



NATIONAL COMPANY LAW TRIBUNAL KOCHI BENCH

CORAM:
SHRI VINAY GOEL, HON'BLE MEMBER (JUDICIAL)

PETITION No./IA No.	CP(IBC)/37/KOB/2025
SECTION	SEC. 9 IBC R/W RULE 6 IBR
NAME OF PARTIES	VOYAGER TRADING PARTNERS LLC V/S VITTAL CASHEW INDUSTRIES PVT. LTD.
PETITIONERS ADVOCATE/ PROFESSIONAL	ISAAC & CHANDAPILLAI
RESPONDENTS ADVOCATE/ PROFESSIONAL	ANANDAKRISHNAN

07 JANUARY 2026

O R D E R

CP(IBC)/37/KOB/2025

Learned Counsel Mr. Isaac Thomas appeared for the Applicant, and Mr. Anandakrishnan appeared for the Respondent/Corporate Debtor. At the time of the pronouncement of the judgment, Mr. Anandakrishnan entered appearance on behalf of the Respondent/Corporate Debtor and submitted that the order may not be pronounced, as the Respondent intends to pay the dues of the Operational Creditor. However, learned Counsel for the Operational Creditor submitted that he has no instructions from his client to entertain any such request, nor does he can give any concurrence to such submission.

Having heard both sides, this Adjudicating Authority is of the opinion that the process should proceed further in accordance with law for the following reasons:

1. The Respondent/Corporate Debtor was already set ex parte, and till date, no application for setting aside the ex parte order or for recall of the proceedings has been filed by the Respondent/Corporate Debtor.



(2)

2. This Adjudicating Authority, after hearing learned Counsel for the Applicant, reserved the matter for the pronouncement of orders. In view of law laid down by ***the Hon'ble Supreme Court in Arjun Singh v. Mohindra Kumar (AIR 1964 SC 993)***, no such request can be entertained after case is reserved for pronouncement of order.

CP(IB)/37/KOB/2025 stands allowed vide separate detailed order.

Sd/-
VINAY GOEL
MEMBER (JUDICIAL)



**IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH**

CP(IBC)/37/KOB/2025

*(Under Section 9 of the IBC, 2016, read with Rule 6 of the
Insolvency and Bankruptcy (Application to Adjudicating
Authorities) Rules, 2016)*

In the matter of: -

M/s. Vittal Cashew Industries Private Limited.

Memo of parties:

M/s. Voyager Trading Partners LLC

555, Bryant Street, #356 Palo Alto, C

A 94301, USA

Mail: office@paradigmlaw.co.in

...Petitioner/Operational Creditor

-Vs.-

M/s. Vittal Cashew Industries Private Limited

Door No 1246 to 1252, Kottappara,

Anandashram (via),

Pullur Post, Pullur, Kasargod,

Hosdurg - 671531, Kerala, India

email: vittalcashew548@gmail.com

... Respondent/Corporate Debtor

Date of Institution: 20.11.2025

Order delivered on:07.01.2026

Coram:

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

Appearances:

For the Petitioner : Mr. Isaac Thomas, Advocate.

