Shri R. Raghunandan Rao, Senior Advocate assisted by Shri D. Narendar Naik and Shri Vikram C. Puttapaga, Advocates

Heard on: 08.11.2019, 19.11.2019, 20.11.2019, 28.11.2019, 04.12.2019, 20.12.2019, 02.01.2020 and 10.01.2020.

PER: Hon'ble Shri Ratakonda Murali, Member (Judicial)

ORDER

Under consideration before us is the petition filed by Messrs Cerestra Advisors Private Limited/ Operational Creditor herein stating that Messrs MN Bio-Technology Private Limited/ Corporate Debtor committed default of Rs.51,84,133/-. Hence, this petition is filed under Section 9 of Insolvency & Bankruptcy Code, 2016, R/w Rule 6 of Insolvency & Bankruptcy (Application to the Adjudicating Authority) Rules, 2016, seeking admission of the Petition, commencement of Corporate Insolvency Resolution Process, granting moratorium and appointment of Interim Resolution Professional as prescribed under the Code and Rules thereon.

2. BRIEF FACTS :

(1) Messrs Cerestra Advisors Private Limited / Operational Creditor is a company incorporated under the Companies Act, 1956. It is a real assets focussed private equity firm, inter alia, engaged in the business of investing in 'real assets' in socially relevant and business critical assets.

(2) Messrs MN Bio-Technology Private Limited / Corporate Debtor is a Company registered under the Companies Act, 1956. They are involved in the business of leasing out office premises to Pharma, Research and Development and Life Science companies.

(3) The Corporate Debtor along with M/s MN Science & Technology Limited, M/s MN Takshila Industries Pvt Ltd., MN Gachibowli Tech Park Private Limited, M/s MN Gachibowli II Tech Park Private Limited, M/s Deccan Bio Ventures Private Limited, M/s

MN Life Science Centre (Pragnapur) Pvt Ltd., M/s Takshila Tech Parks & Incubators (India) Pvt Ltd., M/s Genome Valley Tech Parks & Incubators Pvt Ltd, (herein after referred to as **"Fund Subsidiaries"**) approached the Operational Creditor for providing services and executed Advisory Agreement dated 05.09.2016 (ANNEXURE-6) followed by First Addendum to the Advisory Agreement dated 01.03.2018 (ANNEXURE-7) between M/s Lighthouse Canton Pte Ltd (herein after referred to as **FUND MANAGER**, appointed by LC Core Opportunities Fund (herein after referred to as **FUND**) and the Operational Creditor herein with Fund Subsidiaries enlisted at serial nos.3 to 11 of the Addendum Agreement. Under these agreements, the Fund subsidiaries including Corporate Debtor are required to pay Advisory fee for the services availed.

(4) As agreed between the parties, the operational creditor raised invoice amounting to Rs.51,84,133/- which the Corporate Debtor agreed to pay within 30 days from the date of respective invoice.

(5) According to the Petitioner, services were provided to the Corporate Debtor which were never disputed by the Corporate Debtor. The petitioner has raised Invoice dated 30.03.2018 (ANNEUXRE-8) to the corporate debtor followed by Demand Notice dated 20.03.2019 (ANNEXURE-9). The Corporate Debtor gave reply on 29.03.2019 (ANNEXURE-9A) accusing the Operational Creditor with baseless allegations. The Operational Creditor issued rejoinder notice to the Corporate Debtor on 04.04.2019 (ANNEXURE-9B). Despite requests, when Corporate Debtor failed to make payments so far, the Petitioner has filed the present petition under Section 9 of IBC

3. REPLY DATED 08.07.2019 BY CORPORATE DEBTOR

3.1 In para 3(f) of the Reply the corporate debtor alleged that the petitioner has failed to perform its obligation under the Advisory Agreement and caused significant value erosion for the Fund causing cash flow constraints. The Fund suggested to defer the payment of the management fee. First Addendum to the Advisory Agreement dated 01.03.2018 (ANNEXURE-7) was executed between the Fund Manager, the petitioner and the subsidiaries of

the Fund. It is contended that any amounts to be paid to the petitioner is only out of the portion of the Fund Manager's fee and the liability to pay, if any, to the petitioner is that of the Fund Manager and never of the respondent herein. Hence **no creditor-debtor relationship exists** between the petitioner and the respondent.

3.2 It is contended in para 3(g) of the Reply that the Addendum Agreement provides that the advisory fee payable by the subsidiaries of the Fund mutually agreed by the Fund Manager and the petitioner for the services provided to the Fund Manager. Invoice raised by the petitioner were to be approved by the Fund Manager before payment and which have not been approved so far. The respondent relied on Clause 2.2 of the Addendum Agreement. It means any payment made by the Respondent herein is not payment of money due from the Respondent to the Petitioner. The arrangement is said to have been made by parties for ease of payment and that it cannot be treated as a liability cast on the Respondent. As such there is no 'debt', that the respondent is not 'corporate debtor' and that the petitioner is not an 'operational creditor'.

3.3 It is contended in para 3(h) of the Reply that the petitioner has miserably failed to ensure timely collection of rent from tenants of the subsidiary fund, which is most important responsibility of the petitioner. One of the biggest tenant, Vivo Biotech Ltd was continuously delaying payment of rent on regular basis which led to serious losses to the Fund. The said tenant also offered to purchase the asset of Fund for Rs. 20 crores less than the value certified by Respondent's valuers CBRE. The petitioner dishonestly tried to sell the asset at a steep discount and induced the Fund Manager. This illegal and dishonest inducement by the petitioner resulted into loss for the Fund. Monthly rent was about Rs.51 lakhs from the said tenant. Non collection of rent is directly attributable to the petitioner. Non-performance of obligation by the petitioner under Advisory Agreement caused significant value erosion for the Fund with cascading effect on the Fund Manager. The property leased out to the said tenant is about Rs.37 crores

or Rs.55 crores (as valued by CBRE) and cumulative loss caused to the Fund for non-collection of rent is about Rs.42 crores. Surprisingly, the petitioner advised the Fund Manager not to initiate legal action against the said tenant.