Corporate Debtor : ***Set Ex parte vide order dated 15.12.2025.***



ORDER

1. This petition has been filed by M/s. Voyager Trading Partners LLC (hereinafter referred to as 'Petitioner/Operational Creditor') on 20.11.2025, under Section 9 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the "Code"), read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authorities) Rules, 2016, for initiating the Corporate Insolvency Resolution Process (hereinafter referred to as "CIRP"), declaring moratorium and for appointment of Interim Resolution Professional (hereinafter referred to as "IRP") against the Corporate Debtor M/s. Vittal Cashew Industries Private Limited.
2. The Petitioner/Operational Creditor is an Offshore Company based in the USA and engaged in the business of trading multiple products for its customers, and is in the supply chain business, having its office at 555, Bryant Street, #356 Palo Alto, CA 94301, USA. The Respondent/Corporate Debtor, M/s. Vittal Cashew Industries Private Limited, CIN U10793KL2024PTC086938, with its registered office at Door No. 1246-1252, Kottappara, Anandashram (via), Pullur Post, Pullur, Kasargod, Hosdurg – 671531, Kerala. The Respondent/Corporate Debtor was incorporated on 30th March, 2024, with Authorised Share Capital of Rs. 6,50,00,000 and Paid-up Share Capital of Rs. 4,50,00,000. Therefore, this Bench has jurisdiction to deal with this Petition.
3. The total amount claimed to be in default, as set out in Part IV of the Petitions, as on 15th October, 2025, is USD 363,452.00, the amount is equivalent to Rs.3,22,63,634/- (Rupees Three Crore Twenty-Two Lakh Sixty-Three Thousand Six Hundred and Thirty-Four only) calculated at a USD INR exchange rate of 88.77/-.
4. Brief facts of the case, as stated in the petition, are as follows:



- a) The Operational Creditor is an offshore company based in the USA, engaged in the business of trading multiple products for its customers and operating within the supply chain sector. The Operational Creditor procures products from its suppliers and sells them to its customers. The Corporate Debtor, M/s Vittal Cashew Industries Private Limited, is a company registered in the State of Kerala and is engaged in the business of cashew trading. The Corporate Debtor purchased products from the Operational Creditor and selected the suppliers of its choice.
- b) The Corporate Debtor approached the Operational Creditor for the procurement of certain goods from its supplier. The Corporate Debtor accepted the term sheet issued by the Operational Creditor, which set out the preliminary terms of procurement. Subsequently, the Corporate Debtor and the Operational Creditor entered into a Master Sales agreement dated 10th June 2024, read together with the undertaking provided by the Corporate Debtor dated 10th July 2024.
- c) Subject to the terms of the Master Agreement and Undertaking, the Corporate Debtor placed purchase orders with the Operational Creditor for the supply of Products. A Proforma Invoice dated 7th October 2024 (Invoice No. VTP/PI/2024/987) was issued, against which the Corporate Debtor remitted an advance payment of USD 126,000/- representing 20% of the invoice value. Thereafter, the Operational Creditor issued a Commercial Invoice dated 16.11.2024 (Invoice No. VTP/INVOICE/2024/987) for the balance amount of USD 528,696/-, which the Corporate Debtor duly accepted. The Corporate Debtor also accepted the Bill of Exchange, thereby acknowledging its



obligation to pay the balance amount, which fell due on 7th February 2025.

- d) It is stated that the Operational Creditor procured and delivered the products strictly in accordance with the Commercial Invoice. All relevant shipping and customs documents, including the Bill of Lading, Packing List, and Bill of Entry, were duly furnished to and accepted by the Corporate Debtor. The Corporate Debtor cleared the said products upon payment of the applicable customs duties and subsequently utilized and/or sold the products to third parties.
- e) The Corporate Debtor was required to pay the invoice amounts by the Invoice Due Date, i.e., on or before 7th February 2025. The computation relating to the Default Amount and days of default is as follows:

Details of Calculation of Default Amount - Vittal Cashew Industries Private Limited											
Calculation as on 15.10.2025											
Sr No	Proforma Invoice Date	Seller Invoice Date	Seller Commercial Invoice Ref	Seller Invoice Due Date	Credit Period	Net Invoice Value (USD)	Advance Payment Received (USD)	Amount Payable as of due date	Late Payment Fee (USD)	Part Payment Received by Seller (USD)	Default Amount as on 15.10.2025 (USD)
1	07-10-2024	16-11-2024	VTP/INVOICE/2024/987	07-Feb-2025	120	\$5,30,000.00	\$1,26,000.00	\$5,04,000.00	119452	\$2,60,000.00	\$3,63,452.00
Total Outstanding Amount											\$3,63,452.00
Total Outstanding Amount in INR @USD rate of 88.77											₹ 3,22,83,634.04

- f) In accordance with clause 4(d) of the Master Sales Agreement, failure to pay the Consideration by the Invoice Due Date entitles the Operational Creditor to initiate action. The Corporate Debtor failed to make payment by the stipulated due date.
- g) The Operational Creditor made multiple follow-ups with the Corporate Debtor seeking payment of the outstanding invoices and issued a Demand cum Default Notice dated 4th March 2025. In response to the 1st Demand Notice, the Corporate Debtor, by email



dated 12th March 2025, acknowledged its liability without reservation and assured that the outstanding amounts would be paid within 15 days. The Corporate Debtor cited a slowdown in demand and a shortfall in liquidity as reasons for the delay in payment; however, unconditionally committed to pay the default amounts. The Corporate Debtor did not raise any dispute with respect to products or the delivery of the product. Subsequently, in partial discharge of the admitted liability, the Corporate Debtor made payments aggregating to USD 260,000 between 21st March 2025 and 29th July 2025. Despite these payments, the remaining balance continues to remain unpaid as of the date of this petition. The details of the part payment remitted toward the default amount are as follows:

Date	Amount of Credit(in US Dollar)	Transaction Type
21-Mar-2025	\$ 25,000.00	Wire
28-Mar-2025	\$ 25,000.00	Wire
16-Apr-2025	\$ 30,000.00	Wire
5-May-2025	\$ 40,000.00	Wire
29 May 2025	\$ 50,000.00	Wire
17 June 2025	\$ 40,000.00	Wire
29 July 2025	\$ 50,000.00	Wire

- h) As the operational debt had already fallen due and payments under the invoices were not made, this constituted a breach of the Master Sales Agreement. Consequently, the Operational Creditor became entitled to issue a Statutory Demand to the Corporate Debtor. Accordingly, a Statutory Demand Notice in Form 4 dated 23rd April, 2025, was issued and served on the Corporate Debtor via email on the same date. In response, the Corporate Debtor, through its advocates, replied by letter dated 3rd May, 2025, wherein it unconditionally acknowledged its liability and requested an extension of time for payment until 31st May, 2025.



- i) It is submitted that the Operational Creditor followed up with the Corporate Debtor on 26th May, 2025, seeking payment of the outstanding dues. In response, the Corporate Debtor, by email dated 31st May, 2025, requested additional time until 15th June, 2025, to clear the balance amounts.
- j) As per Clause 4(d) of the Master Sales Agreement, the Operational Creditor is entitled to demand payment upon non-payment of invoices by the due date. It is an admitted position that the Corporate Debtor received the products. At no point did the Corporate Debtor dispute its liability towards the outstanding amounts. Rather, the Corporate Debtor acknowledged the dues and made part payments towards the same, thereby confirming its liability.
- k) The Corporate Debtor has failed to make payment of the default amount owed to the Operational Creditor under the Master Sales Agreement and the relevant invoices. This indicates a default in meeting its admitted payment obligations and an inability to clear outstanding operational dues. In view of these circumstances, the Operational Creditor seeks initiation of the Corporate Insolvency Resolution Process under Section 9 of the Code, without prejudice to its right to pursue other remedies available under law.
- l) The Petitioner submitted that as on 15th October 2025, the default amount under the Master Agreement read with Undertaking is USD 363,452.00 (US Dollar Three hundred Sixty-Three Thousand Four Hundred and Fifty-Two only) along with other amounts due as per the Master Agreement and other allied documents which is equivalent to INR 3,22,63,634/- (INR Three Crore Twenty-Two lakh Sixty Three Thousand Six Hundred and Thirty Four only) @USD INR exchange



rate of 88.77/-. The amount of debt exceeds the statutory threshold of Rs.1 crore as prescribed under the Insolvency and Bankruptcy Code, 2016, and this Tribunal has the requisite jurisdiction to entertain the matter. The petition was filed by the Operational Creditor on 20.11.2025 and has been filed within the period of limitation as stipulated under the IBC, 2016.

m) It is submitted that the operational debt remains unpaid and exceeds a sum of Rs.1 crore. The Corporate Debtor has demonstrably failed to discharge its liability and is unable to make payment of the outstanding amounts. In view of the continuing default, the Petitioner is constrained to initiate the Corporate Insolvency Resolution Process (CIRP) in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016. The unpaid dues constitute an “operational debt” within the meaning of Section 5(21) of the IBC, which defines operational debt as a claim arising from the provision of goods or services, including employment, or a debt arising under any law for the time being in force and payable to the Central Government, State Government, or any local authority. Accordingly, the Petitioner qualifies as an Operational Creditor and is entitled to file the present application under Section 9 of the IBC seeking initiation of CIRP against the Corporate Debtor.