3.4 It is averred in para 3(i) of the Reply that the Petitioner acknowledged the failure to perform its part of the contract. It was decided at a meeting held between the Petitioner and the Fund Manager on 23.08.2018 that any amounts payable to it, to be paid by the Fund Manager out of the consideration received against the proposed sale transaction between a Fund Subsidiary and Vivo.

3.5 It is averred in para 3(j) of the Reply that aggrieved by the poor performance of the Petitioner, a Term Sheet dated 27.08.2018 for 100% acquisition of shares by Vivo for a sum of Rs. 37 crores was executed by MN Life Science (Pragnapur) Pvt Ltd, MN Takshila Industries Limited, Fund Subsidiaries and Vivo.

3.6 It is further averred in para 3(k) of the Reply that the petitioner not only failed to perform services in terms of the Advisory Agreement but also misappropriated the Trade Mark, Intellectual Property and Goodwill of the Fund Manager and its group of companies. Clause-7 of Annexure-I (Page 76 of the petition) to the Advisory Agreement provides that,

"7. Intellectual Property.
Unless otherwise agreed by the Asset Advisor and the owner any Intellectual Property specifically created in relation to the properties by or on behalf of the Asset Advisor ***shall be the sole property of the owner."***

3.7 It is averred in para 3(l) of the Reply that the petitioner has illegally and clandestinely made applications for registration of Trade Mark of 'MN', 'Mission Neutral', 'Mission Neutral REIT', 'MN REIT', 'MN (logo) on 24.10.2016 on the petitioner's name/ its Director's name. Such actions of the petitioner would attract penal provisions of Indian Penal Code and Copy Right Act, 1957.

3.8 It is averred in para 3(n) of the Reply that the Fund Manager issued Notice of Breach dated 29.10.2018 (ANNEXURE 'A' to this reply) calling upon it to immediately transfer the intellectual property illegally misappropriated by it.

3.9 It is averred in para 3(o) of the Reply that the said Notice of Breach notwithstanding, the Fund Manager received Rs.50 lakhs towards proposed sale to Vivo. The Fund Manager transferred the sum of Rs.50 lakhs on 26.02.2019. This reflects how the petitioner arm-twisted the Fund Manager and how the petitioner participated in distress sale of assets to Vivo.

3.10 The respondent levelled several allegations in paras 3(p) and (q) of the Reply against three Directors of M/s MN Takshila Industries Ltd., namely, Vikas Malpani, Jasmeet Chhabra and Preeti Rateria, who were representatives of the petitioner-company. Their actions went in breach of the terms of Advisory Agreement and resulted into siphoning off of Rs.1,65,22,682/- from the account of MN Takshila Industries Ltd on 05.11.2018. Internal Account Officers of MN Takshila Industries Ltd, unaware of the fact-situations had deposited a sum of Rs.1,65,226/- towards TDS in the account of the petitioner. The Fund Manager's representative, having learnt about such deposit of TDS, stopped all payments to the petitioner.

3.11 It is alleged in par 7 of the Reply that the petitioner has filed the present petition by suppressing the following:

(a) E-mail dated 17.02.2017 issued by respondent with regard to brand name,
(b) Notice of dispute dated 29.10.2018 (ANNEXURE 'A' to this reply).
(c) Notice dated 19.03.2019 calling for EGM to regain control of Board of MN Takshila Industries Pvt Ltd.
(d) Notice of Termination dated 22.03.2019 (ANNEXURE 'K' to this reply) and 05.04.2019.
(e) Resignation letters dated 04.04.2019 from the petitioner's representative Directors on Board of MN Takshila Industries Pvt Ltd.

4. REJOINDER DATED 14.08.2019 BY THE PETITIONER

Rejoinder is filed by Petitioner denying the contentions raised by the Corporate Debtor.

4.1 It is contended in para 2 of the Rejoinder that the petitioner has provided services in terms of Addendum Agreement dated 01.03.2018 to the corporate debtor and TDS amounting to Rs.44,309/- has also been deducted vide Form 16-A enclosed as ANNEXURE-3 (pages 123-124 to the petition).

4.2 It is averred in para 4(a) of the Rejoinder that as per the Advisory Agreement dated 05.09.2016 and First Addendum to the Advisory Agreement dated 01.03.2018 (Clauses 1.2 and 2), the Fund Manager is liable to make payments to the operational creditor. The services provided by the petitioner were availed by the corporate debtor without any objection or demur.

4.3 It is averred in para 4(b) and para 33 of the Rejoinder that there were no pre-existing disputes between the operational creditor and the corporate debtor. Notices of Breach dated 29.10.2018 and 19.03.2019 issued under section 100(2) of the Companies Act and Termination Notice dated 22.03.2019 were issued by the Fund Manager, viz. M/s Light House Canton Pte Ltd., with respect to the alleged breach of terms of the Advisory Agreement and Addendum Agreement in question. Therefore, the contention that there was a pre-existing dispute between the operational creditor and the corporate debtor even before issuance of Demand Notice dated 20.03.2019 is false.

4.4 It is averred in para 4(c) of the Rejoinder that the Fund Manager had option of making payment through the corporate debtor. Clause (2) of the Addendum Agreement provides that the corporate debtor shall make payment towards the invoice raised by the operational creditor. The operational creditor has provided services and the corporate debtor has accepted the same and Invoice (Page 115 of the petition) has been raised upon the corporate debtor. The corporate debtor has also deducted TDS.

The contention that the operational creditor and the corporate debtor have no creditor- debtor relationship is false.

4.5 In paras 10, 11 and 12 of the Rejoinder it is submitted that the contention raised by the corporate debtor that the Fund Manager has to make payment to the operational creditor from the amounts received by the Fund and that no liability is cast upon the corporate debtor to make payment, is false. Clause (2) of the Addendum Agreement unequivocally provides that the corporate debtor shall make payment towards the invoice raised by the operational creditor. Advisory Agreement was executed between the operational creditor and the Fund Manager. However, vide Clause (2) of the Addendum Agreement dated 01.03.2018 the corporate debtor has agreed to make payments based on the services provided and Invoice raised by the corporate debtor.