5. This Tribunal, vide order dated 02.12.2025, directed the issuance of notice to the Corporate Debtor for filing its reply. On 08.12.2025, learned counsel for the Respondent submitted that the Corporate Debtor intends to settle the matter with the Petitioner. After considering the said submission, the Respondent was directed to file its reply affidavit on or before the next date of hearing. It was further clarified that the parties to the present lis are at liberty to settle the



matter out of court at their own discretion; however, no adjournment shall be granted on the ground of settlement. Since the proceedings under the Insolvency and Bankruptcy Code are time-bound, they shall continue strictly in accordance with the prescribed procedure and protocol.

6. In this case, the Respondent/Corporate Debtor, after making appearances, facilitated *ex parte* proceedings due to its non-appearance before this Adjudicating Authority. Although the Respondent filed its reply statement on the DMS portal, it failed to submit a defect-free physical copy. Despite the proceedings being *ex parte*, this Adjudicating Authority considers it fair and proper to take the reply statement on record in order to uphold the principles of natural justice and ensure a fair adjudication of this case. The reply statement filed by the Respondent is accordingly being considered for judicious adjudication of this case.

Submissions made by the Corporate Debtor:

7. The reply affidavit dated 15.12.2025 furnished by the Corporate Debtor states as follows: -
 - i. It is submitted that the present petition is not maintainable under Section 9 of the Insolvency and Bankruptcy Code, as the alleged default amount has been erroneously inflated and is squarely covered by a bona fide pre-existing dispute. The Operational Creditor has arbitrarily added a sum of USD 94,756 to the claimed amount, which neither arises from nor is contemplated under the Master Sales Agreement, nor is it payable under any contractual obligation. The said amount does not correspond to any transaction undertaken with the Operational Creditor, and its unilateral inclusion vitiates the credibility and reliability of the entire claim against M/s. Vittal Cashew Industries Private Limited. It is well settled that a petition under Section 9 cannot be admitted where the very existence or quantum of the alleged operational debt is disputed.

IN THE NATIONAL COMPANY LAW TRIBUNAL
KOCHI BENCH

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In re: Vittal Cashew Industries Private Limited

- ii. The Corporate Debtor submitted that after adjusting the 20% advance of USD 126,000.00 paid on 10th October 2024 and subsequent part-payments made between March and October 2025, the actual outstanding amount payable as on the date is only USD 228,696. It is further submitted that this reconciliation, along with payment details, has already been communicated to the Operational Creditor. The amount claimed in the petition is stated to be inflated, inconsistent with the contractual terms, and unsustainable. It is therefore alleged that the petition has been filed by projecting an exaggerated default and amounts to an attempt to misuse the IBC as a recovery mechanism rather than for insolvency resolution. The transaction details of the last payment are annexed with the Reply affidavit as Annexure A1.

PAYMENT SCHEDULE BY VITTAL CASHEW as on 08.12.2025

Dates	Amount Particulars	Amount (USD)	Amount in USD
25/11/2024	Invoice Amount	.	654,696.00
10/10/2024	Paid Partly	126000	
21/03/2025	Paid Partly	25,000	
28/03/2025	Paid Partly	25,000	
16/04/2025	Paid Partly	30,000	
05/05/2025	Paid Partly	40,000	
29/05/2025	Paid Partly	50,000	
17/06/2025	Paid Partly	40,000	
29/07/2025	Paid Partly	50,000	
10/10/2025	Paid Partly	40,000	
	TOTAL PAID		426000