4.6 In para 14 of the Rejoinder the allegation levelled by the corporate debtor that the operational creditor has failed to collect rentals from the tenants of the subsidiary Fund and thereby committed breach of the Advisory Agreement, is rebutted. It is also rebutted that the operational creditor has dishonestly pressurised and thereby misled the Fund Manager to sell the asset. Such acts led to loss to the Fund and consequently the Fund could not make payments to the operational creditor.

4.7 In para 16 of the Rejoinder, the allegations of the that due to poor performance by the operational creditor, the subsidiaries of the Fund including the corporate debtor and Vivo have executed a Term Sheet dated 27.08.2018 for 100% acquisition of shares by Vivo for a sum of Rs.37 crores, is rebutted.

4.8 In paras 17 and 18 of the Rejoinder the allegations about misappropriation of intellectual property and trade mark of the corporate debtor by the corporate debtor is vehemently rebutted.

4.9 In para 19 of the Rejoinder, the allegation that the operational creditor, by using trade mark of the subsidiaries of the Fund, has illegally incorporated companies in the names "MN Industrial

Park Pvt Ltd" and "MN Textile Apparel Infra park Pvt Ltd." Has been refuted.

4.10 The averments made in para 4(b) of the Rejoinder are reiterated in para 20 of the Rejoinder and thereby emphasis is laid on the Addendum Agreement by which the corporate debtor is liable to make payment to the operational creditor.

4.11 In para 21 of the Rejoinder the operational creditor has dismissed the allegations about transfer of intellectual property, active role taken by the operational creditor in distress sale of assets, dishonest and evil schemes of the operational creditor. The petitioner termed such allegations as desperate attempts of the corporate debtor to create moonshine dispute and to avoid payments.

4.12 Paras 23, 24, 26, and 29 of the Rejoinder relate to the alleged affairs of M/s MN Takshila Industries Ltd., which are dealt with and discussed in a separate petition being CP (IB) No.243/9/HDB/ 2019.

4.13 In para 25 of the Rejoinder the operational creditor has turned down the plea of the corporate debtor that the operational creditor is required to refund the TDS amount on the ground that the operational creditor has provided services and raised Invoice upon the corporate debtor. The corporate debtor having availed the services without any objection or demur is liable to pay TDS and the debt amount.

4.14 In para 28 of the Rejoinder the operational creditor on one hand denies any illegal pressure tactics on its part and on the other hand blames the acts of the corporate debtor in terminating the Advisory Agreement and Addendum Agreement, after issuance of Demand Notice dated 20.03.2019, intended to cause loss to the operational creditor and to avoid making payments to the operational creditor.

4.15 In para 34 of the Rejoinder the allegation of suppression of fact by the operational creditor in the present petition is vehemently

refuted on the ground that the documents referred to by the corporate debtor are either related to the Fund Manager or with respect of M/s MN Takshila Industries Pvt Ltd, which are not related to the present case. As such there is no suppression of facts by the operational creditor.

4.16 In para 35 of the Rejoinder the claim of the corporate debtor that the present case can be decided in Arbitration is dismissed by the operational creditor for the reason that the Invoice (page 115 of the petition) is raised by the operational creditor based on the services provided by it to the corporate debtor and the corporate debtor having availed such services without objection or demur is liable to make payment to the operational creditor. Failure of the corporate debtor in making such payment led to filing of the present petition under section 9 of the Insolvency & Bankruptcy Code, 2016. Thus, there is no question of invocation of Arbitration proceedings in the present case.

5. ADDITIONAL AFFIDAVIT DATED 28.09.2019 BY THE OPERATIONAL CREDITOR.

5.1 It is averred in para 4 of the Additional Affidavit that the operational creditor is entitled to (i) management fee at the rate of 1% of the value of the asset at the time of acquisition, and (ii) the Fund Manager and the operational creditor are also entitled to lease management fee at the rate of 10% of the total lease rentals received for the facilities less the expenses incurred. Both the said fees will be shared between the Fund Manager and the operational creditor equally.

5.2 It is averred in para 5 of the Additional Affidavit that Clause 2.1 provides that the corporate debtor will submit its Invoice to the corporate debtor; Clause 2.3 provides that the Invoice raised by the operational creditor will be paid by the corporate debtor subject to approval by the Fund Manager.

5.3 It is averred in para 6 of the Additional Affidavit that the operational creditor has raised an Invoice (ANNEXURE-1 of this

Affidavit) of Rs.44,30,883/- on 30.03.2018 for the period from July 2017 to March 2018, after receiving confirmation from the corporate debtor vide E-mail dated 26.04.2018 (ANNEXURE-1 to this Affidavit). The corporate debtor has confirmed the amounts due and payable to the operational creditor vide E-mail (ANNEXURE-2 of the Affidavit).

5.4 It is averred in para 7 of the Additional Affidavit that the corporate debtor has deducted TDS and paid to the Government. A copy Certificate under section 197(1) of the Income Tax Act, 1961 is at ANNEXURE-4).

5.5 It is averred in para 9 of the Additional Affidavit that no loss was incurred by the corporate debtor in respect of the property leased to Vivo. In view of the pending litigation on the said property, the Fund Subsidiaries have agreed to sell the same for Rs.37 crores to Vivo. Vivo has agreed to pay lease rentals of Rs.3 crores over and above sale consideration of Rs.37 crores. The agreed consideration was resulting into gain of Rs.10 crores. However, Vivo could not arrange consideration and said transaction could not materialise.

6. REPLY DATED 24.10.2019 BY THE RESPONDENT/ CORPROATE DEBTOR.

6.1 It is averred in para 2 of the Reply that the Additional Affidavit filed by the petitioner does not deserve consideration inasmuch as said Additional Affidavit was filed without leave of the Tribunal.

6.2 It is averred in para 6 of the Reply that pages 10 to 35 of the Additional Affidavit of the operational creditor are copies of E-mail communications. The operational creditor is making claim against the corporate debtor notwithstanding the fact that there were pre-existing disputes as evidenced by documents submitted by the corporate debtor in its reply, viz. E-mail communications dated 11.02.2017, 16.02.2017, 17.02.2017, 29.10.2018 and 11.03.2018. It is alleged that the petitioner has so for not denied

that there are disputes in relation to several breaches committed by OC, such as, breach of agreement, breach of confidence, illegal registration of the respondent's intellectual property in petitioner's name, etc.