	BALANCE PAYABLE TO VOYAGER as on 10/12/2025	228,696
	DEMAND RAISED BY VOYAGER	364452
	<i>Deducting payment made on 10/10/2025</i>	<i>40000</i>
		323452
	Balance Actually payable	228696
	Excess claim by Voyager	94756

- iii. The Corporate Debtor has at no point disputed its obligations or declined to pay the admitted operational dues. Owing to a temporary liquidity constraint arising from delays in collections from downstream buyers, the Corporate Debtor sought brief extensions, which were duly acknowledged in the correspondence exchanged with the Operational Creditor. The Corporate Debtor has since arranged funding and is in the process of clearing the admitted amount of USD 228,696 within a commercially reasonable period of 75 days. The delay was temporary and market-driven, during which the Corporate Debtor remained communicative, made substantial part-payments, and has now proposed a settlement.
- iv. It is submitted that the Corporate Debtor has already paid a significant portion, approximately 65%, of the total invoice amount, indicating that it remains financially stable, operational, and commercially viable. These payments were made voluntarily in the normal course of business. A brief delay in paying the remaining balance, particularly when the debtor is actively arranging funds and has demonstrated bona fide intent through



substantial payments, should not be treated as insolvency. The IBC is not intended to be used as a recovery mechanism against a solvent company. Further, the GSTR-3B sales returns of the Corporate Debtor from April 2025 to October 2025 (Annexure A2 to A8) clearly establish ongoing business activity and revenue generation. Accordingly, the Corporate Debtor is confident of settling the outstanding dues within the additional time sought from the Operational Creditor.

- v. The Corporate Debtor submitted that the Operational Creditor is attempting to invoke the extraordinary remedy of insolvency as a pressure mechanism to recover an inflated and disputed amount. The Hon'ble Supreme Court has held that IBC proceedings cannot be invoked for enforcing payment of disputed claims or for recovery of amounts (***K. Kishan v. Vijay Nirman, Transmission Corp v. Equipment Conductors***). The present petition is filed with mala fide intent, without any legal basis, and deserves rejection at the threshold.
- vi. It is further submitted that, prior to the filing of the present petition, the Corporate Debtor had raised objections concerning certain components of the claim and had sought reconciliation. In particular, the inclusion of the foreign-claim amount of USD 94,756 is disputed and constitutes a bona fide and substantial issue requiring adjudication.
- vii. The allegation of commercial insolvency is unfounded. The Corporate Debtor continues to operate its manufacturing and trading activities, maintains regular banking operations, employs personnel, and services its creditors. The financial records, ongoing



export orders, and part-payments made to the Operational Creditor indicate financial stability rather than distress. In light of the disputed quantum, partial payments, and ongoing financial arrangements, the invocation of Section 9 appears inappropriate and merits dismissal.

ANALYSIS AND FINDINGS:

8. This Adjudicating Authority has heard the parties and perused the materials available on record. It is the case of the Petitioner that an amount of USD 363,452.00, the amount is equivalent to Rs. 3,22,63,634/- (Rupees Three crore Twenty-Two lakh Sixty-three thousand six hundred and thirty-four only) is due and payable towards invoices raised under Annexure A9, and that the same constitutes an operational debt under Section 5(21) of the Code. The Petitioner relies on Annexure A6 Master Sales Agreement dated 10.07.2024, together with invoices, to substantiate the claim.
9. Pursuant to Clause 4 of the Master Sales Agreement dated 10.07.2024, the payment terms applicable to the transaction between the parties are as follows:

“4. Payment Terms

(a) The Buyer shall pay the balance Consideration to the Seller on the Invoice Due Date in immediately available funds in United States Dollars, credited into the Seller's bank account as specified in the Invoice. All payments by the Buyer shall be made without any reduction or dilution for set-off, adjustment or counterclaim of any kind. The Buyer shall not be discharged of its obligation to pay the balance Consideration, unless the Seller receives the entire Invoice amount (and not part payments) in freely available funds. Where the Invoice Due Date is not a Business Day, then payment shall be due on the immediately preceding Business Day.

(b) The Buyer shall make all payments required to be made under this Agreement without deduction or withholding of any applicable Taxes imposed by any governmental or revenue authority of any jurisdiction. If the Buyer is required by law to deduct any Tax from any balance Consideration under this Agreement, then:



- (i) the Buyer must pay that amount to the appropriate authority and promptly give Seller evidence of payment; and*
- (ii) the amount payable to Seller under this Agreement is grossed up such that the Seller receives the same amount it would have received had no deduction or withholding been made.*
- (c) Without prejudice to any other remedy of Seller hereunder or by operation of law, if any amount payable by Buyer is unpaid on Invoice Due Date, then the Buyer undertakes to pay compound interest to Seller on the unpaid amount, from the Invoice Due Date until paid, at two per cent (2%) per month plus all legal costs.*
- (d) The Buyer agrees that any default in paying the balance Consideration on respective Invoice Due Date; or other amounts when accrued as per terms of the Agreement, shall constitute breach of this Agreement, and the Seller shall, in addition to any and all other rights and remedies that may be available to Seller at law, at equity, or otherwise in respect of such breach, be entitled to simultaneously:*
 - (i) raise claims, exercise its rights as unpaid seller against the Buyer, seek enforcement of its rights and recover the unpaid amounts that are payable by the Buyer;*
 - (ii) claim liquidated damages from the Buyer as a reasonable and genuine pre-estimated loss that shall be caused to Seller pursuant to breach of the Agreement, which amount shall be the sum of all unpaid Consideration and other amount as per terms of the Agreement, together with accrued interest at the rate of two percent (2%) per month from payment due date up to the date of actual payment;*
 - (iii) claim equitable relief, including a temporary restraining order, an injunction, specific performance, and any other relief that may be available from competent forum having jurisdiction, without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy,*
 - (iv) claims against the Buyer, enforce and exercise any other rights or remedy available to the Seller against the Buyer before any legal forum having jurisdiction.*
 - (v) The Parties will assess the payment terms applicable to each transaction including the quantum and timing of advance payment required to be made to the supplier, on a case-by-case basis."*

10. The Corporate Debtor has acknowledged the invoice amount payable in US Dollars as per the terms stipulated in the invoice. As per the agreement, the Corporate Debtor is liable to pay interest at 2% per month in case of default.



The Master Sales Agreement specifies that non-payment shall constitute a default.

11. This Adjudicating Authority has reviewed the documents and finds that the terms reflect a genuine trade transaction, consistent with prevalent commercial practices. The outstanding amount qualifies as an operational debt under the Insolvency and Bankruptcy Code, 2016.
12. The crisscross communication between Operational Creditor and Corporate Debtor and pleadings reflects that there is no dispute about the existence of commercial interaction and execution of the Master Sale Agreement between the parties, and there is no issue about the binding nature of the said agreement. The applicant claimed USD 472,773.00, in its demand notice dated 23.04.2025, sent to the Corporate Debtor. In response to this, the Corporate Debtor responded as under:

“REGISTERED POST ACKNOWLEDGMENT DUE AND E-MAIL

USA/LN/2149/2024-25

DATE: 3-5-2025

VOYAGER TRADING PARTNERS LLC,

555, Bryant Street, #356 Palo Alto, CA 94301, United States of America

Also at:

Solitaire Corporate Park,

Building No.12, 2nd Floor, Guruhargovindji Marg, Andheri-Ghatkopar Link Road, Andheri (East), Mumbai-400093

Email: viraj@dripcapital.com

voyager.legalavovagertradingpartners.com

*Kind Attn: Mr. Viraj Shah / Soumyadri Chattopadhyaya
Sir,*

Sub: Reply to your Notice dated 23-4-2025

Your Notice dated 23-4-2025 issued to our Client, Vittal Cashew Industries Private Limited, Gajanana Chambers, Near Sai Mandir, Hosdurg Kanhangad, Hosdurg, Kasargod, Kerala, India-671 315 is placed in our hands and we are instructed to reply as follows:

- 1. That our Client is in receipt of your demand notice dated 23-4-2025 seeking payment of \$472,773 i.e., Rs.4,03,65,359/- (Rupees Four Crore, Three Lakh, Sixty Five Thousand, Three Hundred and Fifty Nine Only). Our Client states that it has had a long standing commercial relationship with you, which it*



intends to continue and is solely unable to effect payments on an immediate basis on account of a current financial crunch and requests that our Client may be given some time to effect payments.