6.3 It is averred in paras 7 and 8 of the Reply that onus lies on the Fund Manager to pay the Advisory Fee. In this context the corporate debtor has reproduced Clauses 13.1 and 2.1 of the Advisory Agreement. In para 9 the corporate debtor reproduced excerpts from Annexure-II of the Advisory Agreement to signify the computation and mode of payment of Advisory Fee and the saving clause that,

"The Fund Manager may also defer the fees to be paid to the Asset Advisor to the end of the life of the Fund."

6.4 It is averred in para 11 of the Reply that Clause 6.3 of the Management Agreement dated 05.04.2016 provides the Fund Manager is appointed by the Fund; in case the Fund Manager appoints an Investment Advisor, the Fund Manager shall be responsible for the Advisor's fee and expenses. It is contended that the above proves that the petitioner is appointed by the Fund Manager and as such he is to be paid by the Fund Manager out of the fee received by the Fund Manager from the Fund. The Fund Manager may also defer the fees to be paid to the Asset Advisor to the end of the life of the Fund, which is further extendable by two years. It is further submitted that unless the disputes are resolved by agreed dispute resolution mechanism no sums can be paid by the Fund Manager/ fund subsidiaries to the petitioner. It is averred that the Fund Manager has sent letter dated 16.10.2019 that pursuant to Notice of Breach Notice of Breach dated 29.10.2018 all advisory fees have been deferred till the end of life of the Fund, viz. 02.09.2020, further extendable by two years.

6.5 It is averred in paras 13 and 14 of the Reply that the Invoice amount is paid to the petitioner subject to approval of the Fund Manager. The petitioner did not say it has approval of the Fund Manager. The Fund Manager has, in fact, not approved the

Invoice for the reason that there are pre-existing disputes as stated in Notice of Breach dated 29.10.2018. The petitioner is exploring an alternative method of obtaining the Invoice amount, viz. balance confirmation issued by the respondent. Shri Vikas Malpani, who is Director of MN Takshila Industries Ltd and also Director of the petitioner, gave instructions for issuing Balance Confirmation Letter by sending E-mail (pages 36-37 of the Additional Affidavit of the petitioner) to Shri Atul Bhardwaj, who is neither a representative of the Fund or the Fund Manager. Said Atul Bhardwaj has issued Balance Confirmation Letter sans approval of the Fund Manager. As soon as the Fund representative on the Board of MN Takshila Industries Ltd learnt about TDS deduction, he gave instructions to withhold all payments to the petitioner.

6.6 It is averred in para 17 of the Reply that the petitioner, in a clandestine manner and with dishonest intention, has incorporated a company using MN branch belonging to the respondent, two months prior to Advisory Agreement was signed. When disputes were raised and breaches are pointed out, the petitioner has changed the name from 'MN Industrial Park Pvt Ltd.' To 'INDIP Industrial Parks (Vizag) Pvt Ltd.' It is contended that the Asset Advisor was well aware that MN signage and logo will be used by the Fund and Fund Subsidiaries for the portfolio investment and Cerestra is liable to pay at least 50% of the revenue generated by Cerestra and its group of companies using MN brand name in violation of the terms of Agreement.

6.7 It is averred in para 18 of the Reply that Clause-7 of Annexure-I (Page 76 of the petition) to the Advisory Agreement provides that,

> "*7. Intellectual Property.*
> *Unless otherwise agreed by the Asset Advisor and the owner any Intellectual Property specifically created in relation to the properties by or on behalf of the Asset Advisor shall be the sole property of the owner.*"

By virtue of the said Clause, the intellectual property created in relation to the property by or on behalf of the Asset Advisor is also the sole property of the owner. Therefore, the contention of the

petitioner that the petitioner is the owner of MN logo is rendered invalid.

6.8 It is averred in para 19 of the Reply that the property leased out to Vivo intended to be sold at Rs.37 crores, though CBRE valued the said property at Rs.55 crores. Said transaction did not materialise. It is thus, contended that the uncollected rent and loss due to failed transaction is approximately Rs. 42 crores.

6.9 Para 22 is reiteration of what is averred in paras 13 and 14 of this Reply.

6.10 In paras 23, 24 and 27 of the Reply it is averred that on 11.03.2019, viz. prior to receiving notice under the Insolvency & Bankruptcy Code, 2016, the respondent an E-mail message requiring the petitioner to take steps to cure the breaches, etc. However, the petitioner did not take any steps to overcome those deficiencies pointed out in the E-mail. The respondent suggests that through arbitration under the Advisory Agreement, the matter can be resolved. Since the said process is to take place in Singapore, the petitioner had filed the present Company Petition suppressing the material information.

7. WRITTEN SUBMISSIONS DATED 19.12.2019 ON BEHALF OF THE CORPROATE DEBTOR.

7.1 The respondent- corporate debtor has filed Written Submissions, wherein the following decisions are cited:

(i) *Mobilox Innovations Private Limited Vs. Kirusa Software Private Limited, reported in (2018) 1 SCC 353,*

(ii) *V. Sreekantha Reddy and others Vs. Varanasi Rajeena Venugopal Reddy, rendered by Hon'ble Andhra Pradesh High Court at Hyderabad vide order dated 16.03.2004 in CMA No.1836 of 1995,*

(iii) *Kesoram Industries & Cotton Mills Ltd. Vs. Commissioner of Wealth Tax (Central), Calcutta, rendered by the Hon'ble Supreme*

Court of India vide order dated 24.11.1965 in Civil Appeal No.539 of 1964,

(iv) *Prayag Polytech Pvt Ltd. Vs. Gem Batteries Pvt Ltd., rendered by the Hon'ble NCLAT, New Delhi vide order dated 24.09.2019 in Company Appeal (AT) (Insolvency) No.713 of 2019,*

8. ADDITIONAL WRITTEN ARGUMENTS DATED 03.01.2020 FILED ON BEHALF OF THE CORPROATE DEBTOR.

8.1 The respondent- corporate debtor has filed Additional Written Arguments relying on the following decisions:

(i) *Rahul Jain Vs. Vasant Raj Pandit, decided by the High Court of Delhi vide order dated 12.08.2015 in CS (OS) 623/ 2005, reported in 2015 SC OnLine Del 10900,*

(ii) *M/s Utility Powertech Ltd. Vs. M/s Amit Traders, decided by the Hon'ble High Court of Delhi vide order dated 15.05.2018 in RFA 515/ 2015, reported in 2018 SCC OnLine Del 9096,*

(iii) *S.P. Brothers Vs. Biren Ramesh Kadakia, decided by the Hon'ble High Court of Bombay vide order dated 11.03.2008 and 27.03.2008 in Appeal No.628 of 2007, reported in 2008 SCC OnLine Bom 1599,*

(iv) *Shree Associates Vs. Gammon India Ltd., decided by the Hon'ble High Court of Bombay vide order dated 30.01.2015 in Company Petition No.108 of 2014, reported in 2015 SCC OnLine Bom 2223,*

(v) *J.K. Engineering Pvt Ltd. Vs. ANE Industries Pvt Ltd., decided by the Hon'ble High Court of Calcutta, vide order dated 07.02.2019 in G.A. No.2522 of 2016 and C.S. 213 of 2016.*

9. We have heard the learned counsel for the operational creditor and the learned counsel for the corporate debtor. The learned counsel for the operational creditor as well as the learned counsel for the corporate debtor filed written submissions. The points raised in the written submissions will be dealt in the course of the order.

10. The operational creditor has filed the present petition under section 9 of the Insolvency & Bankruptcy Code, 2016 against the corporate debtor to initiate Corporate Insolvency Resolution Process (CIRP) for the alleged default of operational debt of Rs.51,84,133/-. The averments in the application filed in Form-5 and averments in the reply including the averments in the additional affidavit as well as rejoinder and reply to the additional affidavit are all stated as above.

11. The learned counsel for the applicant would contend that the operational creditor is real assets focussed private equity firm which is, inter alia, engaged in the business of investing in 'real assets'. The corporate debtor is involved in the business of leasing out office space to pharma, research and development and life science companies.

12. The learned counsel contended that the corporate debtor along with fund subsidiaries approached the operational creditor, engaged its services and sought assistance, inter alia, the provision of non-binding investment recommendations and research and management services relating to certain investments, more specifically described under Advisory Agreement dated 05.09.2016 and First Addendum to the Advisory Agreement dated 01.03.2018. As per the provisions of Addendum to the Advisory Agreement, the Fund Subsidiaries including the corporate debtor were required to pay to the operational creditor the advisory fee for its services rendered under said two agreements.

13. The Advisory Agreement was entered between Messrs Lighthouse Canton Private Limited, the operational creditor, the corporate debtor and its subsidiaries.

14. The learned counsel contended that as per Clause 2.1 of the Addendum, the operational creditor was required to raise Invoice on the corporate debtor in respect of Fund Manager and as per Clause 2.3 all the payments to be made basing on the Invoice raised by the operational creditor upon approval by the Fund Manager. The petitioner has raised Invoice dated 30.03.2018 (ANNEUXRE-8) to the corporate debtor followed by Demand Notice dated 20.03.2019 (ANNEXURE-9). The Corporate Debtor gave reply on 29.03.2019 (ANNEXURE-9A) accusing the Operational Creditor with baseless allegations. The Operational Creditor

issued rejoinder notice to the Corporate Debtor on 04.04.2019 (ANNEXURE-9B). Despite requests, when Corporate Debtor failed to make payments, the Petitioner has filed the present petition under Section 9 of IBC

15. The operational creditor incorporated a company in the name and style as 'MN Industrial Park Private Limited' on 09.07.2016, which was prior to the Advisory Agreement dated 05.09.2016. The learned counsel for the operational creditor further contended that Invoice was raised basing on the Advisory Agreement as well as Addendum only on the instructions of M/s Lighthouse Canton Private Limited, the Fund Manager. The learned counsel contended that services were provided by the operational creditor to the corporate debtor. The corporate debtor received the services without any objection or demur. There was correspondence with the corporate debtor. At no point of time the corporate debtor raised any dispute. In fact, TDS was also paid to the Government. The corporate debtor issued TDS Certificate to the operational creditor. Yet no payment is made. The balance remained unpaid. Thereafter, Demand Notice was issued on 20.03.2019 and reply was received on 29.03.2019. Thus, the learned counsel contended that a futile attempt was made by the corporate debtor denying liability and tried to establish that there was prior dispute between the operational creditor and the Fund Manager. On the other hand voluminous documentary evidence is filed which would establish that the operational creditor has rendered services to the corporate debtor and Invoice was properly raised and there was no prior dispute and the petition deserves to be admitted.

16. On the other hand learned counsel for the corporate debtor would contend that Demand Notice was issued, after issuance of notice of breach, to the operational creditor dated 29.10.2018. Thus, the operational creditor suppressed the Notice of Breach issued prior to the Demand Notice. The learned counsel contended that the operational creditor committed breach of using brand name 'MN', which question was raised way back on 17.02.2017, through E-mail. There was Notice of Termination dated 22.03.2019. The learned counsel contended that the operational creditor failed to perform its duties under the Advisory

Agreement. Payment was to be made to the operational creditor by Fund Manager. The learned counsel contended that the Addendum to the Advisory Agreement was entered into between the Fund Manager, the operational creditor and the Fund Subsidiaries including the corporate debtor. The learned counsel contended that the purpose behind entering into Addendum was to make payment to the petitioner directly from the corporate debtor subject to approval of the same by the Fund Manager. The learned counsel contended that it is the Fund Manager, who appointed the operational creditor and the Fund Subsidiaries agreed to pay each of the invoice to the operational creditor subject to approval by the Fund Manager. The learned counsel contended that there is no creditor and debtor relationship between the operational creditor and the corporate debtor. Claim, if any, lies against the Fund Manager. The learned counsel contended that the claim does not fall within the definition of 'debt', since the claim was to be approved by the Fund Manager. Till then it is only a contingent claim, which does not fall within the definition of 'debt'. The learned counsel contended that the petitioner is providing services to the Fund Manager. Thus, the corporate debtor is, in no way, connected to the services rendered by the operational creditor to the Fund Manager. Thus, if any payment is made by the corporate debtor, it is for and on behalf of the Fund Manager, which will be subject to the satisfaction of the Fund Manager with reference to the services rendered by the operational creditor. Therefore, no liability is on the corporate debtor. The learned counsel contended that there were disputes as is evident from the documents filed by the operational creditor. The claim by the operational creditor is illegal against the corporate debtor. Thus, there was dispute with regard to breach of terms of Agreement. The learned counsel has relied on Annexure-2 to the Advisory Agreement. The learned counsel further relied on Clause 2.3 of the Addendum to the Advisory Agreement, which reads as under:

> *"The Advisory Fees shall be paid on the basis of Invoices raised by the Asset Advisory to the Fund Subsidiaries from time to time for the services rendered under the Advisory Agreement. Such Invoices shall be approved by the Fund Manager before payment of the Advisory Fees."*

17. Thus, the learned counsel contended that each and every Invoice raised by the operational creditor to be approved by the Fund Manager before payment. The learned counsel for the corporate debtor contended

that the operational creditor is appointed by the Fund Manager and the operational creditor to render services to the Fund Manager. It is the Fund Manager, who has to make payment to the operational creditor. Fund Manager can defer payment till the end of the life of the Fund, which is on 02.09.2020, which is further extendable by two years. There was Notice of Breach issued to the operational creditor dated 29.10.2018. The operational creditor has raised an Invoice (ANNEXURE-1 of Additional Affidavit dated 28.09.2019) of Rs.44,30,883/- on 30.03.2018 for the period from July 2017 to March 2018, after receiving confirmation from the corporate debtor vide E-mail (ANNEXURE-1 of the said Additional Affidavit). The corporate debtor has confirmed the amounts due and payable to the operational creditor vide E-mail (ANNEXURE-2 of the said Additional Affidavit).

18. The learned counsel contended that there is a clear admission by the operational creditor that payment under the Invoice to be made after approval by the Fund Manager. When there is dispute between the Fund Manager and the operational creditor the question of payment does not arise. The learned counsel also referred to using the brand name by the operational creditor. The learned counsel contended on the advice of the nominee of the operational creditor and the Board of Directors, money towards TDS was deducted. The Invoice was rejected by the Fund Manager till breaches under the Agreement are cured. Thus, the learned counsel for the corporate debtor vehemently contended that there is absolutely no liability on the corporate debtor to honour the Invoice unless and until they are approved by the Fund Manager in terms of Agreement as well as Addendum. The petition, therefore, deserves to be dismissed.

19. The corporate debtor is challenging the application filed by the operational creditor on three grounds, namely,

(i) The operational creditor rendered services to the Fund Manager,

(ii) The Invoice, if any raised, to be approved by the Fund Manager at the first instance and there is no proof that the Fund Manager has approved the Invoice, and as such the Invoice cannot be enforced against it, and

(iii) There was a prior dispute as the operational creditor has violated the terms of the Advisory Agreement in respect of Trade mark and that the Fund Manager has raised dispute by issuing notice of breach dated 29.10.2018.

The admitted fact is that the operational creditor entered into Advisory Agreement with the Fund Manager. The operational creditor has relied on the Advisory Agreement dated 05.09.2016 shown as Annexure-6, at page 60-100 of the Paper Booklet. The operational creditor relied on the terms of the Advisory Agreement shown as Clauses '(A)', '(B)' and '(C)' at page 100 of the petition. They are as follow:

> *"(A) The Fund Manager has been retained by LC Cerestra Core Opportunities Fund (the 'Fund') in relation to the management, of the Investments of the Fund.*
>
> *(B) The Fund Manager wishes to engage the Asset Advisor to avail itself of the advice and assistance of the Asset Advisor with respect to, inter alia, the provision of non-binding investment recommendations and research and management services relating to certain investments, more specifically described under the definitions below, that the Fund Manager may consider in respect of the Fund ('investments').*
> *(C) The Asset Advisor is willing to provide the Fund Manager with such services on the terms and subject to the conditions of this Agreement."*

20. Thus, the operational creditor has to render services to the Fund Manager, who was appointed by the Fund Manager. The operational creditor, the Asset Advisor has to act as Investment Advisor of the Fund Manager as per Clause 2.1 of the Advisory Agreement. The corporate debtor is contending that Advisory Fee is payable by the Fund Manager to the operational creditor. The corporate debtor is heavily relying on Clause 13.1 of the Advisory Agreement and contending that Advisory Fee for rendering services by the operational creditor is to be paid by the Fund Manager as provided in Annexure-II (page 61 of the petition). Clause 13.1 of the Advisory Agreement is as follows:

> "13.1 As compensation for the Asset Advisor's services hereunder, the Fund Manager shall pay the Asset Advisor such fee as provided in Annexure II of this Agreement (the "Advisory Fees"), unless otherwise agreed between the Fund Manager and the Asset Advisor from time to time."

21. Thus, the contention of the corporate debtor that the operational creditor has to render services to the Fund Manager and it is the Fund Manager who shall pay to the operational creditor/ Asset Advisor.

22. It is true that there was agreement between the Fund Manager, viz. Messrs Lighthouse Canton Private Limited and the operational creditor. Messrs Lighthouse Canton Private Limited is the Fund Manager of the Fund. According to the said Advisory Agreement, the operational creditor has to render services to the Fund Manager and fee is also to be paid by the Fund Manager. However, the Advisory Agreement was subsequently amended and as a consequence, Addendum Agreement was entered into between the Fund Manager, the operational creditor, the corporate debtor and other subsidiaries of the Fund. The Addendum was executed among them on 01.03.2018. The contention of the operational creditor that by virtue of the terms of the Addendum, the operational creditor was empowered to raise Invoice on the corporate debtor and payment to be made soon after raising of Invoice. The operational creditor is relying on the Addendum shown as Annexure-7 starting from page 101 of the Paper Booklet. The corporate debtor is a party to this Addendum. Terms of Addendum are binding on the corporate debtor. It is an amendment to the Advisory Agreement.