2. In fact, our Client is ready and willing to effect payment on or before 31-5-2025. In fact, in order to show our Clients bona fides, our Client has, as on 2-5-2025 effected a part payment of \$40,000 USD to you vide bank transfer and the same shall be credited to your bank account shortly.

3. In addition to the same, our Client states that it had handed over 5 blank cheque to you in the name of M/s. Drip Capital Services India LLP bearing Cheque Nos. 525823, 525824, 525825, 525826 and 525827, drawn on Canara Bank, Kanhagad, Kerala-671 315 and stated that the said cheques ought not to be presented for payment by you and the same may be returned back to our Client.

WHEREFORE, you are hereby called upon to recall your notice dated 23-4-2025 forthwith and grant time till 31-5-2025 to our Client to clear the payments due and refrain from precipitating the present issue.

For Uday Shankar Associates

Niyathi M"

13. In reply, the Corporate Debtor submitted that the Operational Creditor has mentioned the outstanding amount in its application under Section 9 of the IBC, 2016, as USD 94,756. There is no agitation about the amount of USD 94,756 in the said response. Therefore, the defence taken appears to be an afterthought. Even otherwise, in the written statement, the Corporate Debtor has admitted liability to the extent of USD 228,696, which is more than the threshold amount of Rs. 1 crore. Hence, the defence so taken is liable to be ignored. The Corporate Debtor has failed to establish any pre-existing dispute as claimed. There is also no dispute regarding the territorial jurisdiction of this Bench of the NCLT to entertain the present petition under Section 9 of the IBC, 2016, as the registered office of the Corporate Debtor is situated at Kasargod, Hosdurg, Kerala.
14. As regards the defence that the Operational Creditor has filed the present application under Section 9 of the IBC, 2016, with an intention to misuse the process, this Adjudicating Authority is of the opinion that every application under Sections 7 or 9 of the IBC, 2016, germinates from a financial default,



subject to the statutory threshold limit of Rs.1 crore. The very existence of such a threshold demonstrates that, where a Corporate Debtor fails to make payment within the stipulated terms, the Financial Creditor or the Operational Creditor is entitled to invoke Section 7 or Section 9 of the IBC, 2016, as the case may be.

15. In the present case, the Corporate Debtor, despite repeated assurances, failed to remit the outstanding debt, which is contrary to commercial virtuousness. It is the considered opinion of this Adjudicating Authority, such a default, by itself, confers a right and discretion upon the Operational Creditor to approach this Adjudicating Authority under Section 9 of the IBC, 2016, after following the due procedure prescribed under law.
16. Once the Operational Creditor chooses to exercise its statutory right under Section 9 of the IBC, 2016, this Adjudicating Authority has very limited scope to interfere, provided that all statutory requirements are duly complied with and the application is not vitiated by fraud, collusion, or misrepresentation. In the present matter, the application is not affected by any such vices. Accordingly, the defence raised by the Corporate Debtor is devoid of any merit and is not sufficient to stall the insolvency process.
17. Under the given circumstances, this Tribunal finds that this petition filed by the Operational Creditor for initiation of the Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor is a fit case to be admitted under Section 9 of the Code.
18. Hence, this Tribunal order for the Corporate Insolvency Resolution Process of **M/s. Vittal Cashew Industries Private Limited**, and accordingly admit the petition and pass the following orders:

- i. This petition bearing **CP(IBC)/37/KOB/2025**, filed by the Operational Creditor, M/s. Voyager Trading Partners LLC, under



Section 9 of the Code, for initiating CIRP against **M/s. Vittal Cashew Industries Private Limited** (CIN: 10793KL2024PTC086938), the Corporate Debtor, is hereby **admitted**.

- ii. There will be a Moratorium under Section 14 of the Code. The moratorium shall have effect from the date of this order till the completion of the CIRP or until the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 of the Code or passes an order for liquidation of Corporate Debtor under Section 33 of the Code, as the case may be.
- iv. Public announcement of the CIRP shall be made immediately as specified under Section 13 of the Code, read with Regulation 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations 2016.
- v. The Operational Creditor has proposed the name of Primus Insolvency Resolution & Valuation Pvt Ltd, C-4, E/135, Janakpuri, New Delhi – 110 058, E-mail Id: neha@primusresolutions.in, through Ms. Neha Bhasin, IBBI Registration No.: IBBI/IPE-0072/IPA-2/2022-23/50002, as Interim Resolution Professional (IRP) and the written communication in the format prescribed under Form 2 of the Insolvency and Bankruptcy Board of India (Application to Adjudicating Authority) Rules, 2016 has been filed by the proposed IRP. Hence, this Tribunal appoints **Primus Insolvency Resolution & Valuation Pvt Ltd, C-4, E/135, Janakpuri, New Delhi – 110 058, E-mail Id: neha@primusresolutions.in**, through Ms. Neha Bhasin, IBBI



Registration No.: IBBI/IPE-0072/IPA-2/2022-23/50002, as Interim Resolution Professional (IRP) as the IRP to take forward the process of Corporate Insolvency Resolution of the Corporate Debtor.

- vi. Although there is no substantial merit in the defence taken by the Respondent Company regarding the amount referred to in the application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, nevertheless, any decision rendered under the present order shall not have any bearing on the discretion or wisdom of the Resolution Professional in admitting the amount claimed by the Operational Creditor.
- vii. The designated IRP shall perform all its functions as contemplated under the Code and must take any additional actions in this regard that are mandated by the law, more specifically Sections 15, 17, and 18 of the Code. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of the Code. The fee payable to IRP, or as the case may be, the IRP shall comply with such Regulations, Circulars and Directions as may be issued by the Insolvency and Bankruptcy Board of India (IBBI). The IRP shall carry out all the functions as contemplated under the Code.
- viii. During the CIRP period, the management of the Corporate Debtor shall vest with the IRP or, as the case may be, the RP in terms of section 17 of the IBC. The officers and managers of the



Corporate Debtor shall provide all documents in their possession and furnish every information in their knowledge to the IRP within one week from the date of receipt of this order, in default of which coercive steps will follow.

- ix. The IRP/RP shall submit to this Adjudicating Authority periodical reports concerning the progress of the CIRP in respect of the Corporate Debtor.
- x. The Operational Creditor shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) within two weeks from the date of receipt of this order, in order to meet out the initial expenses to perform the duties assigned to the IRP in accordance with Regulation 6 of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Person) Regulations, 2016 and IRP is to file proof of receipt of such amount to this Adjudicating Authority along with First Progress Report. This amount may not be construed as the fee paid to the IRP. Subsequently, IRP may raise further demands for Interim funds, which shall be provided as per the Rules.
- x. Additionally, the Operational Creditor shall serve a copy of this Order on the IRP and on the Registrar of Companies, Kerala, by all available means for updating the Master Data of the Corporate Debtor. The Registrar of Companies shall send a compliance report in this regard to the Registry of this Tribunal within seven days from the date of receipt of a copy of this order.

19. The present Company Petition bearing No. **CP(IBC)/37/KOB/2025** is **admitted** accordingly.



20. The Registry is hereby directed to send e-mail copies of the order forthwith to all the parties and their counsel for information and to take necessary steps.
21. Let the certified copy of the order be issued upon compliance with the requisite formalities.
22. File be consigned to records.

Sd/-
VINAY GOEL
(MEMBER JUDICIAL)

Dated this the 07th day of January, 2026

JL/Steno