23. The operational creditor relied on various clauses of the Addendum. Clauses (A), (B) and (C) (at page 107) are as follow:

> *"(A) The Fund Manager has been retained by LC Cerestra Core Opportunities Fund (the 'Fund') in relation to the management, of the Investments of the Fund.*
>
> *(B) The Fund owns controlling shareholding and interests in the Fund Subsidiaries. The Fund Subsidiaries along with their Corporate Identification Numbers as listed in Annexure .*
>
> *(C) The structure of ownership of the Fund (directly and through its wholly owned subsidiaries) in each of the Fund Subsidiaries and the assets owned by each of the Fund Subsidiaries is described below:*

S. No.	*Name of the Fund Subsidiary*	*% of Fund ownership*	*Particulars of the Assets held by the Fund Subsidiaries*
1.	*MN Science & Technology Park Pvt Ltd.*	*95.45%*	*142,668 sq ft – Building Nos.450 and 900 of MN Park, Genome Valley; Acres 26.00 – MN Park*

			Phase I & Phase II pre-development parcel and Building 900 expansion site.
2.	*MN Takshila Industries Private Limited*	*100.00%*	*Special Purpose Vehicle.*
3.	*MN Gachibowli Tech Park Private Limited*	*100.00%*	*Acres 9.00 – Pre-development parcel 1 in MN Park.*
4.	*MN Gachibowli II Tech Park Private Limited*	*100.00%*	*Acres 9.00 – Pre-development parcel 2 in MN Park.*
5.	*Deccan Bio Ventures Private Limited.*	*100.00%*	*Acres 5.00 – pre-development parcel 3 in MN Park.*
6.	*MN Life Science Centre (Pragnapur) Private Ltd.*	*100.00%*	*86,200 sq ft – Vivo Biotech, Pragnapur; Acres 51.00 – Vivo Land Parcel, Pragnapur.*
7.	*Takshila Tech Parks & Incubators (India) Pvt Ltd.*	*100.00%*	*300,695 sq ft – building Nos.1800 and 2700 of MN Park, Genome Valley; Acres 7.00 – MN Centre for Science & Innovation expansion site.*
8.	*Genome Valley Tech Parks & Incubators Pvt Ltd.*	*100.00%*	*34,667 sq ft – MN Bio-Tech, Genome Valley.*
9.	*MN Bio-Technology Pvt Ltd.*	*100.00%*	*Special purpose vehicle."*

24. LC Cerestra Core Opportunities Fund is called as 'Fund'. Messrs Lighthouse Canton Private Limited is the Fund Manager, which is retained by Fund. Ownership of the Fund in the corporate debtor is 100%.

25. The operational creditor heavily relied on Clauses 2.1 to 2.4. For easy reference said clauses as shown at page 109 of the Addendum are referred to herein:

> *"2.1 It is hereby agreed by all the parties that notwithstanding any of the provisions in contrary, on and after July 1, 2017, an amount equal to the Advisory Fees (to the extent possible) shall be paid to the Asset Advisor by the Fund Subsidiaries in such proportion among the Fund Subsidiaries as may be mutually agreed by the Fund Manager and the Fund Advisor.*
>
> *2.2 For the avoidance of doubt, where an amount equal to the Advisory Fees is paid by the Fund Subsidiaries to the Fund Advisor, no further amounts shall be due and payable by the Fund Manager to the Fund Advisor pursuant to the Advisory Agreement.*

2.3 The Advisory Fees shall be paid on the basis of the Invoices raised by the Asset Advisor to the Fund Subsidiaries from time to time for the services rendered under the Advisory Agreement. Such Invoices shall be approved by the Fund Manager before payment of the Advisory Fees.

2.4 All other provisions contained in the Advisory Agreement (including Annexure II to the Advisory Agreement, subject to Clause 2.2 above), inter alia, for payment of Advisory Fees shall remain in full force and effect."

26. By virtue of the terms of Addendum, fee to the Assets Advisory, viz. the operational creditor to be paid by the Fund Subsidiaries. The corporate debtor and other entities are all Fund Subsidiaries and therefore, the Advisory Fee is to be paid by the subsidiaries, which includes the corporate debtor, towards Advisory Fee for the operational creditor. This is very clear in Clause 2.1. If an equal amount towards Advisory Fee is paid by the Fund Subsidiaries to the Fund Advisor, the operational creditor herein, then no further amount shall be due and payable by the Fund Manager to the Fund Advisor. Advisory Fee shall be paid on the basis of Invoice raised by the Estates Advisor, viz. the operational creditor to the Fund Subsidiaries from time to time for the services rendered under the Advisory Agreement, but the Invoice to be approved by the Fund Manager before payment. All other provisions of the Advisory Agreement shall prevail. The Addendum to the Advisory Agreement makes it clear that the Invoice is to be raised on the Fund Subsidiaries and payment is to be made by the Subsidiaries for the services rendered under the Advisory Agreement. The corporate debtor cannot be allowed to contend that there was no liability on it to pay the Advisory Fee to the operational creditor. It is not the case of the corporate debtor that it had paid the amounts covered under the Invoice. The contention of the operational creditor that liability to pay Advisory Fee is on the Fund Manager. This contention of the corporate debtor cannot be accepted in view of the provisions in Clauses 2.1 to 2.4 of the Addendum. We do not agree with the contention of the learned counsel for the corporate debtor that liability to pay the amount covered under the Invoice lies on the Fund Manager. The corporate debtor being a party to the Addendum is bound by the terms of the Addendum. The corporate debtor cannot escape the liability basing on the terms of the Advisory Agreement, which was later amended. Thus, raising of Invoice on the corporate debtor by the operational creditor is in terms of the Clauses of

the Addendum. There is neither illegality nor irregularity in raising Invoice in the name of the corporate debtor. The operational creditor has relied on the unpaid Invoice raised on the corporate debtor, shown as Annexure-8, at page 115 of the Paper Booklet filed by the operational creditor. The Invoice is raised in the name of the corporate debtor. It is also not the case of the corporate debtor that the amount under Invoice was paid by the Fund Manager. The operational creditor can proceed only against the corporate debtor, because the Addendum has expressly provides raising Invoice in the name of the Fund Subsidiary and payment to be made by the Fund Subsidiary. The operational creditor is able to establish that it has raised Invoice for the services rendered to the corporate debtor. The next contention of the corporate debtor is that there is no debtor-creditor relationship between it and the operational creditor. It is also the case of the corporate debtor that the Fund Manager may defer the fee to be paid to the Estates Advisor/operational creditor to the end of the life of the Fund and hence it is only a contingent fee. The Fund Manager was appointed to manage the Fund invested in the corporate debtor. The operational creditor is providing services for investment to be made by the corporate debtor. The ultimate beneficiary is the corporate debtor for the services rendered by the operational creditor. Invoice to be raised only on the corporate debtor as per the Addendum, but not on the Fund Manager. So the relationship of debtor-creditor is existing between the corporate debtor and the operational creditor. When the corporate debtor being a party to the Addendum gave liberty to the operational creditor to raise Invoice, then it falls within the definition of 'operational debt'. So it can never be said that there was no operational debt and that there was no liability on the corporate debtor to honour the Invoice.

27. The next contention raised by the corporate debtor that even as per the terms of Addendum, all the Invoice was to be approved by the Fund Manager before payment. The corporate debtor relied on Clause 2.3 of the Addendum and contended that there must be prior approval of the Invoice by the Fund Manager. Since this condition in Clause 2.3 is not complied with the operational creditor cannot proceed against it.

28. It is very interesting to note that the corporate debtor deducted TDS for the amounts covered by the Invoice. It is not in dispute that TDS was deducted. It was deducted under section 194J of the Income Tax Act,

1961, which is applicable to the services rendered by the operational creditor to the corporate debtor.

29. Deduction of TDS mandatorily required to be approved by the Fund Manager through on-line banking system. Therefore, TDS was deducted. It cannot be said that there was no prior approval of the Invoice by the Fund Manager.

30. The contention of the corporate debtor that TDS was paid at the instance of one Vikas Malpani. However, TDS Certificate was issued by Shri Atul Bhardwaj, which is shown at page 123 of the Paper Booklet. Shri Atul Bhardwaj is still with the corporate debtor as CEO. The record shows that he is the representative of the Fund Manager. Thus, we do not accept the contention of the corporate debtor that there was no prior approval of the Invoice by the Fund Manager. There was no correspondence by the corporate debtor with the operational creditor questioning the liability on the ground that there was no prior approval of the Fund Manager. Had it been the case that the Invoice was not approved by the Fund Manager, the immediate reaction from the corporate debtor was to raise objection. It is very surprising that the corporate debtor never raised such an objection. Therefore, we are not accepting the contention of the corporate debtor that raising of Invoice is in contravention of Clauses 2.3 of the Addendum.

31. Third ground raised by the corporate debtor is that there was a prior dispute. The contention of the corporate debtor that there was breach of agreement and notice of breach was given by the corporate debtor dated 29.10.2018. The contention of the corporate debtor is that this notice of breach was even prior to the Demand Notice and that there was pre-existing dispute. As such the operational creditor cannot maintain this petition. Demand Notice was issued on 20.03.2019. Fund Manager issued notice of breach to the operational creditor. The operational creditor is not disputing the notice. Surprisingly, the Fund Manager has not claimed any damages and initiated any action against the operational creditor.

32. Even if there is any dispute between the Fund Manager and the operational creditor, the same has nothing to do with the Invoice raised. This dispute has nothing to do with the services rendered to the corporate debtor. The Tribunal is to see whether any prior dispute exists between the operational creditor and the corporate debtor. The alleged dispute between the Fund Manager and the operational creditor cannot be extended to the liability arising under the Invoice. As regards the services rendered, no dispute is raised. It cannot be said that there was prior dispute basing on the alleged notice of breach. The alleged breach is in connection with the Trade Mark. The corporate debtor is totally unconnected with the dispute. It is stated that the operational creditor registered a company with the brand name 'MN' long prior to entering into the Advisory Agreement with the Fund Manager. The dispute, if any, over Trade Mark is neither directly nor indirectly connected to the services rendered to the corporate debtor by the operational creditor. Therefore, we do not agree with the contention of the corporate debtor that there was a pre-existing dispute.

33. The contention of the learned counsel is that mere fact of deduction of TDS does not mean that there was an admission of liability. In this connection the learned counsel for the corporate debtor has relied on the decisions cited supra. On the other hand the operational creditor has produced relevant forms filed with the Income Tax Department to show that TDS is under section 194J of the Income Tax Act, 1961, which deals with the services rendered. This TDS is deducted in connection with the Invoice, which is not in dispute. So the amount deducted towards TDS is directly connected to the Invoice. The fact is that deduction of TDS affords an additional ground that raising Invoice is proper and that they are raised in connection with the services rendered to the corporate debtor. There is no transaction other than the transaction between the corporate debtor and the operational creditor, which is of rendering services by the operational creditor to the corporate debtor. Therefore, deduction of TDS can be safely held to be in connection with raising Invoice. Thus, the operational creditor is able to establish that the corporate debtor committed default of operational debt and the petition deserves to be admitted.

34. Hence, the Adjudicating Authority admits this Petition under Section 9 of IBC, 2016, declaring moratorium for the purposes referred to in Section 14 of the Code, with following directions: -

(a) The Bench hereby prohibits the institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, Tribunal, arbitration panel or other authority; transferring , encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein; any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002); the recovery of any property by an owner or lessor where such property is occupied by or in possession of the corporate Debtor;

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

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

(d) That the order of moratorium shall have effect from **4th February 2020** till the completion of the Corporate Insolvency Resolution Process or until this Bench approves the Resolution Plan under Sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, whichever is earlier.

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

(f) That this Bench hereby appoints **Shri Kranthi Kumar Kedari**, having Registration No. **IBBI/ IPA-001/ IP-P00173/ 2017-18/ 10342**, as Interim Resolution Professional to carry the functions as mentioned under the Insolvency & Bankruptcy Code.

(g) Accordingly, this Petition is admitted.

(h) Registry to send a copy of this order to the Registrar of Companies, Hyderabad for appropriately changing the status of Corporate Debtor herein on the MCA-21 site of Ministry of Corporate Affairs.

4.2.2020

NARENDER KUMAR BHOLA
MEMBER (TECHNICAL)

4.2.2020

RATAKONDA MURALI
MEMBER (JUDICIAL)

Karim